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5077-3-0(DPCAOR 5-2)

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BRIEF ON THE ADMINISTRATION
OF THE CF POLICY
ON SEXUAL ORIENTATION
AS IT EFFECTS NON COMMISSIONED MEMBERS

AIM

1. The aim of this brief is to outline procedures used in the administration of the Canadian Forces Policy on sexual orientation.

BACKGROUND

2. This brief was prepared to explain the Canadian Forces Policy on sexual orientation and how it is administered at unit, Command and NDHQ levels. Simply put, current CF policy on sexual orientation is that practising homosexuals will not knowingly be enrolled or retained. The final career decision concerning a service member to whom the sexual orientation policy applies is reached after review of the case at each level within the chain of command in accordance with, and

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taking into consideration the orders and policies contained in CFAO 19-20 (Flag A), the proposed CFAO 19-36 (Flag B), the Interim Policy on Homosexuality (Flag C) and CPCSA OPM 310-3 (Non Commissioned Members) (Flag D).

DISCUSSION

3. The Commanding Officer of a unit, upon receiving information that a member of his unit is a homosexual or has participated in homosexual acts, consults with NDHQ DPCAOR (DPCO for officers) to determine the type of investigation required, taking into consideration that the investigation must be conducted in such a manner as to ensure maximum confidentiality and protection of the privacy and dignity of the member. Admission of homosexuality or confirmed participation in homosexual acts is required to substantiate any allegations of homosexuality.

4. Prior to 21 November 1990, investigations were carried out in two parts. The first part was at unit level by the CO to determine if the allegations were substantiated. If the allegations were substantiated, the second part of the investigative process was conducted by the Special Investigative Unit (SIU). However, after 21 November 1990, the responsibility for the SIU to investigate allegations of homosexual activities was rescinded.

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5. Once the investigation is completed and if the allegations are substantiated, the case is summarized by the Commanding Officer and forwarded with career recommendations to Command Headquarters. Command Headquarters then reviews the case and forwards its recommendations, along with those of the Unit, to NDHQ DPCAOR 5.

6. Upon receipt of Unit and Command recommendations, DPCAOR 5, in accordance with CPCS A OPM 310-3, prepares the file for review by a Special Career Review Board (SCRB). The Board is composed of DPCAOR, DPLS, DMTS and DGPCOR. A synopsis of the case is prepared and the member's entire file is passed to each member of the Board for their comments and recommendations. When determining if CFAO 19-20 applies the SCRB takes into consideration the statements of the member, the recommendations of the Commanding Officer, any medical statements and Command recommendations. The guidelines of CFAO 19-20, the interim policy on homosexuality, and the draft of CFAO 19-36 are taken into consideration. The Board reviews the case and the circumstances relating to the admitted and/or confirmed act and takes into account remoteness in time of the act, the extent to which the act could be considered an isolated incident, the degree to which the act may have been out of character for the member, the extent to which the member was a willing participant in the act, the age of the member, and

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if involvement with alcohol or drugs could have been a factor. Most importantly, the Board considers the actual homosexual incident or act that occurred. The final decision is based on the member's actual conduct as opposed to any statements concerning the member's alleged sexual propensity.

7. The Board must come to a consensus and direct liaison is made between the members of the Board if there is disagreement. If the Board determines that the provisions of CFAO 19-20 do not apply, then the unit and Command are so informed, and no career action is taken. Should the Board determine that CFAO 19-20 is applicable, that is, the member participated in a homosexual act, then the member is offered, by message, release under QR&O 15.01 item 5(d) in accordance with the interim policy on homosexuality in the Canadian Forces. Should the member accept the 5(d) release offer, the file is forwarded to ADM(PER) for approval of the release. Should the member not accept the 5(d) release offer, the member is retained in the service with career restrictions and the file is retained by DPCAOR 5.

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CONCLUSION

8. The administration of the policy on sexual orientation is based on the requirements of CFAO 19-20, the proposed CFAO 19-36 and the interim policy on homosexuality. The emphasis is on homosexual acts vice propensity or orientation. Each case is reviewed by all levels of command, and by the Special Career Review Board whose members reach a consensus reached before a final career decision is made.

List of Flags

FLAG A - CFAO 19-20

FLAG B - CFAO 19-36 (Draft)

FLAG C - Interim Policy on Homosexuality (Draft Message)

FLAG D - CPCS A OPM 310-3

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