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The Honourable Ray Hnatyshyn, P.C., Q.C., M.P.
Minister of Justice and
Attorney General of Canada
Room 172-EB
House of Commons
Ottawa, Ontario
K1A 0A6

Dear colleague:

Thank you for your letter of August 5, 1986, concerning implementation of the Government response to the recommendations of the Parliamentary Subcommittee on Equality, contained in its report, Equality For All.

To assist you in making your report to the Cabinet Committee on Social Development on progress in implementing the Government response as set out in Towards Equality, I am pleased to provide you with information about action taken in respect of matters falling within my area of responsibility.

As you point out, considerable work has already been done to implement the response of the Government to the Subcommittee's recommendations. Details follow of the action I have undertaken which, as you will see, has involved, in particular, the agencies within my mandate as well as participation in the review of the Canadian Human Rights Act now being undertaken by your Ministry.

Maternity and Parental Benefits (Recommendations 1, 2)

Action has now been taken to ensure that provision for maternity leave for members of the R.C.M.P. is consistent with that available to all members of the Public Service. In addition, authority has recently been received by the R.C.M.P. from Treasury Board to recognize paternity leave and to extend to adoptive parents those leave benefits now enjoyed by natural parents.

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Marital Status (Recommendations 15, 16, 17)

Officials of my Ministry are involved, through the review of the Canadian Human Rights Act, in consultations aimed at producing a consistent definition of status as common law spouse. I should point out, however, that the Correctional Service of Canada, for purposes of family visiting and other inmate policies, uses a six-month time period in recognition of the lack of stability or permanence of the relationships of many federal inmates. This is at variance with the definition suggested by your officials, which proposes a period of one year. It is my assumption, which has been communicated to your Ministry, that this proposal provides a general requirement and that special circumstances may warrant shorter time periods.

Mandatory Retirement (Recommendations 6, 7, 8, 9)

The Government has stated its commitment to the abolition of mandatory retirement, and most of my Ministry will be covered by policies adopted throughout the Public Service.

With respect to members of the R.C.M.P. and to members of the Canadian Security Intelligence Service who were formerly members of the R.C.M.P., I will shortly be submitting proposals to Treasury Board that will have the effect of rescinding the 35 year maximum service rule and providing for a mandatory age of retirement of 60 for all R.C.M.P. ranks. This is being presented on the grounds that it is a bona fide occupational requirement, essential for the safety and operational efficiency of the R.C.M.P. The Deputy Solicitor General, Mr. John Tait, is replying in some detail to Mr. Iacobucci on the process of implementing the Government response to these recommendations and, in particular, on the matter of appropriate legislative amendment. I do not expect that amendment to statutes within my purview will be necessary, and I am confident that the proposed changes to regulations issued under those acts will be sufficient to achieve the desired result.

Sexual Orientation (Recommendations 10, 11, 12)

The Government has announced its commitment to make sexual orientation a prohibited ground of discrimination within all areas of federal jurisdiction.

Concerns, however, have been expressed by the R.C.M.P. about the potential operational implications of homosexual members working in a community or with other members who may

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maintain stereotypical views of homosexuals. My predecessor gave directions to the R.C.M.P. with a view to full compliance with the Government position on these recommendations. However, the specific steps that will be taken by the R.C.M.P. to implement this directive are still under consideration by both the Commissioner and myself.

That aspect of these recommendations that relates to security clearances is discussed below.

Access by the Physically Disabled (Recommendation 46)

I am committed to the implementation of this recommendation and am pleased to report that public buildings used by the Ministry are being brought into line, where necessary, with Public Works standards.

Plans developed by the Correctional Service of Canada to render accessible one institution of each security level in each of the C.S.C. regions have been submitted to Treasury Board. Achieving full accessibility in some of the older federal penitentiaries would, however, entail considerable difficulty and some compromise of the security of those institutions. This situation has, additionally, been exacerbated by recent cutbacks in capital funding.

Employment Equity (Recommendations 59, 60, 70)

I am pleased to report that the R.C.M.P. has undertaken active recruiting programs aimed at improving participation, among its non-civilian members, of the groups referred to in Recommendation 59.

[redacted]

Security Clearances (Recommendations 12, 82)

Concerns that have arisen in relation to matters such as the criteria to be used in considering an application for clearance, the method of review and the basis for requirement have been the subject of discussion during the review of the Canadian Human Rights Act now being undertaken. At present, political belief, criminal conviction and sexual orientation do not form grounds for denial of clearance.

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In general, the possibility of making criminal charge or conviction a prohibited ground of discrimination raises some concern. The Criminal Records Act, which provides for pardons for convicted persons, only extends relief and protections to persons who meet eligibility criteria after a specified waiting period; the Canadian Human Rights Act prohibits discrimination against pardoned individuals. The broadening of protections to convictions per se, and even to charges, conflicts to some extent with the policy underlying the Criminal Records Act. Concerns in this regard have already been conveyed to officials of your Ministry in the course of the review of the Canadian Human Rights Act.

I believe that substantial progress has been made in implementing the Government response to the Equality For All report, and would like to assure you of my commitment to ensure that full compliance with the intent of its recommendations is achieved.

Yours sincerely,

Original signé par
James Kelleher

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