

A0050456_1-002495

ANNEX TO MEMORANDUM ON EMPLOYMENT OF HOMOSEXUALS IN THE RCMP

ISSUE

Whether to support a proposal by the Commissioner of the RCMP that formal policy be promulgated which would institutionalize the Force's current practice of neither recruiting nor retaining homosexuals as Regular Members of the Force.

BACKGROUND

The RCMP has over the years practised a tacit policy of non-recruitment of homosexuals. This practice came to public attention when the Commissioner of the RCMP stated before the House of Commons Standing Committee on Justice and Legal Affairs on April 12, 1984 (Tab C) that the Force does not knowingly recruit homosexuals. Although reported by the media, the matter never developed into a public controversy.

An issue related to the non-recruitment practice came to the forefront recently when a homosexual was identified in the ranks of the Force and the Commissioner wished to terminate his employment as a Regular Member. In the course of dealing with that case, the Commissioner submitted an Aide-Mémoire (Tab B) outlining the Force's rationale for not engaging or retaining homosexuals in the RCMP, and a proposed Commissioner's Standing Order (CSO) (Tab A) which would make homosexuality a new ground for discharge from the Force. While that particular case was resolved when the member concerned was offered and accepted a Civilian Member position, no response has been provided to the Commissioner on his proposal. A detailed commentary on the Aide-Mémoire is attached to this Annex.

RATIONALE FOR RCMP PRACTICE

The Commissioner makes the following statement in his Aide-Mémoire to support not knowingly engaging or retaining homosexuals as Regular Members in the RCMP:

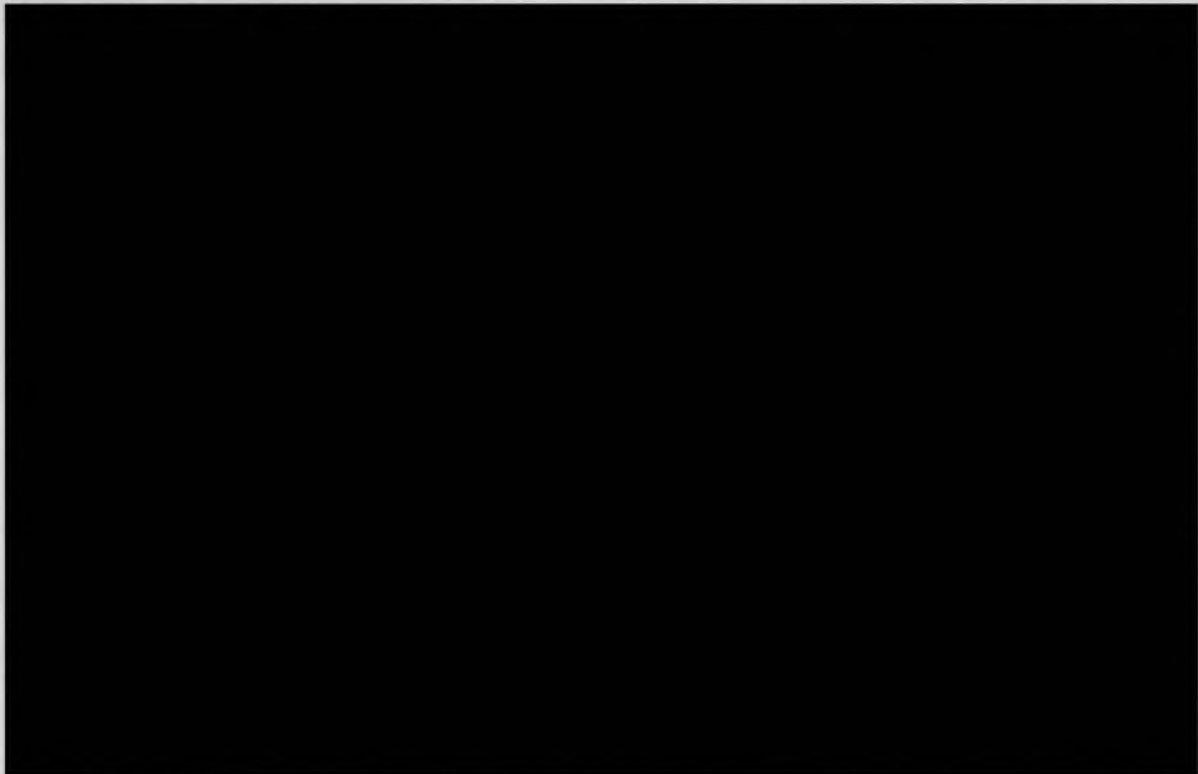
"The RCMP engage, and retain, only such persons as are capable of performing all peace officer tasks that are assigned to them, and whose lifestyles are compatible with a police environment. In the case of homosexuals, it is the considered view of the Commissioner and authorities in the RCMP, that such persons, because of their sexual orientation, create a number of serious problems for the RCMP which militate against their employment."

