

CFAO 19.

## HOMOSEXUALITY

### Policy

1. Persons who declare themselves to have committed homosexual acts will not be enrolled in the CF, and members of the CF who perform homosexual acts will not be retained.

### Definitions

2. For the purposes of this order:

- a. "Homosexual Act" - A homosexual act is an intentional or willing act of stimulation or response of a sexual nature with a person of the same sex, including but not limited to

000462

fondling or caressing,  
kissing, masturbation,  
fellatio, cunnilingus and  
buggery.

### Investigation

3. If a Commanding Officer has reason to believe that a member of the Canadian Forces has committed a homosexual act, he shall investigate and determine the facts of the matter.

4. Preliminary investigation may be conducted in any manner deemed appropriate by the CO, using resources at his disposal including medical authorities, provided such investigation is carefully managed to ensure maximum confidentiality and to protect the privacy of personnel involved. Female personnel shall not be questioned on matters of sexual activity other than in the presence of a female officer, preferably a nurse, a military police woman, or a female

000463

NCO. Corresponding procedures will be adopted when male personnel are questioned by female personnel.

5. When preliminary investigation tends to confirm that a homosexual act has been committed, the CO shall request that the nearest Special Investigation Unit complete the investigation, and prepare a report.

#### **Disposal**

6. When, in the opinion of the CO, an investigation fails to substantiate that a member has performed a homosexual act, unit personnel records of such investigation and any reference to the circumstances surrounding it shall be destroyed.

7. When, in the opinion of the CO, an investigation indicates that a member has committed a homosexual act, the CO shall forward a report of all relevant details to NDHQ/DGPCO or DGPCOR as appropriate,

000464

through normal channels, with his career recommendation. He shall also consider initiating a Change of Circumstances report in accordance with A-SJ-100-001/AS-000.

8. When the CO determines in accordance with para 7 that a report is to be forwarded to NDHQ, he shall ensure that the member involved is afforded the opportunity to receive psychiatric counselling and assistance. However, the member shall be advised that psychiatric evaluation is not mandatory and cannot be ordered against the members wishes. The CO shall indicate in his report whether or not the member has agreed to receive such assistance, and in cases where the member has so agreed, he shall include any medical or psychiatric report with his submission.

#### **Discipline**

9. Normally, disciplinary action should not be taken. However, the CO shall consider such action when:

000465

- a. the member's conduct is clearly prejudicial to good order and discipline; for example, if a superior officer or NCO used rank or supervisory position to gain or coerce sexual cooperation; or
  
- b. an offence under the Criminal Code of Canada has been committed.

#### Career Action

10. When, with reasonable certainty, it has been determined by NDHQ that a member has performed a homosexual act, the member will normally be released in accordance with QR and O 15.01 Item 5(d). However, when the member is to be released as a result of a conviction by a civil court or service tribunal, NDHQ may authorize release in accordance with QR and O 15.01 Item 2(a). Further, when the

000466

