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AIR FORCE ADMINISTRATIVE ORDER

Homosexuality and Gross Indecency - Disposition of Offenders

PART I - GENERAL

1 Certain homosexual acts and grossly indecent acts by males are offences against The Criminal Code of Canada; however, there is nothing to cover the homosexuality of females (lesbianism) apart from sec 292(b) of The Criminal Code (Indecent Assault on Women), which might apply in rare cases. There is no section creating the offence of gross indecency by females.

2 All persons who are convicted of an offence under secs 202 (Buggery), 203 (Attempts to Commit Buggery), 206 (Gross Indecency) and 293 (Indecent Assault on Males) of The Criminal Code of Canada shall be released from the RCAF under the provisions of the table to QR (Air) art 15.01, and normally under item 2(c), "Unsatisfactory conduct". Persons who have been sentenced by service tribunal to be dismissed from the Service shall be released under QR (Air) art 15.01, item 1(a) or (b).

3 All persons not convicted of an offence referred to in para 2, who have been diagnosed by either a psychiatrist or a SMO as a "Psychopathic personality - homosexual type", shall be released under the provisions of the table to QR (Air) art 15.01 item 5 (b)(ii), "Being considered unsuitable for reasons other than misconduct, inefficiency or medical unfitness".

4 Immediately any person is informed or becomes aware that an act of a homosexual nature or an act of gross indecency has taken place, a report, without any investigation, shall be made to the CO. The CO shall then act in accordance with the relevant instructions contained in Parts II and III of this order.

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7  
000161

CONFIDENTIAL

- 2 -

5                   When any investigation into homosexual or grossly indecent behaviour at a unit discloses that a serviceman or servicewoman from another unit may be involved, such information shall be treated as confidential and be reported only to the CO who has ordered the investigation. The CO shall then forward this information to CHQ. The CHQ, if the other unit is from another Command, will pass the information to AFHQ/AMP/CPS. If the other unit is under command of the CHQ, it may report the matter to the CO concerned for his action.

6                   When release is effected under this policy, consideration is to be given by the Area Social Welfare Officer to the counselling and rehabilitation of persons affected. Further, in order that the civil authorities may be advised when considered appropriate by AFHQ, a detailed report of the reasons for release is to be submitted to AFHQ/AMP/DPA by confidential letter.

PART II - HOMOSEXUAL ACTS BY WOMEN

7                   The CO, on receiving a report referred to in para 4, shall call in the SMO and the Area Social Welfare Officer and, having discussed the matter with them, order an investigation, if he deems it warranted, by either the SMO or the Welfare Officer or by both. Any questioning by male officers is to be done in the presence of a woman officer and will not be conducted in such a manner that the offender will be embarrassed. If there is no medical officer where such a situation arises, the CO shall at once inform the Command SOMS who shall provide a medical officer.

8                   When the investigation, if any, is completed, the report shall be given to the CO who shall, if it indicates that a homosexual act has been committed, take the following action as required:

- (a) If a civilian, who is a juvenile as defined in the relevant provincial children's protection legislation, is involved, inform the nearest children's welfare authorities.

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000162

CONFIDENTIAL

- 3 -

- (b) If it appears that the offender may be guilty of an indecent act under sec 292(b) of The Criminal Code, and a civilian is involved, refer the matter to the local police authorities to ascertain if they desire to take any action.
- (c) Disciplinary action is not to be instituted in any event.
- (d) Regardless of the result of any civil action, the CO shall instruct the SMO or MO to make a psychiatric diagnosis, if possible, or to refer the case, together with the report of the investigation, to a psychiatrist for a diagnosis.

9 If the offender is diagnosed as a "psychopathic personality - homosexual type" by either a MO or a psychiatrist, release action as indicated in para 3 shall be taken.

PART III - HOMOSEXUAL AND GROSSLY INDECENT  
ACTS OF A CRIMINAL NATURE BY MALE PERSONNEL.

10 The CO, on receiving a report referred to in para 4, shall call in the SMO, the Area Social Welfare Officer and an officer of the Personnel Security List and, having discussed the matter with them, shall, if he deems it warranted, order an investigation by the officer of the Personnel Security List who shall act under the direction of the SMO and who shall conduct the investigation personally. Similarly, if a social welfare aspect requires investigation the Area Social Welfare Officer shall act under the direction of the SMO. If there is no medical officer where such a situation arises, the CO shall at once inform the Command SOMS who shall provide a medical officer.

11 As soon as the reports of investigations have reached the SMO, he shall at once take the reports to the CO. The CO shall, if it indicates that an offence against The Criminal Code has been committed, take the following action as required;

..... 4

000163

AGC-0710\_0003

~~CONFIDENTIAL~~

- 4 -

- (a) If a civilian is involved, refer the matter to the local police authorities to ascertain if they desire to take any action.
- (b) If no civilian is involved, or if the reference in (a) has been made and the local police authorities do not wish to act, consider disciplinary action. The offender is not to be psychiatrically examined before trial, except on the request of the accused, his defending officer or counsel.

12 If the offender is convicted by a civil or service tribunal, release action as indicated in para 2 shall be taken.

13 If the offender is found not guilty by a civil or service tribunal, or is not charged with any offence, the CO shall instruct the SMO or MO to make a psychiatric diagnosis, if possible, or to refer the case, together with the reports of any investigations, to a psychiatrist for a diagnosis. If the offender is diagnosed as a "psychopathic personality - homosexual type", release action as indicated in para 3 shall be taken.

14 When the report of the investigation referred to in para 10 indicates that homosexual behaviour has taken place which may not be an offence against The Criminal Code, the CO shall take the following action as required:

- (a) If a civilian, who is a juvenile as defined in the relevant provincial children's protection legislation, as involved, inform the nearest children's welfare authorities.
- (b) Direct the Area Social Welfare Officer to make a full report to be used by the SMO in his consideration of the problem.

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4  
000164

CONFIDENTIAL

- 5 -

(c) Instruct the SMO or MO to make a psychiatric diagnosis, if possible, or to refer the case, together with the report of the Social Welfare Officer to a psychiatrist for diagnosis.

15 If the offender referred to in para 14 is diagnosed as a "psychopathic personality - homosexual type" by either a MO or a psychiatrist, release action as indicated in para 3 shall be taken.

16 If, under the terms of AFAO , the SMO recommends the release of a man or woman, who voluntarily admits to homosexual behaviour or tendencies, release action as indicated in para 3 of that order shall be taken.

17 The Area Social Welfare Officers referred to in this order and AFAO must be graduates of an accredited school of social work and hold a commission in the RCAF.

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