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The rationale for excluding homosexuals from the Force borrows extensively from policy positions adopted by the Armed Forces a number of years ago. Some of the fears and concerns expressed in this document do not reflect the greater tolerance towards homosexuals that is part of contemporary society. The arguments also lack a cohesive structure which make them difficult to follow. Secretariat officials have prepared a commentary on the Commissioner's Aide-Mémoire (Tab B) which regroups the arguments in support of the Force policy into three categories. The Aide-Mémoire includes only one item (paragraph 3) under the heading bona fide Operational/Occupational Impediments. As actual operational impediments to employment of homosexuals in the RCMP is central to the proposed policy, we have in our consideration expanded this section to include factors such as security, foreign postings, discipline and public acceptance. Other items have been regrouped under the headings Legal and Intangible Factors and are considered first.

LEGAL FACTORS



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Some RCMP postings are in countries where homosexuality per se is illegal. This concern is valid to the extent to which the range of personal suitability factors (including sexual orientation) are taken into consideration in choosing members to occupy sensitive foreign posts.

The Commissioner points out that homosexual behaviour is also illegal in Canada under certain circumstances (i.e., under age 21; without consent; and in public places). It would be reasonable to assume that a member so convicted in the criminal courts would be subject to internal discipline (including dismissal) under Section 25(o) of the RCMP Act for conduct unbecoming. The same would apply to heterosexual members convicted of sexual offences.

