

BRIEFING NOTE  
SEXUAL ORIENTATION

BACKGROUND

1.

OCT. '85

- a) The Boyer Committee tables its report "Equality for All", which offers the opinion that Sec. 15 of the Charter DOES encompass Sexual Orientation (S.O.) as a prohibited ground of discrimination. Their Rec. 10 calls for amending the Canadian Human Rights Act (C.H.R.A.) to add S.O. to the ten proscribed grounds of discrimination. Their Rec. 11 directs R.C.M.P. and C.A.F. to bring personnel practices into line with amended C.H.R.A.

NOV./DEC. '85

- b) The Force response to "Equality for All" (Recs. 10 & 11), and others, are consolidated into the Ministry of the Solicitor General's paper dated December 5, 1985. The position of the Force is essentially similar to that given by the Commissioner when he appeared before the Boyer Committee hearings on May 1, 1985. It is that -
- homosexual members will be ineffective in some situations as peace officers and especially with respect to the searching of prisoners, many of whom would take great exception to being searched by a homosexual;
  - the Force's efforts to engender public support through various community activities, particularly with youth groups, would be undermined;

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- many smaller communities policed by the Force are intolerant of homosexual behaviour and people in these communities would view a homosexual member as a threat to the moral fibre of the community and as a threat to the personal safety of their children;
- the homosexual lifestyle is unacceptable to the vast majority of members of the Force. The recruitment and retention of homosexuals would adversely affect the morale of these members. Certain practices which may be tolerated in civilian society may have to be barred in a police organization in the interest of morale and the maintenance of discipline and pride of unit;
- the public has come to expect a high moral and ethical standard from members of the R.C.M.P. Acceptance of homosexuals into the Force will adversely affect the public image we have developed over the years and may very well result in a perception that the Force is not a suitable environment for young people starting a new career:  
and
- the safety of the homosexual member would well be at risk and the Force's mobility criteria for its members would be compromised.

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CURRENT

2. a) The Dept. of Justice, co-ordinating the implementation of "Toward Equality" and the government's commitment to recommendations 10 and 11 of "Equality for All" (S.O.), has approached the Solicitor General for a description of the Force's means of complying with the government's position.
- b) A draft ministerial directive to the Force states:
  - "specifically, sexual orientation is prohibited as a ground for discrimination in the selection, recruitment, or employment policies, practices and procedures of the Royal Canadian Mounted Police."
- c) It is recognized by the Solicitor General staff that the Force "does not seem to have formal, explicit policies on sexual orientation which would have to be altered" ... however, "its informal practices most certainly will".

OUR POSITION

3. a) We are not in accord with the government's position. Sexual Orientation is relevant to whether a person can perform as a peace officer in the R.C.M.P.
- b) The Minister of Justice suggested publicly that the law will be changed to reflect the government's position leaving some

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- doubt whether this would be done by amending the Human Rights Act or some other means. (The Minister acknowledges that there may be a bona fide occupational requirement which justifies discrimination based on sexual orientation.)
- c) Our ability to have the issue tested in the courts is constrained because:
- i) we have no policy (prohibitive or otherwise) on so which could set the stage for a court challenge under the Charter. The previous Minister was unsupportive of creating policy; and
  - ii) sexual orientation is not a prohibited ground of discrimination under the C.H.R.A., therefore, we cannot have our position tested by that forum.

THE OPTIONS

4. a) Seek ministerial approval for policy on sexual orientation;  
b) seek amendments to C.H.R.A.; or  
c) have ministerial directive approach pursued and arrive at amendments workable in the Force.

NOTE: Any changes in informal practices will need to be communicated to Detachment Commanders and Staffing & Personnel personnel who are involved in recruiting. If we proceed by ministerial directive, that directive will need to be communicated to the detachment level. (There has been some question of the need to disseminate the contents of the ministerial directive if published.)

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