

A national strategy needed for 700,000 veterans

And it's time Canada created a federal veterans commissioner as an officer of Parliament.

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The recent rise of suicides of Afghan veterans, which should have been predictable, has focused national attention to the despair and neglect faced by many of them. It has also drawn attention to the likelihood that the suicide rate amongst CF members is many times higher than the Canadian statistical norm. This is supported in a Statistics Canada report, which found that among CF members, 26.6 per cent of the male deaths and 14 per cent of female deaths were the result of suicide. This same report states that individuals with some military career experience are 45 per cent more likely to die as a result of suicide than those in the general population.

These numbers, though, may be underinflated, as some retired military suffering from depression or other form of service-related injury, both physical and mental, are unaccounted for because they are currently outside the reach of Veterans Affairs Canada (VAC). In other words, bad as it is, the problem is likely even worse if we consider that at present the VAC clientele only accounts for less than 30 per cent of the veteran population.

Veterans

As of March 2013, VAC reports that there are 91,400 veterans of the Second World War, with an average age of 89. There are 9,900 veterans of the Korean War, with an average age of 81. There are also 594,300 veterans who served in the Regular and Reserve components of the Canadian Forces since 1947 with an average age of 56. This totals close to 700,000 veterans.

In 2012, VAC estimated that it had a clientele of 220,242 veterans plus some survivors (primarily spouses) and approximately 6,000 RCMP personnel. These individuals are 'clients' of VAC because they receive a disability pension, benefits and services under the Veterans Independence Program and/or treatment benefits. These 220,000 veterans are 'looked' after by the minister of Veterans Affairs, the VAC staff, the Bureau of Pension Advocates (BPA) and the VAC ombudsman. However, this leaves a very large number who, are officially 'unaccounted for'. From our perspective, our government owes a duty to all veterans not just those who already have advanced a claim through the VAC auspices.

Increasingly, we find many of these 'unaccounted for' veterans involved in a mounting number of grass-roots veterans advocacy groups vying for national attention for their legitimate claims and expectations. We find others involved in some form of court action; even families of deceased veterans mounting vigils alerting the public to their plight and abandon.

CURRENT SYSTEM

Bureau of Pension Advocates (BPA).

This bureau is a VAC organization composed mainly of lawyers whose function is to provide free legal advice, assistance and representation for veterans dissatisfied with decisions already rendered by VAC with respect to their claims for entitlement to disability benefits, or any assessment awarded for their eligible conditions. Its mandate is to assist VAC clients in the preparation of applications for review or for appeals, and to arrange for them to be represented by a lawyer at hearings before the Veterans Review and Appeal Board (VRAB). Given their experience in pension matters, they are recognized as specialists in the area of claims for disability benefits. Our own experience indicates, however, that their resources may be limited since no adjustments have been made to account for the increased workload in the wake of the Afghan mission.

VAC Ombudsman

Currently, a veteran dissatisfied with the services and benefits received from the VAC is eligible to receive support from the VAC Ombudsman whose mandate is: "the provision of services, benefits, and support in a fair, accessible, and timely manner and to raise awareness of the needs and concerns of veterans and their families." The VAC ombudsman addresses complaints related to VAC programs and services and emerging issues with respect to appeals filed with the VRAB. However, his mandate and resources do not permit him to address the much wider and substantial issues facing the remaining 500,000 veterans. As we will see, this is left to an ad hoc combination of occasional Parliamentary interventions, anecdotal media campaigns concerning the increasing number of PTSD sufferers, and legal processes such as an occasional military board of inquiry, coroner's inquests, or civil litigation. All of this leads to a perception that Canada is failing to address the current unfairness. This disadvantages service personnel injured during deployments abroad as well as the changing needs of the veteran community.

Tsunami of PTSD victims

We know that many veterans will face challenges in adjusting to civilian life. Many will experience long lasting and significant impacts and continue to struggle with PTSD and other mental health problems. Families and careers of veterans will share the consequences of their service and this struggle.

How many of our retired veterans are suffering from PTSD but are too proud or scared of career ramifications to come forward? It is estimated that approximately 15 per cent of our soldiers who deployed on operations will eventually fall victim to PTSD. Given that some 30,000 soldiers served in Afghanistan alone, in the fullness of time, Canada can expect having to deal with approximately 4,500 PTSD sufferers.

A harder question may be: how many of those will be diagnosed with PTSD and receive treatment, before it is too late? This is something we may never know, as the purview of the VAC Ombudsman only extends to those veterans who have already come forward and requested a VAC disability award. Further, it is also outside the purview of the DND/CF Ombudsman since these distressed retired personnel are no longer eligible to receive care and protection from the military.

It behoves us to ask, therefore, how many of Canada's 500,000 veterans who are retired and not collecting VAC disability pensions, could potentially commit suicide due to mental health injuries? This also may never be known, as the statistics of suicide among veterans is only catalogued for serving members and retired members receiving a VAC disability award. A veteran who commits suicide, who is not receiving a VAC disability award, is counted as a 'civilian' casualty.

Civil litigation

Litigation activities over the past decades have demonstrated that many veterans have lost faith in the capacity or the willingness of government to provide them with the required support or, if provided with such support, they are dissatisfied by the handling of their pension and the fetters imposed on them by the existing legislated programs. This may explain why we are witnessing an increasing number of lawsuits initiated by post-Korean War veterans. Consider the following three examples:

Agent Orange-Gagetown

Between 1966 and 1967, civilian and military personnel at Canadian Forces Base (CFB) Gagetown were exposed to harmful levels of Agent Orange, a powerful herbicide developed by the U.S. military for use in the Vietnam War. It is reported that these individuals were told that the chemicals were harmless, to the point that some would spray each other with the chemical to cool off. Decades later, it was learned that Agent Orange exposure causes cancer and other deleterious health effects. By way of settlement, VAC offered to pay each valid claimant who was still living \$20,000. This is the subject of a lengthy class action lawsuit filed in 2005 and is still largely ongoing.