INTANGIBLE FACTORS

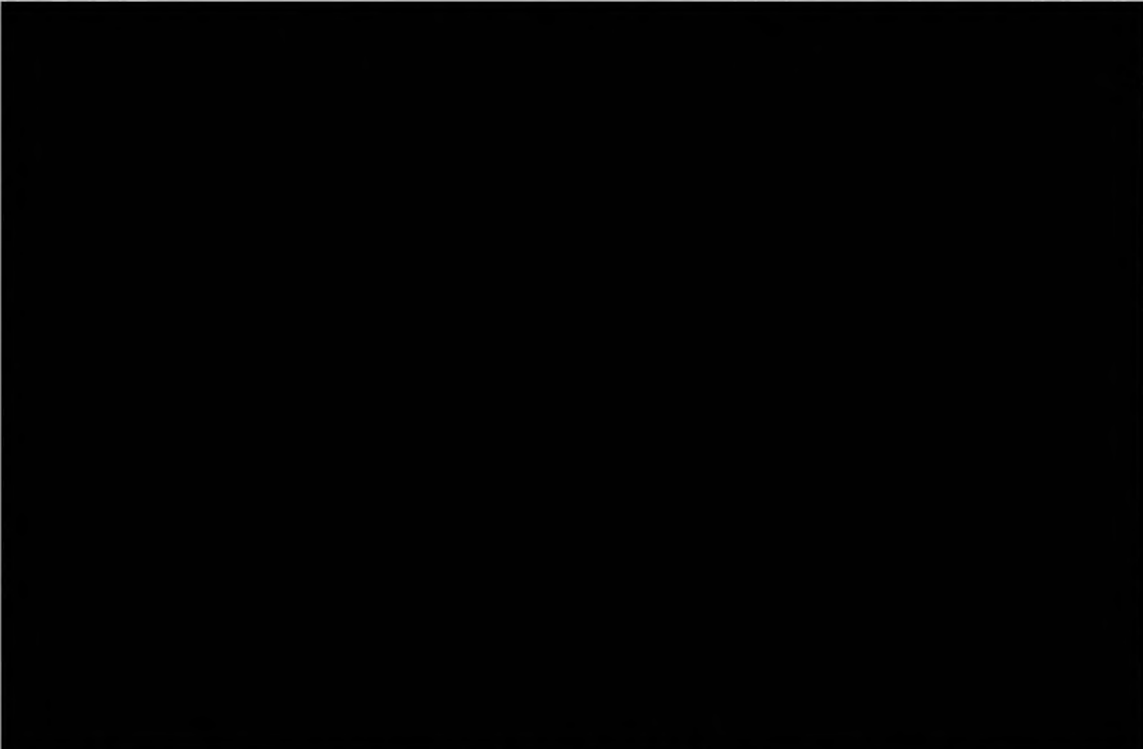
There are a number of arguments put forward by the Commissioner that relate to abstractions which are very difficult to identify or quantify. This does not mean to suggest that these factors are inconsequential; on the contrary, they may under certain circumstances be the most significant. Included under this heading are problems for Force discipline and morale created by the presence of homosexuals in the Force. It is argued that the Force image, both in the eyes of the public and the members themselves, would suffer. Possible recruitment problems would be created, and cohesiveness and harmony in the Force might be adversely affected.

It is not possible to assess accurately the impact the recruitment and retention of homosexual members would have on such intangible factors. It would appear, however, that the reputation of the Force and the attitudes of its members as a whole are unlikely to be severely affected by any single policy such as the retention of homosexuals. There may, however, be circumstances where the retention of a homosexual member could have an adverse effect in a specific locality. In its extreme, anti-homosexual sentiments and overt homosexual behaviour could lead to incidences of violence.

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OPERATIONAL/OCCUPATIONAL IMPEDIMENTS

Occupational impediments include any consideration that can reasonably be seen to affect the quality, efficiency, effectiveness or safety of performing one's duties "based on the practical reality of the workaday world and of life".



The arguments put forward by the Commissioner in the Aide-Mémoire which refer most directly to operational/occupational requirements have been grouped into personal suitability and duty-related factors.

Personal Suitability

In the Commissioner's argumentation, personal suitability refers to all those considerations which relate most directly to the assessment of new recruits. Among other factors, personal suitability is referred to in the RCMP Recruit Model as being a function of intelligence,

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leadership, maturity, character and motivation. Under the heading of character, abnormal behaviour is identified as a factor affecting public acceptance, a quality deemed essential to police duties. The Commissioner states that lack of acceptance of homosexuals would lead to unwillingness to cooperate and/or associate with members whose homosexual orientation was common knowledge, and would result in placing additional constraints upon the Force to fulfill its already difficult mandate.

A convincing but qualified argument can be made that a greater degree of public support and cooperation can be achieved by police officers who personify prevailing community mores. In order for a member's homosexuality to affect his standing in the community, his sexual orientation must be generally known and found reprehensible by the community at large. In small communities and in certain sectors of larger cities, the orientation of an overt homosexual member would quickly become known. By and large, however, a person's sexual orientation is not public knowledge and public attitudes are tending towards increased tolerance in this area.

