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BALANCING UNIVERSALITY OF SERVICE WITH CRITICAL SKILL RETENTION

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WITH CRITICAL SKILL RETENTION**

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AIM

1. The aim of this service paper is to examine how the employment model of the Canadian Armed Forces (CAF) could evolve in order to ensure the institution retains the critical skills of its medically unfit members, without compromising the Universality of Service (U of S) principle, and while protecting the CAF's *bona fide* exemptions from the Canadian Human Rights Act.¹ The CAF could achieve this balance by modifying the medical fitness requirements for the Primary Reserve (PRes) and by offering a transfer to the PRes to Regular Force (Reg F) members who are being medically released from the CAF. Within such a retention plan, the CAF would continue to employ experienced personnel without requiring them to deploy on operations.

INTRODUCTION

2. The CAF is a unique institution, in that it requires its members to be physically and medically fit. This is an imperative for military forces that may be required to deploy to, and fight in, dangerous and austere environments. This persistent requirement for fit military personnel, although necessary for the maintenance of operational readiness,² comes at a cost of losing many talented and experienced CAF members who are medically released every year. As a result, there is a pressure on the CAF to lower the U of S standards in order to retain valuable personnel who no longer meet the minimum operational standards. However, lowering or

¹ Canadian Human Rights Act R.S.C., 1985, c. H-6. 1 July 2019, <https://laws.justice.gc.ca/PDF/H-6.pdf>.

² Gloria Galloway, *Canadian Military to Relax Deployment-Readiness Rule* (Ottawa: The Globe and Mail, 11 June 2017).

eliminating the U of S standards would come at a cost: lower standards would reduce the CAF's combat power, as less medically fit and resilient personnel would translate to reduced ability to function in operational environments. Lowered or eliminated standards would add risk to military deployments by increasing casualty statistics, and the CAF's medical system would require much more specialized medical care on deployed operations to handle the medical needs of deployed personnel. This would drastically increase the logistical complexity, cost, and fragility of the deployed force to the point that it would cause undue hardship. A weakened U of S could also jeopardize the legal status of the CAF as it pertains to the *bona fide* exemption from the Canadian Human Rights Act.

3. This service paper first considers the CAF's current policies and procedures; then the problems related to balancing skill retention in the CAF with the need to maintain the U of S; and finally the possible policy changes that would address these problems.

DISCUSSION

4. The U of S policy and standards are outlined in the Defence Administrative Orders and Directives (DAOD) 5023 series, which were first published in 2006 in the context of CAF transformation. These policies were intended to “sharpen the operational focus of personnel policies and standards.”³ The U of S very broadly specifies that “CAF members must at all times and under any circumstances perform any functions that they may be required to perform”⁴ and that the “soldier first” principle requires CAF members to perform general military duties and

³ CANFORGEN 087/06 - New DAODs on Universality of Service, Minimum Operational Standards Related to Universality of Service, And CF Physical Fitness Program. (8 May 2006).

⁴ Defence Administrative Orders and Directives 5023-0 - Universality of Service.

common defence and security duties as soldiers, which can include “the requirement to be physically fit, employable and deployable for general operational duties.”⁵ In other words, members of the military must be ready for war and other operations on short notice.

5. CANFORGEN 087/06 announced the cessation of the “accommodation” policy for medically unfit members, and the new terminology of “retention” that applied only for a non-renewable period of up to three years.⁶ DAOD 5023-1 clearly emphasises a shift of priorities from the accommodation of medically unfit members, to fulfilling the needs of the CAF: it states that Reg F or PRes members may only be retained on a “temporary, transitional basis if there is a critical shortage in the CAF member's military occupation, or a requirement for a specific skill set.”⁷ In practice, however, nearly every CAF member is offered a period of retention (POR).

6. The U of S does not apply to CAF members serving in other components of the Reserve Force: the Canadian Rangers, the Cadet Organizations Administration and Training Service (COATS), and the Supplementary Reserve (Supp Res). These members only need to meet the minimum operational standards if “attached, seconded or transferred on consent to the Reg F or P Res.”⁸

7. Members who are assigned highly restrictive permanent Medical Employment Limitations (MELs) after their file is reviewed by Director Medical Policy (D Med Pol) staff, then have their file reviewed by Director Military Careers Administration (DMCA) analysts, who conduct an Administrative Review for Medical Employment Limitations (AR/MEL) when

⁵ Ibid.

⁶ CANFORGEN 087/06 - New DAODs on Universality of Service, Minimum Operational Standards Related to Universality of Service, And CF Physical Fitness Program. (8 May 2006).

⁷ Defence Administrative Orders and Directives 5023-1 - Minimum Operational Standards Related to Universality of Service.

