Double-Crossed

New investigation and intrigue in ’80s tainted-blood tragedy

November 1, 1998 By Ann Silversides

The “bad blood” scandals -- in which government and industry higher-ups are fingered for infecting entire communities of hemophiliacs with HIV -- have shocked the conscience of one advanced nation after another since the late ’80s. Canada is no exception. This past spring, the Royal Canadian Mounted Police (RCMP) launched a long-awaited official investigation into Canada’s tainted-blood tragedy. Almost half of all Canadians with hemophilia (and about 95 percent of those with the most severe type) contracted HIV through blood products in the early ’80s, and about 65 percent contracted hepatitis C. Blood transfusions caused an estimated 1,148 cases of HIV and at least 28,600 cases of hep C.

The RCMP is gathering evidence to determine if charges of criminal negligence can be leveled as a result of the public health disaster. Such charges have been brought in Japan, Germany and France, and are pending elsewhere, according to RCMP inspector Rod Knecht, who leads the investigation. In the French case, the former director of the national transfusion center was sentenced to four years in prison for “deception over basic product quality,” and three other officials were convicted on similar charges. In the United States, tens of thousands of people (or their survivors) who were infected with HIV through tainted blood products in the ’80s have received financial compensation, as a result of class-action lawsuits, from private blood banks. In Canada, responsibility for the disaster lies primarily with two groups: the nonprofit Canadian Red Cross, which operated the taxpayer-funded blood supply system, and the Canadian Blood Committee (CBC), a joint federal-provincial body set up in the early ’80s to oversee the operation.

In the wake of the scandal, the Red Cross has been stripped of its responsibilities. It faces $8 billion Canadian ($5 billion US) in tainted-blood lawsuits and has been declared insolvent, although it is asking victims to drop their lawsuits in exchange for the guarantee of some money. Starting this fall, Canada’s blood supply is controlled by a new agency, Canadian Blood Services, the creation of which was a key recommendation of the Commission of Inquiry on the Blood System in Canada. Known since its launch in 1993 as the Krever Inquiry (after Justice Horace Krever, who conducted it), the inquiry concluded in 1997 with the release of a three-volume 1,138-page report that made front-page news from Newfoundland to British Columbia. Activists hailed it as the most thorough of many similar international inquiries (its second volume recounts the events surrounding blood-supply contamination in seven other countries).

Until the report’s release, the Red Cross had denied a role in the scandal. “When the facts were

spelled out by a respected judge, we felt some vindication and closure," says James Kreppner, a person with hemophilia who tested positive for HIV in 1986. When he was first diagnosed, his doctors told him he might not develop AIDS. Three years later, he graduated from law school, and for the first time, his doctors mentioned his CD4 count -- then 180. "They had been doing tests on me all along without telling me, treating me like a little boy," he said in an interview. By 1992, Kreppner had become a prominent AIDS activist.

Another outspoken survivor-turned-advocate is Johanne Decarie, a woman with hemophilia who contracted HIV from a blood transfusion in 1985, and later transmitted it to her newborn daughter, Billie Joe, now age 9. While the Krever Inquiry was in the headlines, Decarie became a household name (and face) across Canada.

Yet parts of the Krever report almost didn't see the light of day because the Red Cross, the federal government, six provinces, five pharmaceutical companies and 64 individuals went to court in a bid to prevent Krever from naming names. Krever had advised 95 individuals and institutions that, as a result of the report, they might be "subject to allegations of misconduct." In the end, the Supreme Court ruled unanimously that Krever could name names, but during the 18-month delay caused by the dispute, an estimated 300 victims of tainted blood died.

One of the most mortifying aspects documented by Krever was that, because of financial concerns, rivalries and ineptitude, Canada did not begin testing blood donations until November 1985, a full nine months after the HIV-antibody test was available. The commission estimates that one-third of Canadians infected through blood transfusions got the virus during this period. The commission also found it "not acceptable" that recommendations in 1987 to implement surrogate tests for hep C were ignored. (Many European countries began using these tests in the mid-'80s.)

The bureaucratic negligence began early. The AIDS epidemic hit Canada about 18 months after the United States, giving officials advance warning to act to protect the blood supply. On paper at least, centralized decision-making by the Red Cross and the CBC, plus the 18-month lead time, meant that during those years when it was widely believed that the blood supply was contaminated -- but before the HIV test was developed -- officials could have launched a campaign promoting the screening and deferral of so-called high-risk donors. But instead, Canada "pretended that the virus stopped at the border" and did next to nothing, according to activist Kreppner. For example, although the Red Cross issued a press release saying that it would ask potential blood donors specific questions, it merely revised its donor questionnaire to include that donors be "in good health." The Krever inquiry condemned the "ineffective and half-hearted" measures taken by the Red Cross to protect the blood supply, and added that such negligence was in violation of a fundamental public health tenet -- that "action to reduce risk should not await scientific certainty."

What went wrong? As the Krever report tersely observed, "No one was clearly in charge of, or accountable for, the safety of the blood supply." While the federal government, through the Health Protection Branch, regulates the manufacture, importation and distribution of blood products, the Red Cross was the main service provider, recruiting volunteer donors, running 17 blood centers

and purchasing products. Its expertise was seldom challenged. In the early ’80s, the provincial ministers of health -- who picked up the tab for the blood -- created the CBC to grab some control over this tangled system.

Tangled is putting it mildly. In his book *The Gift of Death: Confronting Canada’s Tainted Blood Tragedy,* André Picard notes that a group of independent auditors appointed by the Krever commission “needed four months to figure out the confused lines of authority [over Canada’s blood program] and concluded that where cooperation was needed between the parties, there existed only destructive animosity.”

And much will remain unknown. While the commission was in progress, transcripts and audio recordings of CBC meetings from 1982 to 1989 -- for which there had been a number of requests through Canada’s Freedom of Information legislation -- were destroyed. The destruction of these documents, which was investigated by Canada’s privacy commission, is now the subject of a separate RCMP commercial-crimes-unit investigation.

Because of the key role played by the federal and provincial governments in funding and overseeing the blood supply, those affected by the tainted-blood scandal fought for compensation from them. In 1989, the feds offered $120,000 Canadian, tax-free over four years, to each person who got HIV through blood transfusions. Four years later, all 10 provinces announced their own financial-assistance package, but the HIV-infected were eligible only if they waived their right to sue the Red Cross, the CBC, drug makers, insurance companies and provincial governments.

Federal and provincial officials are currently looking at a financial-aid program for people who contracted hepatitis C through the blood supply. (Most of the $8 billion Canadian worth of outstanding lawsuits against the Red Cross are related to hep C infection.) While the recently unveiled RCMP investigation is extensive, Kreppner isn’t holding his breath. “I know how hard it is to prove criminal negligence,” he says, “and how effectively people can put up legal blockades to responsibility.”

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