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OFFICE OF THE  
JUDGE ADVOCATE GENERAL

CANADA

CABINET DU  
JUGE AVOCAT GÉNÉRAL

MEMORANDUM

NOTE

5200-1(DLaw/FPDA)

21 Jan 83

Comdt NDHQ/AU

ALLEGED SEXUAL OFFENCES

Ref: SIU Investigation Report S115-13-82 dated 22 Oct 82.

1. At your request, I have reviewed the reference, and have come to the conclusion that the acts of [REDACTED], in that he:

- a. put his hands around [REDACTED]'s neck while talking to him;
- b. kissed [REDACTED] three times in his office which she did not mind;
- c. kissed [REDACTED] when she presented her cheek to him and put his hand on her thigh;
- d. slept with [REDACTED] and [REDACTED];
- e. asked [REDACTED] to make love to him;
- f. French-kissed [REDACTED] ten minutes in his car; and
- g. asked [REDACTED] to shower with him;

are improper and unacceptable on the part of a commanding officer of a cadet squadron but they certainly do not amount to criminal offences under the Criminal Code or disgraceful conduct under the NDA.

2. The acts of [REDACTED] in that in March 1982 in Ottawa he masturbated [REDACTED] and, in June 1982, masturbated [REDACTED] in my opinion amount to an offence of gross indecency under section 157 of the Criminal Code of Canada. However, since these acts occurred in the privacy of his residence in Ottawa, with consent of the cadets involved, I am of the view that the connection or nexus between these acts and military discipline is so tenuous that jurisdiction over these offences should be exercised by the civilian authorities, if warranted, and not by you. In my opinion, members of the Canadian Forces should be tried under the Code of Service Discipline in respect of offences which affect military discipline, and by civilian courts in respect of civilian types of offences committed off duty away from a defence establishment.

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3. However, since [redacted] admitted homosexual relations with [redacted] over a lengthy period of time, and isolated homosexual relations with [redacted] and [redacted] I suggest that it would be appropriate for you to consider taking action pursuant to CFAO 19-20. If you decide to act under CFAO 19-20, you may wish to also seek the views of D CADETS on the matter, who, I suspect, will support your recommendation.

*B. Champagne*  
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