

CONFIDENTIAL

SPECIAL INVESTIGATION UNIT

STANDING OPERATING PROCEDURE 305

INVESTIGATION OF SEXUAL DEVIATION AND SEXUAL OFFENCES

- References:
- A. CFAO 19-20
 - B. CFAO 22-3
 - C. Criminal Code
 - D. DSecur 2042/L 13 Feb 86
 - E. SOP 702

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AIM

1. (R) The aim of this SOP is to establish procedures for the investigation and reporting of incidents of sexual deviation or sexual offences.

GENERAL

2. (R) References A and B specifically task the SIU to investigate suspected or actual acts of sexual deviation involving a person subject to the Code of Service Discipline or a civilian employee of DND. Any form of sexual deviation from socially acceptable norms may constitute grounds for administrative action and is of interest to the security clearance programme.

3. (C) In addition, Reference C details sexual activities which are offences under civil law. These offences may constitute deviation, especially if they involve children or persons of the same sex as the offender. On the other hand, sexual assault of a young adult on the person of an adult of the opposite sex may not be as much deviation as over-zealousness, and may be more appropriately investigated by Base MP.

SEXUAL DEVIATION

4. (U) The most common form of sexual deviation is homosexuality but also includes transvestism, exhibitionism, voyeurism, etc. Reference A explains in detail the Canadian Force's approach to this type of sexual behaviour, and these cases are mandatory.

5. (C) While homosexuality is not condoned by the CF, it is not a service or civilian offence if all of the following conditions are met:

- a. the act takes place in private;
- b. only the two participants are present;
- c. both parties consent to the act(s);
- d. both parties are 21 years of age or over.

6. (R) In cases where age is the sole determining factor, the fact that one or more participant(s) is under the age of 21 should not automatically be interpreted as qualifying the act as an offence. The question of age must relate to an assessment of the quality of consent given by the participant.

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CONTROLLING INVESTIGATIONS OF SEXUAL DEVIATION

7. (C) Investigation of an allegation of sexual deviation cannot be initiated except at the request of a Commander as defined at Reference B. The basis for a tasking should not consist merely of non-specific facts, rumour or innuendo. Reference A places a responsibility on the Requesting Authority to conduct such inquiries as are necessary to ensure there is basis to any suspicion prior to tasking the SIU. The applicable Sect/Det Comd must ensure these preliminary steps have been carried out prior to accepting an investigative tasking.

INTERVIEWING OTHERS

8. (C) If it is necessary to interview supervisors or associates of the subject of an investigation, the questions should be limited to reputation and character. The element of sexual deviation should not be introduced unless information of this nature is first proffered by the interviewee.

INTERVIEWING SUBJECT

9. (C) Unless the acts described in the allegation involve a "victim" and constitute an offence under the Criminal Code, action taken on completion of a successful investigation is administrative in nature. Consequently, in most investigations of sexual deviation, subjects need not be cautioned.

10. (C) The most important part of the interview will deal with the subject's sexual activities in regards to the allegations. Thoroughness in the interview might eventually indicate a pattern and thereby other avenues of investigation. The questioning should also develop the following information which, in addition to furthering the inquiry, will provide data on which reviewing authorities can base their decision of administrative action to be taken:

- a. circumstances surrounding the first act of homosexuality - age, cause, degree of urges and desires, submission to force, inducement, exact physical nature of the act;
- b. history of homosexual activity ;
- c. arrest record for sexual offences;
- d. exact physical nature of subsequent acts;
- e. nature of present sexual life; including any tendencies toward bi-sexuality;

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- f. associates in homosexual activities - character of persons and how relationship developed;
- g. any desire or effort to change sexual preference;
- h. identity of associates in homosexual activities;
- j. identity of places frequented for the purpose of meeting homosexuals;
- k. marital history including number of children, compatibility, and desires for a socially acceptable domestic life; and
- m. any indication that the subject may have been approached by HIS or compromised as a result of his/her sexual preference.

11. (R) At no time should the investigator suggest that the subject may obtain a voluntary release from the Canadian Forces for his/her co-operation.

AUTHORITY TO SEARCH

12. (C) During the course of homosexual investigations it is important to realize that QR&O article 22.02 (3) only authorizes a search of personal equipment and property if a person subject to the Code of Service Discipline is involved in an offence. In accordance with the Criminal Code, homosexuality between two consenting adults in private, is not an offence. Therefore, no search can be conducted in such cases.

SEXUAL OFFENCES

GENERAL

13. (C) Buggery, Bestiality, Gross Indecency, Indecent Acts and Sexual Assault are some of the more common offences. With the possible exception of simple sexual assault, all contain elements of deviation and the SIU may be called upon to investigate.

