

The American Conservative

Memorial Day Nightmare

By Kelley Vlahos

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For the first Memorial Day in recent memory, the backdrop is not only burgers on the grill but a Veterans Affairs scandal so big that it threatens to take down the VA secretary and tarnish the president's party. One whistleblower after another has emerged alleging that regional VA facilities have hidden just how long vets are waiting for care. Some veterans, they charge, have died waiting on a "secret list" before ever seeing a doctor.

As Memorial Day highlights the sacrifices of so many men and women in America's wars abroad, longtime critics of the VA say this is a key moment for much-needed institutional transformation. What kind of transformation is up for debate—some say today's VA crisis proves government-run healthcare [just doesn't work](#)^[1]. Others are calling for VA Secretary Eric Shinseki to step down. But all would agree the system is broken, and veterans deserve more than a bureaucracy bent on covering its own behind.

"In the last 15 years, this has probably been the most serious scandal that I've seen that's involved the VA. But I can't say I'm surprised," says attorney Glenn Bergmann of Bergmann & Moore, LLC, which focuses solely on veterans' disability claims. He says the current system is like "shoots and ladders"—and it's mostly "shoots" for the veterans, designed to delay disability claims, delay healthcare, and delay the medical research that leads to benefits.

"We're talking about people who have written a check payable to the government for everything, up to including their lives," he says. "They've taken bullets, fought these battles, and they come back and say, what *is* this?"

"This" appears to be a mountain of 1.2 million total pending disability claims and an immense backlog of medical appointments—largely the result of a million new Iraq and Afghanistan veterans filing claims and accessing VA benefits since 2001. The VA has been unprepared to deal with it.

Staff in a number of VA facilities turn out to have been putting more energy into covering up their inability to care for vets than actually caring for them. The charges against at least 10 facilities (as of press time) are simple, the consequences potentially severe: all but the VA St. Louis Health Care System (more on them later) have been accused of purposefully manipulating hospital records to make their appointment wait times and backlog statistics look better. Some of

these records might even have been destroyed in anticipation of embarrassing probes and inquiries.

In the case of the Phoenix VA Health Care System uproar, sparked by a CNN [investigation](#)^[2] in late April, it's alleged that at least 40 veterans died waiting for appointments. Many had been placed on a so-called "secret waiting list" that would hide the fact that they were not given an appointment within 14 days of calling the facility. Washington had set the within-14-days-of-calling window as guidance for VA facilities after the backlog firestorm first erupted [over a year ago](#)^[3].

To beat the system, staff simply didn't enter these veterans into the electronic system—the one Washington overseers use to monitor backlogs and wait times—until they were guaranteed an appointment within 14 days. Many of the veterans reportedly languished for months in the meantime.

"The scheme was deliberately put in place to avoid the VA's own internal rules," said whistleblower Dr. Sam Foote, who gave CNN the information.

Some veterans did not survive the secret list. Navy veteran Thomas Breen, 71, waited more than two months for an appointment to address blood in his urine. He died of undiagnosed Stage 4 bladder cancer, according to CNN. "They neglected Pop," said son Teddy Barnes-Breen, who claimed he and his wife called the VA numerous times to hurry the appointment, to no effect.

An internal investigation has yet to officially tie the wait lists to any death in the Phoenix system. But after that story broke, whistleblowers at other VA facilities began to come forward with similar "secret list" stories. In [Colorado](#)^[4], according to *USA Today*, many of the 6,300 vets at the VA outpatient clinic were waiting months to be seen, and staff were punished if they "allowed records to reflect that veterans waited longer than 14 days." In [Wyoming](#)^[5], a nurse was put on leave after emails emerged confirming a secret list there. Similar allegations surfaced at two [Texas](#)^[6] facilities, as well as the [Gainesville](#)^[7], [Durham](#)^[8] and [Chicago](#)^[9] VAs. At the [Albuquerque VA](#)^[10], a whistleblower has charged that incriminating records over secret lists have already been destroyed.

Investigations have begun into all of the claims. In some cases, VA officials have denied that their staff schemed. "There was no attempt to manipulate wait times," Dr. Cynthia McCormack, director of the Cheyenne facility, wrote in a letter to the Wyoming Congressional delegation on May 2.

[In St. Louis](#)^[11], things got decidedly more troublesome when a doctor at the hospital—who says he has since been demoted for his troubles—accused the mental-health staff there of seeing as few patients a day as possible, driving up the wait times for appointments and putting vets with Post Traumatic Stress Disorder (PTSD) and other mental-health issues at serious risk. Hospital officials have denied his claims, and said the charges are being investigated.

