

Court File No: T-160-90

IN THE FEDERAL COURT OF CANADA
TRIAL DIVISION

B E T W E E N :

MICHELLE DOUGLAS

Plaintiff

- and -

HER MAJESTY THE QUEEN

Defendant

**ANSWERS TO UNDERTAKINGS ON THE EXAMINATION FOR
DISCOVERY OF BRIG. GEN. MUNROE (DOUGLAS SPECIFIC)
HELD OCTOBER 26, 1990**

Page 15, Question 46

- Q. Where there is a suspicion of homosexuality, are investigations conducted by the S.I.U., or at least in 1988 or 1989?
- A. It is unclear from question 46 whether Ms. Sachs was seeking a statement of the current policy concerning investigations, the policy as it was in 1988 and 1989, or both. General Munro's response does not identify the time frame to which it applies.

In 1988 and 1989, a commanding officer who had reason to believe that a member of the Canadian Forces had committed a homosexual act was required to investigate and determine the facts of the matter. This action was required by CFAO 19-20 (Exhibit 1, Tab 46) as amended by the message ADM (Per) 018 issued 101800Z FEB 86 (Exhibit 1, Tab 50). If that investigation tended to substantiate the belief, the commanding officer was then obliged to call in the local Special Investigation Unit (S.I.U.) to investigate further. That general policy was still in effect in October 1990 when General Munro appeared for discovery.

However, unknown to General Munro, the investigation of homosexuality had been removed from the mandate of the S.I.U. on August 29, 1990 (see Tab 12 of answers to common undertakings). Thus, although a commanding officer was still

002455

- 2 -

obliged to call in the local S.I.U., after August 29, 1990, the S.I.U. would not have undertaken an investigation into alleged homosexuality per se. On November 21, 1990, this obligation for the commanding officer to call in the local S.I.U. was cancelled by a message from the Assistant Deputy Minister (Personnel) (see Tab 13 of the answers to common undertakings). Moreover, that message requires a commanding officer to refer to specified staff at National Defence Headquarters before commencing any formal investigations into alleged homosexuality. That policy remains in effect.

Page 16, Question 49

- Q. In 1988 or 1989, would a person who did not declare him or herself to be a homosexual, but was suspected of being a homosexual necessarily be the subject of an S.I.U. investigation?
- A. The response initially given to this question in the answers to the Douglas specific undertakings, that in 1988 and 1989 CFAO 19-20 required a commanding officer to investigate any report that a member of the Canadian Forces is a homosexual, is not factually correct. In 1988 and 1989, CFAO 19-20, as amended by the message of February 10, 1986 (see above), only required a commanding officer to investigate if there was reason to believe that a member had committed a homosexual act. As stated above, if that investigation tended to substantiate the belief, the commanding officer was then obliged to call in the local S.I.U. to investigate further.

Any reference to "openly declared" homosexuals and to real or imagined breaches of security has been omitted since these were not elements of the policy in 1988 and 1989, and they are not elements of the policy today.

002456