A similar argument could be made about the possible adverse operational consequences of overt homosexual behaviour on intra-Force relationships. This would appear to be the basis for the Commissioner's statement before the House of Commons Standing Committee on Justice and Legal Affairs that "there are few members of any police organization that are comfortable with people of that persuasion in their midst." The ability to meet people easily and be liked, to get along well with people and put them at ease, are important personal suitability factors which are considered when promoting a member to the officer ranks. Established Force policy is to seek individuals who promote personal rapport. Attitudes toward homosexuals in the Force may be such as to preclude an overt homosexual recruit from being able to satisfy these personal suitability requirements.

Homosexuality may in individual cases impact on the factors of reliability and loyalty which are assessed in the security screening of prospective government employees. However, this screening process is separate and apart from the evaluation of personal suitability factors. It is fallacious to cite homosexuality as a defect in personal suitability requirements just because it may from time to time be a factor in the security assessment.

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The Commissioner argues under the heading "Hierarchical Rank Structure" that the superior-subordinate relationship in the Force could be exploited by a homosexual. This concern applies equally to heterosexual officers in a mixed force. There is no evidence presented that homosexuals are any more likely to abuse authority than heterosexuals.

Duty Related Factors

This grouping refers generally to the external circumstances and activities of life in the RCMP on which the sexual orientation of a member might have a bearing. The primary argument in this category being that communal life and shared facilities are incompatible with homosexual behaviour. The Commissioner points out that members of the Force are required to live and work in close quarters, (e.g., isolated postings, barracks and on board ship). The employment of a homosexual in these contexts, he argues, has the potential of leading to conflict.

The same rationale is used by the Armed Forces for excluding homosexuals from their ranks. In the case of the Armed Forces, the argument is more compelling because of the extended communal life. Nonetheless, the majority of RCMP members would also probably find it "uncomfortable" to share facilities with a known homosexual for the six months of barrack life required of each new recruit. Isolated postings may also be a problem in this regard.


The Commissioner provides only one example of a specific police-related duty which could conceivably be affected by the sexual orientation of a police officer: the requirement to do body searches and control prisoners. He refers to the "intimidating atmosphere" created by a homosexual in these circumstances. However, as sexual orientation is not readily apparent, it is difficult to support this view. As in earlier arguments, the validity of the contention is dependent upon the particular knowledge and attitude of the individual dealing with the homosexual member.

CONCLUSIONS

There are factors which militate against the employment of homosexuals in the RCMP: the employment of homosexuals at certain foreign postings; the potential for conflict; the reduced ability to get along well with fellow members and the community being the most obvious factors. The primary

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source of potential problems associated with the employment of homosexuals lies with the attitudes and fears of Force members and the public they serve. The assessment in the Aide-Mémoire of the scope and intensity of anti-homosexual feelings and its consequences on Force operations is probably exaggerated. Should the RCMP change its current practices, the adverse consequences would likely be in the form of minor and localized incidents rather than a significant and general downgrading of the effectiveness of the Force as a whole.



It remains for consideration whether the implementation of the Commissioner's proposal could cause more harm by sanctioning the practice of discrimination than the negative impacts of homosexual members which police management might encounter if the proposal were not implemented.

The adoption of a recruitment practice for the treatment of homosexuals, aside from legal and public policy considerations, raises a full range of questions regarding objective practicality. Recognizing the continuum of sexual orientation which ranges from clear heterosexual to homosexual behaviour but includes bisexuality, asexuality and a full panoply of subtle gradations, at what point would an individual be defined "homosexual" and what would provide satisfactory proof for the purpose of administrative proceedings?

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The course of action proposed by the Commissioner for determining homosexual tendencies of serving members may well create more problems for the Force than it will solve. It requires that members report on suspected homosexuals in the Force and Commanding Officers investigate these allegations. The practical consequence could be to foster anti-homosexual sentiments in the Force and to institute a witch hunt against fellow members who are otherwise performing their duties satisfactorily. This could lead to unnecessary invasion of the privacy of individual members and, in the absence of any conduct unbecoming to the RCMP, may otherwise have no bearing on the management of the Force.