

TO  
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SOLICITOR GENERAL  
VIA DEPUTY SOLICITOR GENERAL

FROM  
DE

SENIOR ASSISTANT DEPUTY MINISTER  
POLICE & SECURITY BRANCH

SECURITY - CLASSIFICATION - DE SÉCURITÉ

CONFIDENTIAL

OUR FILE / NOTRE RÉFÉRENCE

YOUR FILE / VOTRE RÉFÉRENCE

20-2-1 2279-K

DATE

October 27, 1982

SUBJECT  
OBJET

HOMOSEXUALITY AND EMPLOYMENT IN THE  
PUBLIC SERVICE OF CANADA

In response to your enquiry during the most recent SG/RCMP meeting on the position of homosexuals employed or seeking employment in the Public Service of Canada, I have researched Government documentation including Cabinet Directive 35. I have also examined carefully Deputy Commissioner Giroux's letter (attached) of October 4, 1982.

With respect to Cabinet Directive 35, the following can be concluded:

1. homosexuality or other forms of sexual preference are not grounds for refusing a security clearance to a government employee as an aspect of loyalty. Loyalty is essential in any person to be given access to classified information - but homosexuality is not a factor to be considered in making such an assessment.
2. homosexuality or other forms of sexual preference may be grounds for denial of a security clearance as an aspect of reliability. The Directive indicates that a person is unreliable, not because of features of character "which may lead to indiscretion or dishonesty or make him vulnerable to blackmail or coercion".
3. homosexuality standing by itself, is not proof of unreliability or an absolute bar to obtaining a clearance. It must be proven that this feature of an individual's character may lead to indiscretion, dishonesty or make him vulnerable to blackmail or coercion. Therefore, it will be incumbent on those maintaining that a security clearance should not be granted to demonstrate that an individual's homosexuality will cause him to be susceptible to such forms of indiscretion or unreliability.

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In my judgement, therefore, it is not enough for the RCMP to maintain that a person cannot obtain a security clearance because of homosexual tendencies. It is evident that they must demonstrate that such a condition will expose the individual to threats or some forms of coercion. In the Giroux letter, the burden is reversed. It is noted at page 2 "Consequently, persons upon whom we report homosexual suspicions may be barred from "access to classified information unless after careful consideration of the circumstances, including the value of their services, it is judged that the risk involved appears to be justified". Although it seems to be assumed by the Security Service that homosexuality is an absolute bar, the Giroux correspondence does accept that in the past, the Security Service may not have sufficiently emphasized the circumstances of a person's homosexuality. I would conclude that they have no option but to consider related circumstances and causal connections.

Indeed on checking with DND, it has been found that at least on the civilian side of that department, homosexuals are accepted if their homosexuality is avowed. This does not mean public notification, but rather an indication to the screening officer of his sexual preference avoiding any possibility of vulnerability. In the development of our new security screening procedures, it is recommended that there be a positive vetting process. This procedure, among other things, will permit interview-oriented screening at which a person may declare his or her homosexuality to the interviewer in confidence in the knowledge that the confidence will be maintained and the disclosure will not necessarily bar the granting of a clearance.

Since this discussion arose from considerations dealing with file destruction and homosexuality, it is interesting to note at page 2 of the Giroux letter, the following: "A second policy initiative has been in the area of the homosexual file category. As you know, we have proposed doing away with the [redacted] category entirely and the destruction of a number of files judged to have no relevance for national security. We are awaiting your decision concerning the destruction of the irrelevant files, and as of June 11, 1982 we no longer open files in the [redacted] category."

Assuming that homosexuality, standing by itself, will not be a legitimate ground for denial of a security clearance, it will still be open to institutions like the RCMP to argue that it is a pre-condition of employment that an individual not have homosexual tendencies. It would have to be maintained that it is a "bona fide occupational consideration". If challenged, the RCMP will have to demonstrate that homosexuality cannot be accepted because it will jeopardize or somehow threaten the management, employment, and administrative

*This paragraph  
argues ground  
covered differently  
above.*

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practices of the RCMP. At this stage, the Force has two options. First, it can await the challenge and accommodate to whatever decision is arrived at. The Force may find it extremely difficult to maintain a blanket restriction in present circumstances. Alternatively, the Force through management practices could accommodate a homosexual who is otherwise a very satisfactory performing member of the Force. It may mean in some particular circumstances, that the individual could not follow his chosen career pattern but it would eliminate any threat that he could not be employed or remain employable by the Force.

I suggest that you may wish to discuss these issues with the Commissioner to gain an appreciation of their approach. Such a discussion could be based on the Giroux letter.

By the above, I am not intimating that the RCMP should consciously commence a program for the recruitment of homosexuals but rather that administrative procedures be developed to accommodate an already superior performing members of the RCMP.



J. Michael Shoemaker

Encl.

c.c. Deputy Solicitor General - with attachments

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This memo doesn't throw much light on the issues I need to

decide: ~~to say~~

1. Should I raise issues with colleagues, or just DND, or nobody?
2. Should I make a statement as Giroux suggests?

3. How should I answer letters?

For my part, I like the position Giroux is taking. The burden of proof issues in this memo won't be a political problem; the problem is communication of policy

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