

National Defence

Défense nationale

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National Defence Headquarters
Ottawa, Canada
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Ottawa, Canada
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/3 December, 1985

Ms. Clare Beckton
Coordinator
Equality Rights Review
Department of Justice
Justice Building
239 Wellington Street
Ottawa, Ontario
K1A 0H8

Dear Ms. Beckton:

This Department's proposed response to Recommendation 11 of Equality for All, concerning the Canadian Armed Forces policy on the employment of homosexuals, is contained in the following paragraphs. This response is based on your advice that the Department of Justice will likely propose that Recommendation 10 not be implemented.

"The Canadian Armed Forces have fully supported the principles underlying the equality rights set out in section 15 of the Canadian Charter of Rights and Freedoms. Indeed, a fundamental precept of effective military leadership has always been the importance of respect for the individual, concern for the welfare of members, and fairness and impartiality in dealing with people. The Canadian Forces have an enviable record in ensuring that differentiation involving people is restricted solely to those limitations that are necessary in the interests of the security of Canada.

The Canadian Forces policy concerning sexual orientation has been carefully and thoroughly examined in terms of section 15 of the Canadian Charter of Rights and Freedoms. The experience and policies of other democratic societies were sought and carefully considered. This examination showed that these nations also have been unable to find a means of maintaining the effectiveness of their armed forces without limitations concerning sexual orientation.

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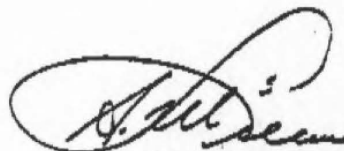
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Because the review was conducted in terms of the Canadian Charter of Rights and Freedoms, the Canadian Forces also had to consider the effects of any change in policy on the rights of current members. The examination raised serious concerns as to the infringement of the rights to privacy of other members, due to the particular conditions inherent in military service, and which could not be accommodated without impairing the capability of the Canadian Forces.

The considerations that gave rise to this issue must be balanced against the potential effects on the rights of other members, and on the ability of the Canadian Forces to contribute to the vital national objective of ensuring the security of Canada. The conclusion of this Government is that in consideration of these factors, the present Canadian Forces policy on sexual orientation is a reasonable limitation within the meaning of section one of the Canadian Charter of Rights and Freedoms."

Sincerely,



A. McLellan
Brigadier-General
Chairman
Charter Working Group

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