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HQC 3040-5 (Adm 2A)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

ARMY HEADQUARTERS
OTTAWA Ont, 10 Jul 61

Policy Statement
Sexual Offences

1. In the past it has always been considered at AHQ that it would be undesirable to publish a detailed policy concerning the disposition of sexual offenders except as to their release. While this feeling has not changed it is considered essential that there be a uniform approach in the handling of these cases and that such uniformity can best be assured by centralizing control at Command level.
2. The following, therefore, represents AHQ policy on the handling and ultimate disposition of sexual cases.
3. Units should be instructed that when some person has committed an offence, is suspected of having committed an offence or is suspected of having abnormal sexual tendencies, the unit will:
 - a. investigate the matter (C Pro C);
 - b. refer the person concerned for psychiatric examination;
 - c. forward the results of investigation and psychiatric report to Command HQ together with a recommendation as to release and disciplinary action.
4. Based on the information obtained above, Command HQ will then determine the action to be taken as follows:
 - a. release in accordance with para 5 (a), (b) or (c) and para 6 below;
 - b. notification to civil authorities, e.g. police health or welfare, when considered appropriate; and
 - c. advice to the commanding officer concerned as to,
 - (i) whether his recommendation re disciplinary action is concurred in, and
 - (ii) release action contemplated.
5. The established policy concerning release as notified to Commands under cover HQC 3040-5 (Org 1) dated 1 Dec 55 and to units outside Canada under cover HQC 3040-5 (Org 1) dated 22 Mar 56, remains unchanged as follows:
 - a. a member, who has been sentenced by a service tribunal to be dismissed from the Service, will be released under item 1 (a) or 1 (b) of the table to QR(Army) 15.01 (Misconduct);
 - b. in the majority of other cases where a member has been convicted of an offence, he will be released under item 2(c) of the table to QR(Army) 15.01 (Unsatisfactory Conduct);

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c. where a member has not been convicted of an offence but has confessed to aberrations of behaviour or to character deviations of the type under review or has given sufficient grounds for suspicion in relation thereto, he will be released under item 5 (b)(ii) of the table to QR(Army) 15.01 (being considered unsuitable for reasons other than misconduct, inefficiency, or medical unfitness).

6. Where, by virtue of regulations, release cannot be approved at Command HQ the matter will be referred to AHQ in accordance with such regulations.

7. While disciplinary action will not always necessarily be indicated there will be cases where such action is appropriate. In determining whether disciplinary action should be taken, the following factors should be considered:

- a. the contents of the psychiatric report;
- b. whether both parties were willing;
- c. whether civilians were involved;
- d. the age of the parties;
- e. the age of the person assaulted;
- f. the action, if any, already taken by civil authorities;
- g. the nature of the offence and surrounding circumstances;
- h. the possibility of adverse publicity affecting the service or innocent parties.

8. It is considered that only the contents of para 3 above need be disseminated to units in command.

DISTRIBUTION

GOCs
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