

No Longer ‘Less Than Honorable’

HOW VETERANS LEGAL INSTITUTE, A MILITARY-SPECIFIC PUBLIC INTEREST LAW FIRM, IS FIGHTING TO RESTORE HONOR TO VIETNAM VETERANS

By Antoinette N. Balta, Esq., LLM

American veterans returning from combat in Vietnam were greeted with contempt by the civilian population—a tragic response, in light of the fact that the majority of soldiers were forcibly drafted.

While in Vietnam, many soldiers bore witness to the trauma of combat, including bloodshed, loss of limbs and life, deafening sounds of artillery and gunshots, and tragedy. As is a common human response to trauma, many veterans returning home became disengaged, angry and erratic in their behavior, self-medicating with alcohol or drugs, or acting out in an effort to cope with the nightmare of war. For many, the result of these predictable postwar behaviors was separation from the military with an “other-than-honorable” discharge—a discharge characterization that eliminates the possibility of receiving most Veterans Affairs benefits.

In the past, veterans displaying anger, introversion or erratic behavior after returning from war were labeled “crazy” or “shell shocked.” Unfortunately, rather than acknowledging and supporting troops suffering from mental illness, military authorities did not acknowledge post-traumatic stress disorder (PTSD) in military separation proceedings. The result was that these men and women wallowed silently in pain, suffering with the stigma and humiliation of their service not having been “honorable.” For many, the burden was too heavy, resulting in a lifetime of lost potential, isolation, incarceration and, in some instances, death by their own hand.

A Long-Overdue Policy Change

Almost half a century after Vietnam, on September 3, 2014, the Department of Defense changed its approach to Vietnam-era PTSD. In an exemplary display of progressive development, Secretary of Defense Chuck Hagel formally recognized PTSD as a mitigating factor in relation to the separation of troops with an other-than-honorable discharge.

In announcing the policy change, Secretary Hagel stated, “Potentially mitigating evidence of the existence of undiagnosed combat-related PTSD or PTSD-related conditions as a causative factor in the misconduct resulting in discharge will be carefully weighed against the severity



of the misconduct.”

As a result of the change, Vietnam veterans suffering from PTSD can now apply for a discharge upgrade, allowing them the right to regain the VA benefits they earned and the respect they lost. Evidence of their PTSD will be “liberally considered,” and time limits on eligible applications will be waived.

First of its Kind

In September 2014, at the same time Secretary Hagel implemented the historic policy change, Veterans Legal Institute (VLI) opened its doors to the public. A nonprofit, public interest law firm run by attorneys with military experience, it is the first of its kind in the United States to provide military-specific services *free* to low-income, homeless, at-risk and disabled veterans in Southern California. VLI also houses a think tank that provides scholarship on military issues and education to the civilian sector, focused on closing the knowledge gap between the civilian population and military members.

VLI assists low-income veterans with general civil legal problems, including consumer law issues, landlord-tenant disputes and estate-planning concerns. Further, VLI is one of the few organizations with the experience and resources to handle discharge upgrades.

“The September 2014 memorandum from Secretary Hagel is a monumental change in DoD policy,” said VLI President Dwight Stirling, who is also a major in the California National Guard JAG Corps. “Vietnam veterans whose PTSD contributed to their ‘other-than-honorable’ separations will finally have their trauma considered by review boards, allowing

the board members to see the direct connection between exposure to combat and the behavior issues for which they were discharged.” Stirling added, “This is the first real opportunity they have had in almost 50 years to explain how their PTSD affected their service.”

If nothing else was learned from the reprehensible treatment our Vietnam-era brethren experienced, it is that we owe veterans acknowledgment of their invisible wounds—the internal damage they sustained from seeing the horrific brutalities of war. No longer can we, as a nation, ignore the mental health problems that accompany many of our military members upon their return home.

Modern medicine, treatment and compassion have paved the way to healing for many recently returning soldiers who suffer from PTSD; but what about those who served in Vietnam—and specifically those who suffered the shame of a less-than-honorable discharge directly related to their PTSD?

Better late than never. After decades of private anguish and shame, there is now relief to victims of PTSD with the opportunity to upgrade their discharge.

About the Author

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