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1745-42-7

MEMORANDUM

5077-3-3 (DG Chart)  
5000-DG Chart

22 Aug 86

ADM (Per)

RECOMMENDATION FOR RELEASE - CFAO 19-20

- Refs:
- A. Memorandum 5077-3-3 (DPCAOR) dated 7 Aug 86
  - B. Special Career Review Board - Release Recommendation - Homosexuality PO1(R) [REDACTED] dated Jun 86
  - C. Minute Sheet, to Reference A, from CPCSA, 16 Jul 86
  - D. Discussion DPCAOR/DPLS 31 Jul 86
  - E. NRDTO: 1080-1, HMCS York, 30 Apr 86 (Unit Summary Investigation)
  - F. S0670-12-85 (CDSIU) 29 Nov 85
  - G. [REDACTED] (COND) 5705-1 7 May 86
  - H. MARC: 5077-1 (SSP M PERS) 12 Jun 86

1. The referenced release submission has been reviewed as requested, and there are serious concerns about the intended course of action.

2. Attached are extracts of recent statements by the then Associate MND and the then CDS to Parliamentary Committees in answer to questions as to the present CF policy on the release of homosexuals. In short, our current policy has been presented to Parliament as being an interim one wherein members will not be released solely because they are homosexuals. Release of homosexuals may be authorized only by ADM(Per) or CDS, and then only for inappropriate behaviour of a nature that would justify release regardless of the member's sexual orientation. It is suggested that these statements of policy have effectively suspended the option of any release at all under CFAO 19-20 (copy attached).

3. In any event, the evidence of homosexuality in this case is considered to be tenuous. The establishment of reasonable certainty that the member is a homosexual, as required by para 6 of CFAO 19-20, is considered to be highly arguable.

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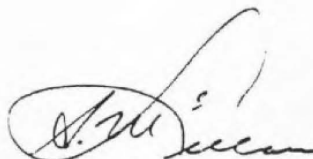
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4. While there is ample indication of unacceptable conduct by the member, in the absence of evidence taken under oath and tested for validity in disciplinary proceedings, these indications at present could be characterized as unsubstantiated allegations. Had the member been charged, tried, and convicted in respect of the many apparent breaches of the Code of Service Discipline, the 'normal' requirement to follow the counselling and probation (C&P) procedure required by CFAO 26-17 could have been waived, and release authorized under QR & O, Art 15.01, Item 5 (d) "unsuitable for further service." In the absence of substantiated evidence given under oath before a service tribunal, it is highly questionable that there are legitimate grounds for departing from the C&P process that is normal for conduct that is substandard but that the CO does not consider warrants the laying of charges.

5. It is suggested that the release of the member under CFAO 19-20, as proposed, would put the CF and DND at serious risk of being charged with violation of the interim policy on the release of homosexuals as described by the past Associate MND and past CDS to two different Committees of Parliament. A release on the grounds of unacceptable conduct could be challenged as unjustifiable because that conduct was not considered to be serious enough to warrant charges, and the evidence could be called into question as unsubstantiated allegation. Therefore, it is recommended that the member not be released, and that his CO be invited to consider C&P action in accordance with CFAO 26-17.



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Enclosures: 3

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A. McLellan BGen/DG Charter/5-0018/sac  
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