



Veteran's medical records missing

VFW worker shredded files, but responsibility for loss remains uncertain

By [Alex Morrell](#) of the Journal Sentinel
Aug. 15, 2010

George Wincapaw thought he was getting some strange requests from the U.S. Department of Veterans Affairs.

The 63-year-old Vietnam War veteran had had several heart attacks since leaving the Navy, submitting enough paperwork on them to amass a two-volume file at the Veterans Benefits Administration office. But in response to his most recent claim, submitted earlier this year, the office was requesting copies of medical records Wincapaw had already submitted.

Curious, he traveled from his home in Oconomowoc to the VA regional offices in Milwaukee to look at his medical file. What he found shocked him.

He wasn't providing duplicates. Dozens of his medical records were missing.

Then the public contact representative with whom he was reviewing his file broke the news: An employee had been fired from the Veterans of Foreign Wars, Wincapaw's representative agency, for destroying veterans' records.

An official with the state VFW, which handles thousands of such cases a year, told Public Investigator the employee had shredded nearly all its veterans files - no one knows how many - after making a unilateral decision to go "paperless."

"I would never have found out myself other than by accident," said Wincapaw, who had missing from his file more than 100 pages of records related to his heart condition and pending benefit claims.

But determining responsibility wasn't clear-cut, and for Wincapaw finding answers became an exercise in frustration.

The Veterans of Foreign Wars is one of several accredited, independent organizations that can act on behalf of veterans and are given power of attorney by veterans to deal with their claims.

Steve Lawrence, speaking for the group, admitted that Lee Guerrero, who represented veterans on their claims, was fired in August 2009 for shredding all of their claimant files in the VFW service office.

He did not keep electronic copies of the documents, either.

According to Lawrence, subordinates tried to object, but Guerrero continued with his plan and eliminated

the majority of the claims files, with the exception of some claims on which the VFW was actively working.

"He just thought going paperless meant getting rid of the files . . . It cost him his job as soon as we found out about it," Lawrence said.

Public Investigator contacted Guerrero, who deferred to the VFW to comment on the destruction of records.

In Wincapaw's case, his claims were active, but any records of his relationship with the VFW are gone.

That's where things get even more confusing.

Restricting shredding

According to Lawrence, the medical records Wincapaw is missing would not have been among those destroyed by Guerrero.

The VFW typically keeps only the power of attorney documents and a veteran's discharge papers because of limited storage space, Lawrence said. Medical records get sent on to the VA and wouldn't be housed at the VFW office - which is in the VA regional building despite being a separate, private entity.

"If he had a claim going with the VA, those documents would have been turned over to the VA," Lawrence said. "What happens when they get to the VA I can't account for. This isn't the first instance I've heard that veterans have had to resupply information that had already been sent to the VA."

Guerrero agreed that Wincapaw's records wouldn't have been at the VFW office.

"We never kept medical records in the office at all," he said. "Those would immediately go to the VA."

But the benefits office said it has no record of receiving the files in question from the VFW.

"Anything not in the claims file was not received by this agency," said Thomas Braun, benefits office management analyst and public affairs officer. "It's very unlikely somebody destroyed it on our end . . . We have amazing levels of security on our paper."

Braun said that office policy does not allow paper to be thrown in the garbage, and for paper to be disposed of it must be placed in a red shredding bin that management personnel reviews before allowing its destruction.

In 2008 the VA Office of Inspector General audited all the regional VA offices around the country and revealed approximately 500 documents that could have affected veterans' benefits claims were improperly placed in shredding bins in two-thirds of the then 57 locations. The bulk of the problem occurred at four VA regional offices, and the Milwaukee location was not considered to be a problem.

This precipitated stricter rules and tightening of controls on shredding across the country.

Thomas Ludka, director of Waukesha County Veterans Services, worked as service officer with the American Legion for eight years - a position similar to that held by Guerrero.

He was aware of the incident at the VFW and concurred that those types of files would not have been kept at the VFW office. He said it was more likely Wincapaw's records were misplaced within the VA because of the vast amount of paper there.

"It's not a perfect system. Stuff gets misplaced. Why? They move an awful lot of mail in that place," Ludka said, adding that the records could have gotten lost or accidentally put in the wrong folder rather than shredded.

Many veterans, including Wincapaw, send their medical files and claims through county veterans' services office. The files then go to their representative organization, such as the VFW, and then on to the benefits office.

At each stop, transmittal receipts are generated when the organization receives and processes the records.

But the receipts serve more as a cover sheet and don't give a detailed account of what records are received.

Notify, patient says

Wincapaw had backup records and said his case isn't his chief concern. He's worried about other veterans who were exposed to the same problem but are unaware documents were destroyed.

"We know it happened. I don't think I'm the only one . . . It would be beyond logic or reason," he said.

But neither the VFW nor the benefits office has explicitly alerted veterans to the shredding incident from last August.

Lawrence said that because the records of the veterans they served, including names and addresses, were destroyed, it would make alerting them a challenge.

He acknowledged it may be possible to locate veterans the VFW served via the master list of power of attorney documents the benefits office holds. Meanwhile, the issue wasn't mentioned on the Wisconsin VFW website.

The benefits office said that because its record keeping is completely separate from the VFW's, the fallout of the incident was not its responsibility.

Wincapaw says both should work to notify veterans, because the VA encourages veterans to sign up with the groups for representation and charters some of them - essentially giving a seal of approval.

But after organizations are accredited, Veterans Administration policy is to not interfere with their day-to-day operations, officials said.

Wincapaw has dropped the VFW as his representation, but he worries that his and other veterans' claims have been compromised by missing documents.

"I'm just so disgusted and depressed about the whole thing," Wincapaw said.

Got a tip? Do you have an issue with government or a local business or a story idea for Public Investigator? E-mail us at watchdog@journalsentinel.com, or call (414) 224-2318.

Find this article at:

<http://www.jsonline.com/watchdog/pi/100740139.html>