PROCEDURE

14. (R) For the purpose of SIU Investigations, the caption "SEXUAL OFFENCE" will only be used in those cases where there is an aggrieved party, i.e., a complainant, a victim or public outrage.

INTERVIEWING SUBJECTS

15. (C) In cases where an offence has been committed, the subject(s) of the investigation shall be interviewed under caution. Information to be obtained should relate as closely as possible to that at para 10, considering the nature of the offence under investigation.

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INTERVIEWING CHILD VICTIMS

16. (R) The interview of a child victim is delicate and important, presenting special interviewing problems. It is essential that a tactful approach be employed to preclude any subsequent serious psychological disturbance in the child. The interview should be conducted in the presence of a parent, guardian or juvenile authority.

SEARCHES

17. (R) When a sexual offence is being investigated, a search of quarters and PMV may be in order.

POLYGRAPH

18. (R) Polygraph examination of the subjects of an investigation of an offence may be of assistance in clarifying conflicting statements or verifying the validity of any allegation or denial. Judicious use of the polygraph is of particular assistance in investigations where investigative procedures and interviews have been unsuccessful in resolving the case. The results of such examinations may also provide additional information on which the reviewing authorities can base their decision on administrative or disciplinary action.

19. (R) Polygraph testing shall not be offered to any person for the express purpose of establishing whether or not that person is a homosexual. However, a suspected homosexual may request or demand a polygraph exam to support his/her claim of non-involvement. Such requests/demands are to be staffed to Detachment Commanders for approval or rejection. (See ref D).

20. (R) Admitted homosexuals may be offered the polygraph to determine whether or not they've been compromised by HIS. Subjects of homosexual-related investigations who are suspected of having committed a Criminal Code offence may be offered a polygraph exam.

INVESTIGATION OF CADET INSTRUCTOR LIST OFFICERS

21. (C) When the SIU is tasked to investigate alleged deviate activities of a CIL Officer, a discreet investigation shall be conducted in accordance with the following guidelines:

- a. interview them on training nights;

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- b. keep detailed notes of questions asked of the subject and witnesses; and
- c. be mindful of the damage such allegations, even if unfounded, can do to the reputation of the person concerned.

22. (R) It is suggested that Detachment Commanders consult, when possible, with the CO or DCO prior to any investigative action being taken. Special care must be taken to differentiate between an offence, ie, deviate practices with an underage cadet, and legal homosexuality with a consenting adult in private life.

CASE SYNOPSIS - PSYCHIATRIC REFERRAL

23. (C) To meet the requirements of CFAO 19-20, a synopsis of a subject's involvement in an investigation of homosexuality/sexual deviation is to be prepared for submission with the subject's medical documents in the event of psychiatric referral. The synopsis will form a portion of the information on which the psychiatrist will base his evaluation of the subject's actions.

24. (C) A synopsis is required only where a case will be referred to the medical authorities after conclusion of the SIU investigaion. Sections/Detachments may set up procedures with local Commanders to establish whether or not cases will be referred to medical authorities. If so, a synopsis shall be written. A synopsis will be signed either by the Detachment or Section Commander, not the investigator. This synopsis, classified CONFIDENTIAL, shall refer to the subject's actions and should consist of a general summary of the case to include the following:

- a. a complete description of the actual acts admitted or alleged to have taken place;
- b. the frequency and time frame of the alleged/admitted activity;
- c. circumstances leading to the activity;
- d. any other problems associated with the subject, i.e., marital, drugs, alcohol;
- e. the results of any relevant polygraph examination;
- f. a copy of the subject's statement; and
- g. any additional information on the subject which could assist in the psychiatric evaluation.

25. (C) This synopsis, once on medical file, may not be exempt from access by the individual; therefore, it must not contain names of investigators, witnesses, informants, third parties, or details of investigative methods. Verbatim statements by the subject shall be included except that identities of third parties shall be edited out.

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CIVIL POLICE INVESTIGATIONS

26. (C) Sexual offences reported to and actioned by a civilian police agency need not be further investigated by SIU. Submission of a report by Base MP is sufficient to ensure D Secur is aware of the incident and of the results of civil judicial action. However, the SIU will investigate the sexual deviation aspect when tasked to do so, in accordance with Reference A. If the subject has been charged and is awaiting trial, it will be necessary to obtain the permission of the civil police agency before commencing the investigation, or wait until a decision has been rendered by the civil court.

CIVILIAN EMPLOYEES

27. (C) Except in rare circumstances, allegations of suspected sexual deviation on the part of DND civilian employees should be forwarded to SIU HQ in the form of a Field Information (Plus One). Investigative action will then be the prerogative of D Secur.

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