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01 04 18/20/ Z SEP 91 RR UUUU

DPCAOR5/5433

NDHQ EXPORT OTTAWA  
2 PPCLI WINNIPEG//ADJT//  
INFO HQ 1 CBG CALGARY//G1//  
LFWAHQ EDMONTON//G1//  
FMCHQ ST HUBERT//MGT//  
JAG WINNIPEG  
NDHQ EXPORT OTTAWA//DPLS//ZEN

UNCLAS DPCAOR5/5433

SUBJ: ADMINISTRATION OF SEXUAL ABNORMALITY CASES

REFS: A. CFAO 19-20

B. ADM(PER) 081/90 CANFORGEN 049/90 211933Z NOV 90

C. QR AND O 19.75

D. QR AND O 19.62

E. TELECON CAPT BAILEY ADJT/CAPT ALLAN DPCAOR 5-2 16 SEP 91

F. 2 PPCLI ADJT 325 161800Z SEP 91 (NOTAL)

1. THE PURPOSE OF THIS MSG IS TO PROVIDE ADDITIONAL GUIDANCE WHEN  
STAFFING CASES GOVERNED BY REF A. COMMANDING OFFICERS SHALL FORWARD  
THE RESULTS OF THEIR INVESTIGATIONS, TOGETHER WITH CAREER  
RECOMMENDATIONS, THROUGH THE CHAIN OF COMMAND TO NDHQ ASAP FOR DPCAO

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OR DPCAOR AS APPROPRIATE IAW REF A PARA 6

2. IF AN INDIVIDUAL WHO IS SUSPECTED OF BEING INVOLVED IN HOMOSEXUAL ACTIVITIES OR OF HAVING DEMONSTRATED A SEXUAL ABNORMALITY APPLIES FOR VOLUNTARY RELEASE, SUCH RELEASE SHALL BE DELAYED UNTIL THE INDIVIDUAL IS EITHER CLEARED OR THE ALLEGATION IS SUBSTANTIATED AND HAS BEEN CONSIDERED BY A SPECIAL CAREER REVIEW BOARD (SCRB) AT NDHQ. IN THE LATTER CASE, A RECOMMENDATION WILL BE SUBM TO ADM(PER) FOR APPROVAL, INCLUDING THE MOST APPROPRIATE RELEASE ITEM IF THE MEMBER IS NOT TO BE RETAINED

3. REF B REMOVED INVESTIGATIONS OF HOMOSEXUALITY AND SEXUAL ABNORMALITY AS EXCLUSIVE ITEMS FROM THE MANDATE OF THE SIU. COMMANDING OFFICERS ARE STILL REQD TO INVESTIGATE ALLEGATIONS OF HOMOSEXUALITY. OWING TO THE SENSITIVITY OF THIS ISSUE, SUMMARY INVESTIGATIONS AND BOARDS OF INQUIRY ARE NOT RECOMMENDED. WITH THE EXCEPTION OF HOMOSEXUAL ACTS WHICH DO NOT CONTRAVENE THE CRIMINAL CODE OF CANADA, (FOR EXAMPLE, ARE NOT COMMITTED IN PUBLIC, DO NOT INVOLVE A MINOR, DO NOT INCLUDE THE USE OF FORCE, ETC), ALL CASES OF SEXUAL ABNORMALITY ARE TO BE INVESTIGATED BY THE MILITARY POLICE, NO MATTER HOW LONG AFTER THE EVENT(S) OR COURT PROCEEDINGS. THE CO SHOULD

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INCLUDE A MEDICAL ASSESSMENT BY EITHER A MEDICAL OFFICER OR A  
PSYCHIATRIST WHEN MAKING HIS RECOMMENDATIONS

4. SEXUAL ABNORMALITY OFTEN RESULTS IN CRIMINAL PROSECUTION. ONCE  
REASONABLY CERTAIN OF A SERVICE MEMBER'S HOMOSEXUALITY OR SEXUAL  
ABNORMALITY, A CO MAY FORWARD RECOMMENDATIONS BEFORE THE CONCLUSION OF  
CIVIL PROCEEDINGS IF HE OR SHE DEEMS IT APPROPRIATE. COMMANDING  
OFFICERS MUST BE AWARE, HOWEVER, THAT A RELEASE WILL NOT NORMALLY BE  
APPROVED BY ADM(PER) UNTIL THE COURT HAS MADE ITS DECISION SO THAT THE  
MOST APPROPRIATE RELEASE ITEM CAN BE DETERMINED IN CONSEQUENCE

5. WHEN A MEMBER HAS BEEN FOUND GUILTY BY A COURT AND GIVEN A  
CONDITIONAL OR UNCONDITIONAL DISCHARGE, IT MEANS THAT THE COURT DID  
NOT WISH TO CONVICT HIM. THE KEY FACT IS THAT THE INDIVIDUAL HAS BEEN  
FOUND GUILTY, ALTHOUGH NOT CONVICTED OF AN OFFENCE, WHICH IS  
SUFFICIENT TO JUSTIFY ADMINISTRATIVE ACTION. WITH A CONVICTION, THE  
COURT MAY SUSPEND THE PASSING OF SENTENCE AND DIRECT THAT THE ACCUSED  
BE RELEASED ON THE CONDITIONS PRESCRIBED IN A PROBATION ORDER

6. IF A SERVICE MEMBER FREELY AND FULLY CONFESSES TO BEHAVIOUR  
SUFFICIENTLY HEINOUS TO WARRANT RELEASE UNDER QR AND O 15.01 ITEM  
2(A), AS REPORTED BY THE CO, THE OPINION OF DPLS WILL BE SOUGHT

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CONCERNING THE ADVISABILITY OF RELEASE PRIOR TO CIVIL CONVICTION. IN THE ABSENCE OF SUCH A CONFESSION, THE MEMBER IS CONSIDERED TO BE INNOCENT UNTIL PROVEN GUILTY AND NO CAREER ACTION WILL BE TAKEN BY NDHQ PRIOR TO A VERDICT. IN CERTAIN CIRCUMSTANCES, THE PROVISIONS OF REF C MIGHT APPLY

7. REF D APPLIES TO CONVICTIONS FOR ALL SEXUAL OFFENCES. THE CERTIFICATE OF CONVICTION AND AMENDED CONDUCT SHEET WOULD BECOME PART OF THE DOCUMENTATION INCLUDED IN THE CO S INVESTIGATION. THESE CASES ARE CONSIDERED TO BE MOST SERIOUS AND ARE TO BE HANDLED AT ALL LEVELS AS EXPEDITIOUSLY AS POSSIBLE. THE LIST OF OFFENCES AT PARA 9 OF REF A IS NOT EXHAUSTIVE, AND UNITS SHOULD CHECK WITH DPCAOR 5-2 TO SEE IF INDIVIDUAL CASES FALL UNDER THE CFAO. PARA 6 REQR CO S TO REPORT ALL REPEAT ALL CASES ONCE REASONABLE CERTAINTY HAS BEEN ESTABLISHED

8. ANY QUERIES THAT YOU MAY HAVE SHOULD BE DIRECTED TO DPCAOR 5-2 AT 995-6651

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C.L. ALLAN, CAPT DPCAOR 5-2 5-6651

*Ch. Allen, Captain*  
for P. VOYNOVICH, LCOL, DPCAOR 5

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