As a result of the complaints, the American Legion—an organization that in recent years has generally stayed out of political controversy—[demanded on May 5](#)^[12] that Secretary Shinseki,

who has been serving in the role since 2009, be fired. For his part, Shinseki, who testified before the Senate Armed Services Committee on May 15, says he is [“mad as hell”](#)^[13] over the various allegations, and on May 16 he announced the resignation of Robert Petzel, the undersecretary for health.

Veterans’ advocates immediately jumped on the resignation as a [“token”](#)^[14] move—Petzel’s retirement after a 40-year career at the VA had been in the works for months, his replacement already nominated. “We don’t need the VA to find a scapegoat; we need an actual plan to restore a culture of accountability throughout the VA,” says Tom Tarantino of the Iraq and Afghanistan Veterans of America, which so far has not called for Shinseki’s firing but has demanded reforms in the wake of the scandal.

“There may indeed be serious doubts about Dr. Petzel’s leadership as it relates to recent allegations of manipulating wait times for VA health care appointments, but his early departure does nothing to solve those concerns. We need accountability and transparency throughout the entire VA health system,” Tarantino says.

Up to this point, veterans’ advocates and lawmakers on [Capitol Hill](#)^[15] have been split over whether Shinseki should go. He’s been generally well-liked—a disabled veteran himself, he gained respect from war-policy realists during the Bush administration, when as Army Chief of Staff he questioned whether then-Defense Secretary Donald Rumsfeld was low-balling the number of troops needed to execute the post-invasion Iraq War mission. Rumsfeld spurned him, but Shinseki was [ultimately vindicated by realities on the ground](#)^[16].

Now the realities on the ground are nibbling away at his testimony that the Phoenix scandal might be ascribed to [“isolated”](#)^[13] staff behavior. We already [have a memo](#)^[17] saying the VA was aware facilities were playing fast and loose with numbers four years ago.

“I have a lot of respect for the man, but I am disappointed with him,” says Bergmann. “He took a lot of time to get out in front of this. He was called out.”

“I think Shinseki should go, but first I think he should start to turn around the health care side,” says [Hal Donahue](#)^[18], an Air Force veteran, writer, and advocate. “Accountability, there needs to be accountability,” he told *TAC*. Among other things, he suggests ombudsmen for each section of the VA system. He supports a current [House bill](#)^[19] that would give the secretary more authority to fire or demote top executives.

Some commentators on the right, including [Charles Krauthammer](#)^[20] at Fox News and [Michael Tanner](#)^[21] of the Cato Institute, have used the scandal to promote privatization of veterans’ healthcare, saying the crisis not only proves the government-run system doesn’t work, but also doesn’t bode well for Medicaid, Medicare, or Obamacare.

“As the federal government takes over more and more of the healthcare system, there should be a lesson for us,” writes Tanner. “Simply promising more healthcare does not mean delivering more healthcare. And government healthcare systems have a very poor record of delivering what they promise.”

But others say simply giving vets a card to access private care—with all of its own pitfalls—would shift the government’s responsibility to the veterans to the private sector, and that could further isolate vets. The government must figure out how to solve the VA’s problems.

“It’s not just delayed health care, but delayed claims adjudication, it’s understaffing,” Bergmann tells *TAC*. “It’s a lack of training, lack of oversight. I’m surprised [Shinseki] is not barnstorming the regional offices trying to figure out what went wrong.”

One might compare what is happening today with the [2007 scandal](#) ^[22] at the Walter Reed Army Medical Center, in which officials were accused of allowing injured soldiers to languish in isolation amid deteriorating living conditions. The stories pervaded the mass media and Capitol Hill so completely that reforms were initiated with unusual speed. [In 2011](#) ^[23], the storied hospital was closed and folded into Bethesda Naval Medical Center.

But after all the publicity and promises, the underlying problems with soldiers’ care still persist: a series of “Warrior Transition Units” were created in the wake of the Walter Reed scandal, but evidence shows that [the units became troubled repositories](#) ^[24] for sick or problem soldiers.

Bergmann says officials are already bragging that they’ve brought down the disability claims backlog from nearly a million to 344,000 over the last year, but it’s a sleight-of-hand—many of those claims aren’t fully adjudicated and have become part of the appeals backlog, which currently has 274,660 claims on it with an average wait of four years, according to the Veterans for Common Sense.

“The VA is in a hurry to make the president’s goal” of reducing the backlog of initial claims,” Bergmann says. So the [error rate is high](#) ^[25], as are rates of benefits being denied, and “the net result is the claims are moving from the new-claim pile to the appeal pile.”

Longtime advocates [are wary](#) ^[26] when President Obama says he, too, is [“madder than hell.”](#) ^[27] yet after meeting with Shinseki last Wednesday only promised more reforms. They say this could have been anticipated years ago. They want action, and demanding “where’s the beef?” this Memorial Day weekend is about much more than what’s on the grill.