

BRIEFING NOTE FOR VCDS AND ADM(PER)

S670-31-88 (SIU)

April 1990

Subject: Security Intelligence Review Committee - Ex-Lt Douglas

- References: A. S670-31-88 10 August 1988  
B. CIS Tech Dir No. 407 (attached)  
C. SIU SOP 313 (attached)  
D. SIU 052 311647Z Jan 90 (attached)

BACKGROUND

1. (U) On 4, 5 Apr 90 SIRC heard Ex-Lt Douglas' security clearance complaint. During the hearing, it was noted by Mr. Clayton Ruby, her lawyer, that a tape had been made of the SIU's interview with her on 27 Jun 88. Mr. Ruby requested, through the Chairman of the hearing, that DND make the tape available. The unabridged version of the tape for SIRC was released on 10 Apr 90. DG Pers CS, Departmental Privacy Coordinator, provided a copy with severences in accordance with the Privacy Act to SIRC on 12 Apr for release to Mr. Ruby. This tape records Lt Douglas as asking, "Is this being taped?" and the investigator replying, "No, that's why I'm taking notes." During the hearing, Lt Douglas' counsel also alleged that, prior to this interview, she was told by her Detachment Commander in Toronto that they were going to Ottawa and she was then taken, without explanation, to a local hotel room where the interview was held.

SIU INTERVIEW PROCEDURES

2. (C) CFAO 19-20 recommends that COs who believe, but cannot prove, that one of their subordinates is a homosexual should request the SIU to investigate. Unless the SIU can find a witness to a homosexual act, the only means by which they can furnish proof is by obtaining an admission from the suspect. Warrants for bedroom surveillance or audio intercept cannot be obtained if the liaison is between consenting adults. As an admission of homosexuality can be expected to terminate a member's career, the suspect has nothing to gain from an

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admission. The interview strategy, therefore, is to establish an atmosphere of comfort and understanding and then impress the suspect with the weight of circumstantial evidence which had been assembled. Interviews are normally recorded in order to present an accurate assessment of the dates, names and movements discussed, to provide subsequent proof that the suspect was not harassed and, (because women have proven reluctant to admit lesbianism in the presence of a "straight" woman) to allow a policewoman to covertly chaperone the interview, this was the case in the Douglas interview.

3. (U) Suspects frequently are inhibited by an obvious tape recorder so the recording equipment is usually concealed. Until recently, SIU SOPs (Flag A) allowed for discretion in deciding whether or not to advise the person being interviewed that a recording was being made. Interpretation of the law at that time was that, as long as one party to a conversation knew of, and consented to, a surreptitious intercept of the discussion, a warrant was not required. While this was the case in the Criminal Code, ref B (Flag B) paragraph 13 required that an investigator, if asked whether the interview was being recorded, admit this fact to the person(s) being interviewed unless CIS approval is obtained in advance.

#### THE LT DOUGLAS INTERVIEW

4. (PB) While SIU interviews are normally conducted in designated interview rooms within Unit accommodations, this could not be done for Lt Douglas, a member of the SIU, without her subordinates realizing that she was under suspicion. On the morning of 22 Jun 88, therefore, her Detachment Commander told her that they were going to talk to "someone from SIU HQ". He then drove her to the hotel. No suggestion was ever made that they were going to Ottawa and it is difficult to believe that Lt Douglas believed that Ottawa was the destination as neither officer made any preparation to be absent overnight.

5. (PB) The duration of the interview was two hours and ten minutes. It was almost over when Douglas asked if it was being recorded. It

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appears the investigator was not prepared for the question at that stage and, hoping that she was about to concede to having had a homosexual relationship, the investigator said "No".

CORRECTIVE ACTION

6. (U) Although such deception is recommended by some textbooks on police interviews, when SIU officers first realized through a case in Dec 89 that investigators were extending the discretion not to advise that the interview was being recorded to include an outright denial of its existence, the CO SIU considered that the practice did not meet the ethical standards expected within DND and issued an order that the question must be answered directly and honestly. In any case, in January 90 an appeal court decision in relation to a civil case opined that evidence could not be collected, without warrant, by surreptitious recording. Consequently a SIU order (Flag C) now requires investigators to inform suspects and witnesses when an interview is being recorded whether or not the suspect asks.

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