

PCO-	BCP-
Original:	3045-1
Copies:	_____
Ident:	_____

8

SECRET

August 30, 1989

s.23

MEMORANDUM TO MR. MAZANKOWSKI

From: Ray Protti, Deputy Secretary to the Cabinet  
(Operations)

Sexual Orientation

Issue:

The Department of National Defence is seeking early government approval of a revised Canadian Forces Administration Order on the subject of inappropriate sexual conduct.

Background:

- The policy thrust of the proposed Canadian Forces Administrative Order relates to sexual orientation rather than to discrete acts of inappropriate sexual behaviour.
- The government's stated policy in 1986 is to include 'sexual orientation' as a prohibited grounds of discrimination in all areas of federal jurisdiction.
- No action was taken on the government's stated policy during the first mandate and increasing pressure is being brought on the government, and on the Minister of Justice in particular, to respect the 1986 commitment.
- Some government departments, such as the RCMP, have revised previously discriminatory practices so that conduct rather than sexual orientation is now the basis for disciplinary action.
- DND is of the view that the revised Administrative Order is less discriminatory than its existing one on homosexuals

[REDACTED]

- The proposed Canadian Forces Administrative Order, as it is presently drafted, discriminates against homosexuals, is inconsistent with the government's stated policy, [REDACTED]

[REDACTED]

- The Department of National Defence believes approval of the Canadian Forces Administrative Order is necessary to safeguard operational effectiveness, [REDACTED] and to show leadership.

[REDACTED]

## Options:

## A. Approve the revised Canadian Forces Administrative Order

- the Canadian Forces would be exempted from the general application of government policy and recognized as unique
- the government would be permitting discrimination on the basis of sexual orientation
- 

## B. Ask the Canadian Forces to respect the government policy

- the Canadian Forces would not be able to discriminate on the basis of sexual orientation
- it would be very difficult for the Canadian Forces to accept this position and it might further damage morale
- 

## C. Continuation of the Status Quo

- the existing policies and practices could be continued
- it is more difficult for DND to defend the present Order than the proposed revised Order in the face of existing court challenges
- 

## Conclusion:

Although there is no easy resolution to this issue given the strong views of the of the Canadian Forces, nevertheless, an acceptable compromise may be a CFAO prohibiting specified sexual conduct, whether heterosexuals or homosexual, rather than focusing on sexual orientation.

If Ministers are inclined to support the DND position, the implications for the management of the Canada Human Rights Act

file must be considered. [REDACTED]

[REDACTED]

Detailed 'questions and answers' should be developed before any announcement on this issue is made.

Latimer