⁸ Ibid.

CAF members are deemed to have a high risk of breaching the U of S. In most cases, members with high risk MELs are medically released, although many cases have been suspended since early 2018 while the U of S is under review.⁹ Since then, CAF members who were awaiting a medical release were given the option to have their release cancelled pending review of the U of S, which could take years to resolve. In effect, these members with high risk MELs are serving in limbo. Although this situation is convenient for some, it is not a viable long-term policy solution.

8. Due to the impacts of losing personnel who are medically released, the institution is under pressure to reduce attrition by decreasing medical releases. One possible course of action, which has been a recurring topic in recent years, would be to lower the U of S requirements. The trouble with this option is that the U of S is tied to specific minimum operational standards, all of which are expressed in the form of generic tasks military members must be able to perform, all of which translate into a minimum level of medical fitness. Military members must be able to:

- a. perform high-crawl over a distance of 45 m and low-crawl over a distance of 30 m;
- b. dig a personal trench;
- c. carry sandbags weighing 20 kg over a distance of 50 m for a period of 10 min;
- d. evacuate a casualty 750 m across country by carrying one end of a stretcher bearing an 80-kg load;
- e. evacuate a casualty, during a fire on board ship, by carrying one end of a Stoke's litter bearing an 80-kg load up and down a flight of stairs;
- f. undertake the CAF FORCE fitness test;
- g. perform drill for at least 30 minutes;
- h. safely handle and effectively operate a personal weapon;
- i. safely perform duties in or close to water;
- j. communicate via radio;

⁹ Canadian Armed Forces, *Medical Release Process*, <https://www.canada.ca/en/department-national-defence/services/benefits-military/transition/scan/medical-scan/caf-mrp.html>.

- k. perform duties in a military environment, including but not limited to: frequent movement, relocation, isolation, and temporary duty away from home or unit; and working over extended periods of time in hostile environments, exposed to life threatening situations;
- l. perform duties under extreme climatic conditions;
- m. perform duties while wearing protective NBC equipment;
- n. perform duties in unpredictable working conditions, which may involve such stresses as: no advance notice, limited rations, missing meals, irregular or prolonged hours, lack of sleep;
- o. perform duties with minimal medical support, which may include: limited frequency of care, limited access to health care personnel: Med Tech, PA, nurse, nurse practitioner, physiotherapist, chiropractor, physician, and specialist, etc.; limited proximity to medical services (clinics, hospitals, laboratories), in terms of distance and travelling time; limited access to medical supplies, electricity, toilet facilities, medical devices, etc. unavailability of medications or inability to take them on time; inability to perform medical procedures (injections, use of CPAP, etc.) exacerbating effects of a particular climate, physical environment or mental environment on the member's medical condition; and
- p. travel as a passenger via any mode of transportation.¹⁰

9. While the operational validity of individual tasks could be questioned, such as the requirement to perform drill for at least 30 minutes or to safely handle and effectively operate a personal weapon, the tasks are only examples that highlight a required level of fitness. For instance, if a person cannot stand for 30 minutes on a parade, they are unlikely to be fit for operational deployments; a person who cannot safely handle a weapon may be a danger to themselves or others due to a mental health issue. As such, the U of S standards cannot be lowered without reducing the CAF's combat power and increasing risks. It should be noted that there are many CAF members who have been gravely injured, who have prosthetic limbs and eyes, among many other medical issues, many of whom have been retained without restriction in the CAF. Despite their disabilities they have been deemed to still meet the U of S minimum operational standards.

¹⁰ Canadian Armed Forces Medical Standards (CFP 154) A-MD-154-000/FP-000, Annex B - Generic Task Statement - All CAF Members, <https://www.canada.ca/en/department-national-defence/corporate/policies-standards/medical-standards-military-occupations/generic-task-statement-all-caf-members.html>.

10. If the U of S were to be weakened or eliminated outright, the CAF would imperil its *bona fide* exemption from the Human Rights Act, which states that the CAF “is subject to the principle of universality of service under which members of the Canadian Forces must at all times and under any circumstances perform any functions that they may be required to perform.”¹¹ If this principle can no longer withstand a court challenge, the CAF could be forced to accept recruits who are unable to carry out the operational tasks required of a military force, which would lead to an unacceptable outcome. Therefore, a different course of action should be pursued to retain CAF members with critical skills and experience who no longer meet the minimum operational standards of the U of S.

