

PROPOSED TRI-SERVICE ORDER

CONFIDENTIAL

SEXUAL DEVIATES - DISPOSITION

*L. J. Pettit*

AIM

1. The aim of this order is to outline the policy and procedure for disposal of convicted or suspected sexual deviates in the Canadian Forces.

GENERAL

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

INVESTIGATION

3. Except as provided in paragraph 3, where a member has committed a sexual offence, is suspected of having committed such an offence or of having abnormal sexual tendencies, or has made an admission of such behaviour, the commanding officer concerned will:

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 results 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

4. Pending completion of the investigation referred to in paragraph 3, the matter will be reported forthwith to Command HQ and CFHQ to determine whether the member's files disclose any other incident of a similar nature and, if so, this information will be included in the current investigation report.

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

- a. release of the member in accordance with paras 6 and 7 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.

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*Final Order*

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GENERAL

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

INVESTIGATION

3. Except as provided in paragraph <sup>9</sup>~~3~~, where a member has committed a sexual offence, is suspected of having committed such an offence or of having abnormal sexual tendencies, or has made an admission of such behaviour, the commanding officer concerned will:

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 results 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 is connected with military service, but otherwise report the matter to the civil authorities, and
- (ii) forward the results of the investigation, <sup>To Command HQ,</sup> together with advice as to criminal proceedings taken or contemplated and a recommendation as to release or other disposition of the case.

DISPOSITION

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

- a. release of the member in accordance with paras 6 and 7 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.

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6. The policy concerning release will be as follows:

- a. if tried by Court Martial and sentenced to dismissal, the member will be released under Item (1) (a) of the Table to QR(Army) 15.01;
- b.1 if a member has been convicted of a sexual offence by a service tribunal or civilian court, he will be released under Item 2(a) (Unsatisfactory Conduct) of the Table to QR(Army) 15.01, unless release for misconduct under Item (1) (b) (Service Misconduct) is clearly warranted by the circumstances, eg, sorruption of minors;
- c. subject to a. and b., the member will be released under Item 5(d) (Unsuitable for further Service) of the Table to QR(Army) 15.01, where
  - (i) the member has sought medical assistance and, in so doing, has 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
  - (ii) there are other reasonable grounds for suspicion of the member's aberrations of behaviour or character deviation of a sexual nature, other than a minor incident as referred to in paras 9 and 10 below.

7. Where in accordance with release policy and procedure (see CAOs 256-3 and 256-4, NGOs or AFAOs), 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, will be forwarded to Canadian Forces HQ for decision.

8. While disciplinary action will not always be indicated, there will be cases where such action is appropriate. In determining whether disciplinary action should be taken, the following should be considered:

- a. the contents of the psychiatric report;
- b. the nature of the offence and other circumstances, including
  - (i) ~~the ages~~ of the persons involved (Service or civilian) *and their ages;*
  - (ii) whether the persons involved were willing participants, or
  - (iii) 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.

#### Minor Incidents

9. Subject to para 10, where preliminary investigation of an incident indicates that it is of a very minor nature, notwithstanding there may be some suspicion of sexual deviation, the procedure prescribed in this order may be dispensed with where the following conditions apply:

- a. the commanding officer and the medical officer consulted in that regard, are both of the opinion that a psychiatric examination and other further investigation is not warranted;
- b. a minor is not directly involved in the sexual aspects of the incident;

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- e. the member is not normally engaged in sensitive duties requiring a high degree of security of service information.

10. The incident will be reported to the command HQ and to <sup>CF</sup>AHQ to ensure that the member's files do not disclose any other incident of a similar nature. If so, the disposal procedure set forth in paragraphs 3 to 8, inclusive, of this order will be applied.

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