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7 Aug 64ITEM NO.1. DISPOSITION OF SEXUAL DEVIATES  
PMC 20-1-1

1. At this Meeting, the Members had for consideration a proposed tri-Service order prepared by DAdm concerning the policy and procedure for disposal of convicted or suspected sexual deviates in the Canadian Forces.

2. The order stated that the desired uniformity in handling of these cases could best be achieved by centralizing control at the command HQ or Canadian Forces HQ level, as appropriate.

3. Except in minor incidents, the proposed order specified that where a service person had committed a sexual offence, was suspected of having committed such an offence or of having abnormal sexual tendencies, or had made an admission of such behaviour, the commanding officer concerned would:

## (a) for members of the Regular Force

(i) refer the matter for investigation to the military police or, if appropriate, to the civil authorities;

(ii) if warranted by the result of the investigation, refer the member to the appropriate medical unit for psychiatric examination; and

(iii) forward the results of the investigation and the psychiatric report to command HQ, together with advice as to disciplinary action taken or contemplated and a recommendation as to release or other disposition of the case;

## (b) for members of the Reserve Force

(i) refer the matter for investigation to the military police if the incident occurred during or was connected with military service, but otherwise report the matter to the civil authorities; and

(ii) forward the results of the investigation to command HQ, together with advice as to criminal proceedings taken or contemplated and a recommendation as to release or other disposition of the case.

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4. Pending completion of the above investigation the matter would be reported forthwith to command HQ and CFHQ to determine whether the member's files disclosed any other incident of a similar nature and, if so, this information would be included in the investigation report.

5. When the investigation report and recommendation, referred to above, was received, command HQ would determine the action to be taken as follows:

- (a) release of the member as noted below;
- (b) when considered appropriate, notification of civil authorities, eg, police, health or welfare; and
- (c) advice to the commanding officer concerned in respect of disciplinary action and release or other contemplated disposition.

6. The policy under the proposed order concerning release would be:

- (a) if tried by Court Martial and sentenced to dismissal, the member would be released under Item (1)(a) of the Table to QR 15.01;
- (b) if a member had been convicted of a sexual offence by a service tribunal or civilian court, he would be released under Item 2(a) (Unsatisfactory Conduct) of the Table to QR 15.01, unless release for misconduct under Item 1(b) (Service Misconduct) was clearly warranted by the circumstances, eg, corruption of minors;
- (c) subject to (a) and (b), the member would be released under Item 5(d) (Unsuitable for further Service) of the Table to QR 15.01, where
  - (i) the member had sought medical assistance and, in so doing, had admitted to aberrations of behaviour or to character deviations of a sexual nature, resulting in a recommendation of the medical authorities for the member's release on administrative (non-medical) grounds; or

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- (ii) there were other reasonable grounds for suspicion of the member's aberrations of behaviour or character deviation of a sexual nature, other than a minor incident.

7. Where, in accordance with release policy and procedures, release cannot be approved at command HQ, the investigation and psychiatric reports, together with other relevant material and the command recommendation for disposition of the case, would be forwarded to Canadian Forces HQ for decision.

8. The draft order noted that while disciplinary action would not always be indicated, there would be cases where such action was appropriate. The factors to be considered were:

- (a) the contents of the psychiatric report;
- (b) the nature of the offence and other circumstances, including the persons (Service or civilian) involved and their ages; whether the persons involved were willing participants; or whether any person was assaulted;
- (c) the action, if any, taken by the civil authorities;
- (d) the possibility of adverse publicity affecting innocent persons or the Service.

9. Where preliminary investigation of an incident indicated that it was of a very minor nature, notwithstanding there might be some suspicion of sexual deviation, the procedure prescribed above could be dispensed with where:

- (a) the commanding officer and the medical officer consulted in that regard, were both of the opinion that a psychiatric examination and other further investigation was not warranted;
- (b) a minor was not directly involved in the sexual aspects of the incident;
- (c) the member was not normally engaged in sensitive duties requiring a high degree of security of service information.

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10. The incident would be reported to the command HQ and to CFHQ to ensure that the member's files did not disclose any other incident of a similar nature. If so, the disposal procedure set forth in paragraphs 3 to 8, inclusive, above would be applied.

11. The Chairman stated the RCAF had studied the proposed order and compared it with their existing orders which had been amended in 1963 and 1964 based on experience. They did not agree with the proposed order as it was much too detailed, included aspects which should not be included and left out other aspects which experience had indicated were necessary. He stated that the RCAF had two orders dealing with sexual deviates; a confidential medical order and a discipline order. Basically the procedure followed was that the CO, in conjunction with the station medical officer (SMO), investigated any rumours etc. of sexual deviates. If found to have substance, the unit would investigate formally and, if the SMO so recommended, the man would be referred to a psychiatrist for examination. Based on the results of these investigations, a recommendation would be forwarded to AFHQ. Investigation was done by units, the decision re disposal was made at AFHQ.

12. LCDR Bisal agreed the distribution of policy instructions on handling deviates should be broadened and that this was in line with Navy practice. However, the Navy were definitely not in favour of giving increased authority to stations, units or Commands. Specifically the action proposed in 3(a)(iii), 3 (b) and paragraph 5 above was objectionable as it purported to decentralize authority for action on these matters to Commands. The Navy agreed with the policy of the RCAF that decisions as to the disposition of individuals who fall within the sex deviate category be made at NDHQ. The Chairman agreed that the RCAF could not delegate decisions to units/commands.

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13. DAdm replied that he had not previously seen the RCAF confidential orders but he agreed with them. He suggested that the Legal Sub-Committee draft a tri-Service order for PMAC consideration, based on these RCAF confidential orders. LCDR Bisal suggested the order be in broad general terms and that each service or CFHQ, issue policy letters to elaborate and tailor the order to meet the needs of Commands or units. DAdm and DPA agreed, adding that the RCAF orders were general. LCDR Bisal suggested that the proposed Directorate of Security be consulted while the Chairman added that the Surgeon General should also advise. After discussion, it was agreed that the Legal Sub-Committee in conjunction with such other agencies as might be necessary draft a tri-Service order using the RCAF orders as a basis.

Decision: The Members agreed that the Legal Sub-Committee, in conjunction with such other agencies as may be necessary, eg Surgeon General, and the Director of Security, draft, for PMAC consideration, a tri-Service order on sexual deviates using the RCAF confidential orders as a basis.

Action: Legal Sub-Committee