

BRIEFING NOTE FOR THE
MINISTER OF NATIONAL DEFENCE

SUBJECT CANADIAN FORCES POLICY ON SEXUAL MISCONDUCT

BACKGROUND

1. A new Canadian Forces Administrative Order (CFAO) dealing with sexual misconduct was issued on 18 December 1992. The new order is identified as CFAO 19-36 Sexual Misconduct.

MAIN FEATURES OF THE NEW CFAO

2. The new CFAO describes CF career policy and procedures applicable to cases of sexual misconduct. The order is directed at all sexual misconduct, whether heterosexual or homosexual. It does not deal with disciplinary procedures as these are sufficiently covered in other regulations and orders.

3. In the new order, "sexual misconduct" is defined as:

"an act which has a sexual purpose or is of a sexual or indecent nature and which --- constitutes an offence under the Criminal Code or the Code of Service Discipline."

4. The CF policy contained in the order is as follows:

"It is CF policy that sexual misconduct --- is unacceptable and will not be tolerated. A CF member who has engaged in sexual misconduct is liable to disciplinary and administrative action, including release if appropriate. An applicant for enrolment who has engaged in sexual misconduct may be refused enrolment."

5. The CFAO describes the obligations of a Commanding Officer when there is an allegation of sexual misconduct, outlines the type of investigation that must be conducted, and provides guidance on the types of cases that may be handled at the unit level and those that must be referred to National Defence Headquarters (NDHQ) for a decision. In general, cases where there is a victim will normally be referred to NDHQ. Sexual harassment, a particular category of sexual misconduct, is dealt with under a separate order, CFAO 19-39 Personal Harassment.

6. In summary, the order reflects CF non-tolerance of sexual misconduct and establishes consistent investigative and administrative procedures to deal with it regardless of whether it is heterosexual or homosexual in nature.

RESPONSIBLE GROUP
PRINCIPAL

LGen P.G. Addy
ADM(Per), 992-7582

PREPARED BY

G.L. Logan
DPPCS 2, 995-0014

OFFICER AVAILABLE TO
RESPOND TO QUESTIONS

D.E. Munro
DGPP, 995-0018

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