

Green Alerts: Balancing Suicide Risk and Privacy

Not everyone who wanders is lost.
J.R.R. Tolkien¹



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Contemporary critiques of Memorial and Veterans Day celebrations have emphasized that while ceremonies and celebrations are culturally requisite means of demonstrating a society's respect and gratitude for those who gave their lives and health in the country's cause—it is not enough. These holidays have immense symbolic significance to remind the nation of the sacrifice of those who bore arms in its service. An enduring and substantive impact on veterans will require real work done on their behalf. Through its representative institutions, such as the US Departments of Defense (DoD) and Veterans Affairs (VA) and citizens' voluntary efforts, the public must provide practical assistance to veterans and their families.²

Memorial Day honors our sacred dead who lost their lives defending freedom. In federal practice and the larger community, we are duty-bound to try and restore the things war took from these wounded warriors and in whatever measure is possible to return them to the land of the fully living. Except in memory, we cannot bring back the dead. And while life is the most precious gift, those who survived the battlefield too often lose much that matters to a meaningful human life—friends, family, livelihood, housing, self-worth, peace of heart, soundness of mind, and health of the body.

One such recent initiative of reclamation is the Green Alert. Readers are likely familiar with Amber alerts for abducted children and Silver Alerts for older adults often with cognitive impairment who are lost. The Green Alert is a similar program deploying media and law enforcement to search for missing veterans believed to be vulnerable to harm because of a medical or psychiatric illness related to their service.

In 2017 Wisconsin became the first state to pass Green Alert legislation. The Missing Veterans at Risk Act lists 2 criteria that trigger

a Green Alert: There is a reason to believe that the veteran at risk is missing due to a physical or mental health condition or that the veteran at risk is missing due to a physical or mental health condition. Relevant to the readers of *Federal Practitioner*, in Wisconsin, Green Alerts can be issued on behalf of missing veterans, and active-duty guard and reserve members and thus cover almost all the ranks of US military service.³ When law enforcement receives a report of a missing veteran as defined in the act within 72 hours of their disappearance, a Green Alert is issued. The statute directs the US Department of Justice to permit law enforcement to access the crime notification network to notify the media to broadcast pertinent information about the missing veteran.

As of this writing, Delaware, Kentucky, Connecticut, and Texas have passed similar laws, and legislatures in other states are considering bills, as is Congress.⁴ The sponsorship of the National Green Alert Act is bipartisan. Its stated purpose is: to develop interagency Green Alert systems that would be used when a veteran “goes missing” and “for other purposes.”⁵

The program's potential to reduce the number of veterans who die by suicide every day has understandably attracted the attention of legislators and the public.⁶ The Cost of War project disclosed the terrible irony that at least 4 times as many post-9/11 service members died by suicide as perished in the combat that Memorial Day traditionally commemorates.⁷ As with many veteran-related laws, the initial Green Alert in Wisconsin was borne out of tragedy and passed through the heroic advocacy of bereaved and outraged family members.⁸ The DoD and VA, Congress, veterans service organizations, and the loved ones of servicemembers desperately want to turn this devastating tide of self-destruction through any means possible.

It seems almost a blasphemous betrayal of our public trust to raise ethical questions about Green Alerts. Yet that must happen if we ensure that these laws achieve their intended aims of preventing harm. For many veterans, these laws may indeed be lifesaving. However, a 2019 National Public Radio report suggested that these laws may, in some cases, result in several unintended harms.⁹ On first reading, it is worthy, even our duty, to extend the public health safety net for children who are victims of abduction and individuals with dementia to vulnerable veterans secondary to the mental and physical wounds of service.

When the service member is located, the alert is canceled. Nevertheless, their data remains in all the protean forms of media now available. In these searches for service members thought to be lost, there is a risk of violating their privacy if too much protected health information is made widely public. These breaches of confidentiality can further exacerbate the already too prevalent stigmatization of mental illness in the military, which has been a formidable obstacle to persuading those in uniform to seek treatment.¹⁰ As J.R.R. Tolkien has noted, not every person who “wanders” is lost.¹ A veteran may leave his home for some period, even without notifying anyone, without being in grave and imminent danger. The diagnoses we health care professionals assign to patients are wide conceptual nets full of empirical holes: they are poorly predictive and protective mechanisms.¹¹ A broadly written or vague law leaves latitude for bias, discrimination, liability, and fear to drive decisions that to be ethically justifiable require consistency, transparency, equity, and expertise. Much more research is needed to develop situational awareness, scientific accuracy, and clinical reliability to understand when, how, and for whom Green Alerts are genuinely beneficial.

These are not insurmountable questions. The experts and stakeholders appointed to the interagency committee the national

Green Alert proposes will work to address these problems. Yet, unless they and we look bravely at the thorny issues these laudable laws present, it will be challenging to achieve their purpose to safeguard the dignity, safety, as well as autonomy and well-being of service members.

Disclaimer

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