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THE RCMP AND THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

ISSUE

RCMP and S. 15 of the Canadian Charter of Rights and Freedoms

BACKGROUND

Section 15 of the Canadian Charter of Rights and Freedoms came into effect on April 17, 1985. With the coming-into-force of this section, every individual was guaranteed equality before and under the law and has the right to equal protection and equal benefit of the law without discrimination.

On January 31, 1985, the Minister of Justice tabled in the House of Commons a Discussion Paper entitled "Equality Issues in Federal Law" for consideration by the Parliamentary Standing Committee on Justice and Legal Affairs. A special all-party Sub-Committee of the Standing Committee of Justice and Legal Affairs was subsequently established to review the issues and federal statutes mentioned in the Discussion Paper to ensure their conformity with the non-discrimination guarantees in the Charter. The Sub-Committee tabled its report, "Equality For All", in the House of Commons in October 1985.

[REDACTED]

[REDACTED] More generally, the Sub-Committee was of the view that characteristics over which an individual has little or no immediate control and which are commonly used to make prejudiced judgements about an individual's particular qualities or capabilities were, in light of the Charter, improper grounds of discrimination.

In "Towards Equality", the Government outlined its response to the Report of the Sub-Committee on Equality Rights as follows:

- . The Government of Canada is committed to the principle that all Canadians have an equal opportunity to participate as fully as they can in

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our society; no one should be denied opportunities for reasons that are arbitrary or irrelevant. In particular, persons should not be excluded from employment opportunities for reasons that are irrelevant to their capacity and ability to do the job.

- . The Government believes that one's sexual orientation is irrelevant to whether one can perform a job or use a service or facility. [REDACTED]

Following from these propositions, the Government stated that it would take whatever measures are necessary to ensure that sexual orientation is a prohibited ground of discrimination in relation to all areas of jurisdiction.

#### STATUS

The former Solicitor General has unequivocally stated that homosexuals could not be barred or discharged from the Force on the basis of their status. At this time, the RCMP maintains no selection, recruitment or employment policies or practices exist which discriminate on the basis of sexual orientation. With respect to other areas of employment equity, the Force's policies are as follows:

Women - Women have been recruited into the Force as Regular Members since 1974. There are no limitations imposed on women members of the Force with respect to the operational duties they can perform. Women are recruited into the RCMP in proportion to the number of women applying to enter the Force (currently 20%). From April 1, 1980 to December 31, 1985, 13% of new Regular Members engaged were women. For the past two years, one-third of new members have been women.

Francophones - The Force does not have an explicit policy of recruiting on the basis of ethnic origin (i.e., francophone). Priority recruitment practices currently apply to university graduates, bilinguals, women and natives. Francophones and anglophones are recruited equitably from these groups taking into consideration regional representation concerns. In total, 522 of 2,514 (21%) of Regular Members engaged between March 31, 1980 and December 31, 1985 were francophones. Of these, 172 were unilingual and were given English language training.

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Visible minorities - The only visible minority group for which an affirmative action program exists in the RCMP is natives. Native Canadians who can meet the basic entry requirements of the Force (i.e., high-school graduation, good health, drivers licence, suitability, etc.) are recruited on a priority basis. Statistics on the number of members from visible minorities are not maintained.

#### RECOMMENDED RESPONSE

##### Serving Members

- . Sexual orientation per se is not used as a ground for discrimination in the employment policies or practices of the RCMP. However, general behavioural traits, including sexual behaviour, may some times become an issue. Currently, the Commissioner may dismiss or discharge a member of the Force (other than an officer) who has been found guilty of conduct of a scandalous, infamous, disgraceful, profane or immoral nature.
- . Recent amendments to the RCMP Act will also provide for a Code of Conduct for the RCMP. The Code of Conduct, which will come into effect with the proclamation of the amended RCMP Act later this Fall, will continue to demand a high standard of personal conduct of members of the Force at all times. Any conduct which might bring discredit to the member or the Force could, under the Code, be subject to disciplinary action up to and including dismissal from the Force.

##### Recruitment Policies

- . The RCMP currently determines the suitability of an applicant by looking for qualities of leadership, maturity, motivation, good character and good social behaviour. All individuals exhibiting these and other general qualities should, in my estimation, be accepted in the Force.

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