

SECRETResponse to the Recommendations in the  
Equality for All ReportThe Proposal

The Minister of Justice proposes for discussion the text of the Government's response to the report of the Parliamentary Committee on Equality Rights, based on extensive interdepartmental consultations and some bilateral meetings with his colleagues. You will recall previous CCSD discussions of the strategy to govern the response and caucus consultation. As you know, a response must be tabled in the House by February 21, 1986.

The response is slated to play a central part in the social justice initiative [REDACTED]

[REDACTED]

The proposed response includes requests for resources from the Social Development Policy Reserve of \$.165M (1985/86), \$1.386M (1986/87), \$2.181M (1987/88) \$4.87 (1988/89), and \$.5M (1989/90).

Documents

You may wish to read the Ministerial Recommendations (M.R.-former Executive Summary) and the Communications Synopsis. The detailed response, with notes on relevant interdepartmental concerns, appears at Annex B to the M.R.

Comments

Adequacy of the Response as a Centerpiece of the Social Justice Package

In Mr. Crosbie's view, the current response proposals accept some 80% of the Parliamentary Committee's recommendations, in whole or in part, and either commend the balance to future study or reject them, in whole or in part, on firm grounds. His assessment is that the response, as proposed, must and does lend credibility to the Government's commitment to advancing equality rights in federal legislation and policies. If he is unable to maintain the current tenor of the Government's reply, then he may be concerned that the response would not be strong enough to play a central part in the social justice theme.

Mr. Crosbie has worked extremely hard to develop positions which try to meet, if not the letter, then at least the spirit of the Parliamentary Committee's recommendations. However, consensus remains elusive in certain key areas (mandatory retirement, sexual orientation and the primacy of and other amendments to the CHRA). In addition, the nature of certain responses, which agree with the recommendations of the Parliamentary Committee, is such that, in some cases, they could be perceived as less than a clear commitment of the Government to specifically implement the recommendations made. The central question for Ministers to address in reviewing the specific responses proposed is whether the cumulative effect of the response is a fully credible and defensible position or whether too many recommendations are either deferred, rejected or accepted in a not sufficiently meaningful way so that the response will not demonstrate strongly the Government's commitment to social justice issues.

Outstanding Major Areas of Controversy/Lack of Consensus among Ministers

The Minister and Associate Minister of National Defence have raised significant and substantive concerns about elements of the Minister of Justice's approach and suggest that there is an absence of a conceptual framework to key responses. They

question certain amendments to the CHRA (the CHRA's primacy and relationship to the Charter and the consequences of the amendments for individual rights as opposed to the collective rights of society). They oppose including sexual orientation as a prohibited ground of discrimination and eliminating the rules which permit mandatory retirement, in spite of proposed exemptions for the Canadian Forces in both cases. They are concerned by the tone of the proposed response on women in combat. These Ministers submit that such complex issues require more study before the Government moves to accept some of the recommendations of the Parliamentary Committee even in principle.

In addition, you might wish to ask Mr. McLean for his impression of the responses on specific interest to women, e.g. in pension benefits, on marital or family status and women in combat, in the light of the Prime Minister's FMC pledge to advancing the economic and social equality of women and the response's compatibility/complementarity with the women's package, now in development.

PCO and other relevant comments on the proposed responses are at Annex 1 to this note, which will follow tomorrow, and have been written to physically parallel the structure of Annex B to the M.R. In the discussion, you may find it helpful to separate our Annex 1 from this note and to place it next to the proposed responses for easy reference.

#### Financial Implications

The M.R. requests funding from the Social Development Policy reserve totalling some \$9M over 5 years to allow the Canadian Human Rights Commission (CHRC) to implement the existing equal pay provisions of the CHRA, to assist the Minister of Justice to take an active part in promoting and implementing the response to the Parliamentary Committee report and to complete the review of the CHRA, and to permit Statistics Canada to provide data to evaluate employment equity programs. If two recommended responses were to change (replacing the Spouses Allowance under OAS with an equivalent benefit that does not refer to marital status and conferring benefits on female and male veterans at age 55 under the War Veterans Allowance Act), then the cost implications could increase dramatically.

In addition, the MC identifies potential future financial implications for the Government in a number of areas which will be the subject of further definition in separate submissions to Cabinet.