Dennis Manuge

This case, initiated in 2007, was also the subject of lengthy class action litigation. The Manuge class action concerned the clawback of SISIP benefits, which were found to be contrary to section 30(1) of the Pension Act. It was argued, among other things, that this

was unconstitutional, and against legislative interpretation. Ultimately, in 2013, the government and the class settled for a reported \$887-million.

Equitas lawsuit

This is another class action suit in which named veterans claim that the Canadian Forces Members and Veterans Re-Establishment and Compensation Act (the "New Veterans Charter") substantially reduced their benefits and compensation that would have been formerly granted under the Pension Act. As a result, many of the veterans of the Afghanistan mission claim that they are being treated unequally because the benefits and compensation available under the New Veterans Charter are substantially less favourable than those that are available to injured persons claiming under tort law or worker compensation laws. Again, this litigation will likely take many years to resolve, and cost a lot of money.

Those who fall between the cracks

Many of the unaccounted 500,000 veterans or members or their families are currently left to their own devices primarily because their claims fall outside VAC jurisdiction. At present, these persons have no place to go to address their grievances or claims, save, and except, the court or the media. Perhaps two recent examples would suffice.

Joan Larocque

This case received significant national media coverage in mid-2013. Joan Larocque's husband, Jacques, collapsed and died from a sudden heart attack while he was on leave in 2005. Post-mortem autopsy revealed that Jacques had suffered two previous heart attacks while employed as a member of the Canadian Forces, including one, which was diagnosed by military doctors as heartburn, in Afghanistan.

Joan Larocque had Jacques death deemed "attributed to service" in 2013, after eight long years fighting for recognition. We surmise that Joan Larocque may now qualify for a widow's pension through VAC. However, currently, investigation into Joan Larocque's matter is outside the mandate of the VAC ombudsman, as Joan Larocque is not a veteran. This matter is also outside the purview of the DND/CF ombudsman, because Joan Larocque is not a member of the Canadian Forces. This is no way to treat the family of a CF veteran.

Boards of Inquiry into the sudden deaths (suicide) of soldiers

When a CF member dies from a non-combat death, the military conduct an in-camera military Board of Inquiry (BOI) investigation. There are tremendous inconsistencies between a military BOI and a civilian coroner's inquest, which may taint the entire process because it shifts the focus of that BOI from a fact-finding mandate to a protectionist one; more interested in exonerating the Chain of Command from any

blame or liability, than in uncovering truths and/or seeking improvement to the system to prevent future tragedies.

Currently, this issue is outside the purview of the VAC ombudsman and/or the DND/CF ombudsman because this time, rightly or wrongly, the chain of command has taken full and exclusive jurisdiction of this issue. In the end, non-combat deaths of, say, soldiers suffering from PTSD, go uninvestigated, unless a Charter-challenge is raised by their families, at a cost of tens of thousands of dollars, unless the military family is granted by the civil authority a coroner-like independent and impartial fact-finding investigation.

Veterans Commission Accountable to Parliament

As mentioned earlier, the VAC ombudsman's limited role and mandate may explain why, at present, there is no national focal point for addressing the needs and expectations of all veterans, and not just those whose names are already listed on the VAC Rolodex. His powers are necessarily limited to investigating complaints made by clients of Veterans Affairs. This represents less than one-third of the veterans' community!

For the two-thirds of veterans who, while not receiving a disability award, may wish to raise a systemic issue or a claim which falls outside the jurisdiction and existing mandate of the VAC, there are only three avenues: the court, the media, or the political route. Another option, which would serve the public interest, would be to establish a Veterans Commission as a creature of Parliament to serve all veterans. Granted with a reasonable sense of independence and a degree of public confidence, the Veterans Commission would be granted the powers to examine and report on new claims and monitor the effectiveness of existing programs and benefits and, analyse and report on new claims. He would also provide assistance for each and every veteran to ensure a seamless transition from military to civilian life. The Veterans Commission would also become the de facto focal point to develop a national strategy to deal with the current No. 1 veteran's issue: PTSD. His mandate should be as broad as possible so that no veteran (or family of a veteran) is turned away.

Lastly, for the sake of efficiency and optimizing resources, the Veterans Commission could quickly be established by absorbing both the offices of the Bureau of Pension Advocates and the VAC Ombudsman to ensure that there exists a single national focal point to investigate, assess, and recommend a coordinated national strategy to deal with issues affecting the morale and welfare of our sons and daughters during and after their military service.

The establishment of such a Veterans Commission may actually save the taxpayer money, as the costs of commission-initiated investigation may be lower than paying a barrage of Department of Justice lawyers, paralegals and other professionals to proceed with the current and expanding civil litigation. It would also herald a long-standing and legislated recognition by Canada of the unique service and sacrifices of those who serve and have served in the Armed Forces. This would provide Canada with

an ability to examine and develop, in a non-partisan basis, a pro-active, fair and comprehensive national strategy to address and coordinate the nation's welfare support and obligations towards our serving and retired military personnel.

The Hill Times Online: <http://www.hilltimes.com/opinion-piece/2014/01/13/a-national-strategy-needed-for-700000-veterans/37039>

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