11. The tension between the retention of medically unfit members and the preservation of the U of S minimum operational requirements can be reconciled by two key policy changes. First, DAOD 5023-1 could be amended to remove the requirement for Primary Reservists to meet the U of S, except for initial entry to the PRes and as a pre-deployment screening requirement. Second, a reserve retention offer should be made by DMCA when a Reg F member, who is in a critically short-staffed occupation or has skills required by the CAF, no longer meets the U of S due to high risk MELs, but is otherwise deemed to be able to work in a non-deployable capacity. As it stands, members voluntarily releasing from the Reg F have the option to directly transfer to the PRes or Supp Res upon release.

12. The retained personnel who opt to transfer to the PRes could fill numerous non-expeditionary support roles across the CAF that do not require the level of physical resilience to deploy forward to operational zones. The CAF has been struggling with personnel shortages for

¹¹ Canadian Human Rights Act R.S.C., 1985, c. H-6. 1 July 2019, <https://laws.justice.gc.ca/PDF/H-6.pdf>.

years,¹² which will be exacerbated by the *Strong, Secure, Engaged: Canada's Defence Policy* plan to increase the size of the CAF by 3500 Reg F members and 1500 reservists in the near future.¹³

13. The transfer from the Reg F to the PRes has certain implications for pay and benefits, but these have been greatly mitigated by recent policy changes: in 2019, the PRes pay was increased from 85 percent to 92.8 percent of Reg F pay.¹⁴ Since changes were made to the Canadian Forces Superannuation Act in 2007, full-time reservists can contribute to the Reg F Pension Plan, so members transferring from the Reg F to the PRes would be able to continue their pension contributions. A comprehensive review should be conducted to ensure the transfer to the PRes would have no adverse effects for the members and their families, with benefits like Public Service Healthcare Plan coverage for military dependents. If any such effects are identified, the corresponding policies should be changed concurrently.

CONCLUSION

14. The challenge of retaining medically unfit personnel while maintaining the medical fitness standards required of a professional expeditionary military can be addressed by finding the policy with the right balance. Amendments to DAOD 5023 that would change the U of S requirements for PRes members, and a new policy of offering retention within the PRes to medically releasing members of the Reg F are two achievable and expedient actions that can be implemented within the CAF. Other possible options, such as the creation of a new component within the Reg F or a fundamentally different employment model for the CAF, could require

¹² Lee Berthiaume, *Military short thousands of personnel despite small increase in ranks* (CBC, 4 January 2018).

¹³ Minister of National Defence. *Strong, Secure, Engaged: Canada's Defence Policy*, 2017.

¹⁴ CANFORGEN 088/19 - CMP 053/19 - Restructuring of Reserve Force Pay, 11 June 2019.

amendments to the National Defence Act or the Queen's Regulations and Orders, and thus could require Ministerial or Governor-in-Council approval. Any such complex policy changes would also take much longer to implement.

15. By creating a retention plan in a non-deployable reserve force role for people who have high risk MELs but who have skills required by the CAF, members could opt to work part time (class A) or full time (class B) depending on their situation, which would be in line with the intent of *The Journey*. This would retain military expertise in a way that minimizes risk to the institution. It would also benefit the struggling PRes force, which would stand to gain Reg F experience that was is not currently available, as the members currently being medically released from the Reg F cannot remain in the PRes.

16. This same model could potentially apply to people over compulsory retirement age (CRA) who wish to remain in the CAF. The Canadian military is an aging force: nearly a third (around 30%) of the CAF is over 40 years old according to the 2017 research data,¹⁵ whereas data from the same year in the US military shows that only 9% of their force is over 40 years old.¹⁶ As the CAF population ages, the risks of illnesses and injuries increase but the knowledge and experience of members generally becomes more valuable, and the personnel who are medically released are often experienced senior leaders with critical skills. They should also be offered the opportunity to continue serving in a PRes retention program.

¹⁵ Lynda Manser, *Profile of Military Families in Canada: 2017 Regular Force Demographics* (Ottawa, ON: Canadian Forces Morale and Welfare Services, June 2018).

¹⁶ Kim Parker, Anthony Cilluffo And Renee Stepler, *6 Facts About the U.S. Military and Its Changing Demographics* (PEW Research Fact Tank, 13 April 2017).

RECOMMENDATION

The CAF should strive to keep talent and expertise without losing the essential ability to deploy and fight wars. This can be accomplished by allowing medically releasing members who wish to remain in the CAF, in whom the institution has greatly invested a great deal, an option to do so.

With a change to the PRes requirement to meet the U of S in the DAOD 5023 series, and by providing a PRes transfer option for those who are identified as having experience and skills required by the CAF, the balance can be achieved. In addition to helping meet the institution's needs, it will provide a continued sense of belonging and purpose to those who want to continue serving to benefit the CAF.

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