Finance officials will advise their Minister to indicate that any future resource requirements, other than those requested in the M.R. or those arising from reforms underway or policies in existence, may not be accommodated. In this context, you may wish to raise your understanding that, given the status of the Social Development Policy Reserve, should there be any financial implications other than those requested in the M.R., Ministers will have to anticipate meeting such requirements by reallocation within existing resources.

Treasury Board officials advise that there are no new funds available for 1985-86 (\$.165M is requested) and may question the additional resources requested by Justice to implement the response and review the CHRA, because of resources given in 1982 relating to implementing the Charter. In the latter case, the whole matter of person years should be referred to the Treasury Board.

Specific comments on the cost implications of the response are included in our detailed Annex 1.

#### Communications Strategy

The communications synopsis and strategy provide a good assessment of the reaction to the Parliamentary Committee's recommendations and anticipate well the areas of likely criticism of the Government's response (final paragraph, p.153). The strategy also firmly links the response to the social justice theme in the context of fiscal responsibility.

While clearly giving the Minister of Justice the leadership role, the strategy recognizes the need for strong interdepartmental and interministerial coordination by establishing a communications coordinating committee of officials on equality rights and providing for briefing of affected Ministers and their active involvement on implementation of

equality-related initiatives. You may wish to ensure that this arrangement is satisfactory to both manage the process and involve Ministers whose programs or policies are touched by the equality response. You may also wish to suggest, with Mr. Beatty's concurrence, that the Cabinet Committee as Communications review the communications and coordination strategy before the response is tabled in the House. If some Ministers express concern regarding the cost and other implications of Mr. Crosbie's leadership role, you may wish to review together the \$3.1M communications budget at pp. 185-187. As long as other Ministers with a stake in the issue are guaranteed their parts in addressing issues and in developing common "press lines", then there is good reason to designate a lead Minister.

### The Meeting

Special invitations have been extended to all concerned Ministers to ensure a full discussion of the issues. Mr. Crosbie intends to approach this complex subject by providing first his perception of the response in general terms: as positive, likely to be viewed by some as going too far and by others as not going far enough, and as one which is politically viable. He may also indicate that a Government response, which does less, would not be acceptable. He will then use overhead slides to review briefly for Ministers the substance of the responses proposed.

We understand Mr. Crosbie will then suggest that discussion be organized on the basis of a cue sheet which will be available to Ministers and is at Annex 2 to this note. Responses will be divided into four categories: (1) where there is agreement with recommendations of the Parliamentary Committee, government action has taken place or is about to take place and there appears to be consensus among Ministers (in the case of some 40 responses); (2) where responses are deferred because of other initiatives which subsume the subject and where consensus among Ministers exists (some 22 responses). He will recommend that, subject to any objections, Ministers accept the responses proposed within these two first categories without further discussion. Discussion, then, would focus on the remaining responses; (3) those 8, where the Government would disagree with the Parliamentary Committee (and where there appears to be consensus among Ministers); and (4) those 15 responses where there is no consensus among Ministers regardless of whether the proposed reply accepts or rejects the Parliamentary Committee's recommendations.



If you accept this scenario, on which we were consulted, you could seek Ministers' agreement on the approach and begin discussion with recommendation 19 at p. 37 of Annex B to the MR. We suggest that the discussion follow the order of the recommendations within each of Mr. Crosbie's third and fourth categories. Should a Minister wish to raise any item in categories 1 or 2, it should be discussed first.

### Conclusions

Although a two-hour time slot has been allocated to the discussion, we anticipate that some issues may require further consideration, either at CCSD, P&P or elsewhere. The timetable for the response also was designed to accommodate full consultation with caucus, and the process is in place to commence this important phase when the Justice caucus committee meets on Thursday of this week and at the weekend meetings which follow.

In this context, you may wish to consider whether it is opportune for CCSD to reach a final decision on the response on the 15th. If there are too many issues outstanding, you could conclude the discussion by indicating that there will be no CR at this time, to allow for further bilateral discussions among Ministers and for caucus consultation to proceed. If this is the case, Mr. Crosbie could return to CCSD on January 29, which would not jeopardise tabling the response in time.

However, if there are only a few areas of continuing disagreement, you may wish instead to indicate that a CR will be issued and that, having the benefit of the Committee's views, you and the Minister of Justice would be prepared to bring to P&P's attention any outstanding issues for further consideration. In either case, it would be important to highlight those responses, which already enjoy consensus, to ensure that they at least remain off the table.

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