



# Burn pits, battlefield toxins, disabled troops and the fight for data

BY JEFFREY E. PHILLIPS, OPINION CONTRIBUTOR — 08/13/18 11:00 AM EDT  
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"I will advocate until they drape the flag over my coffin."

That's what Rosie Lopez-Torres [told the Reserve Officers Association](#) her husband, Army Reserve Capt. Leroy Torres, would say about his struggle for fair treatment after being disabled by toxic fumes spewing from burn pits in Iraq in 2007.

"You pretty much have to be a full-time advocate, just to ensure that the system doesn't lose you in the process ... if you come back from fighting a war and have to fight to keep your job. It's been a huge sacrifice; it's had a huge impact on our lives," she said. "How do you endure being stripped of your dignity and the one thing that was your life's dream?"

Burn pits, in the news with the [introduction of legislation](#) that would provide better data on toxic exposure, long have been used to dispose of refuse. The burn pit detail achieves ignition with generous doses of petroleum products, themselves no breath of fresh air.

Toxic exposure is not new: in World War I, mustard gas was used on Allied troops, and in Vietnam, troops were exposed to the [Agent Orange defoliant](#). With the rise of technology, the battlefield includes [especially toxic elements](#). In 2012, an Oregon jury awarded 12 National Guardsmen \$85 million for their exposure in Iraq to carcinogen hexavalent chromium. (The decision later was overturned because it was heard in the wrong jurisdiction, not on the argument's merits.)

Some of these toxins wind up in burn pits where, along with ordinary smoke, they can wreak havoc on the health of those exposed.

The Department of Defense (DoD) states that burn pits are used only when the combatant commander “determines there are no feasible alternative methods,” and that burning is done “in a manner that prevents or minimizes risks to human health and safety and harm to the environment minimized as much as possible.”

When Capt. Torres returned from Iraq, he resumed his dream job as a Texas state trooper but soon experienced debilitating respiratory problems. He was diagnosed with constrictive bronchitis, had headaches and gastrointestinal problems, as well as memory loss and other issues. He lost his job.

By now it’s familiar: VA denies service-connection linkage between battlefield toxins and disabilities. We saw it with Agent Orange; the battle cry is “More data!”

Leroy Torres received a 0 percent disability rating from VA. His wife, a former VA employee who started the advocacy group [Burn Pits 360](#), got that increased to 30 percent. He still cannot work.

According to a recent Iraq and Afghanistan Veterans of America [survey](#), “80 percent of respondents were exposed to burn pits during their deployments and over 60 percent of those exposed reported having symptoms.”

“VA is doing what it normally does: stall for time under the guise of scientific uncertainty,” said [Dr. Remington Nevin](#) in an August 2018 article in The American Legion magazine. Nevin served in Afghanistan with the Army as a preventative medicine officer. “The time to act is when you have plausible evidence that veterans are ill and dying because of their exposure to burn-pit smoke — not certainty.”

One example validates Dr. Nevin’s assertion: In December 2001, then-Secretary of Veterans Affairs Anthony Principi [directed](#) a presumption of service connection between Amyotrophic Lateral Sclerosis and service in the Gulf War. Principi based his bold decision on an Institute of Medicine finding that military personnel who served in that war were nearly twice as likely to develop ALS as others who did not.

I was on Secretary Principi’s staff and recall the pride I felt at his display of leadership and advocacy for veterans. I also recall the grumbling in VA’s bureaucratic entrails: “How could such a decision be made on so little data?”

It may not have been just that war.

“Basically what we know is that veterans have a 60 percent higher risk of getting ALS than the general population,” [CNN reported](#) on Veterans Day 2015. “The Mayo Clinic guesses that reasons for the connection ‘may include exposure to certain metals or chemicals, traumatic injuries, viral infections and intense exertion.’”

Vietnam veterans exposed to Agent Orange eventually did win service connection, but exposed sailors who served off Vietnam’s shores are still fighting for it.

This isn’t to demonize VA; it’s not that simple: Congress can be loath to support presumptions, knowing it has to appropriate funds to pay the bill. The issue of presumption would fade if the Pentagon initiated a register of toxic exposure upon initial indications of trouble — or better yet, the assumption that exposure will occur, given history. Proactively gathered

data could reduce ambiguities and facilitate the decision to service-connect.

A bill in the House, the [Burn Pits Accountability Act](#), and [companion Senate bill](#) would do what the Pentagon could without legislation. It would “direct the Secretary of Defense to include in periodic health assessments, separation history and physical examinations, and other assessments an evaluation of whether a member of the Armed Forces has been exposed to open burn pits or toxic airborne chemicals, and for other purposes.”

The bills would mandate the collection of data that the VA now gathers on a voluntary basis in its difficult-to-navigate [Airborne Hazards and Open Burn Pit Registry](#). The increased data could enhance understanding of the risks of battlefield toxins, leading to better preventative measures and better care for those afflicted.

We appreciate this legislation, yet it would be unnecessary if government acted; the example of Secretary Principi shows what can be done. An interim presumption could be made, and the use of incinerators required in theater.

We look to new VA Secretary Robert Wilkie, an Air Force reservist and former senior Pentagon official, for bold leadership and strong veterans’ advocacy. Our troops, including nearly a million Reserve and National Guard members, already served in one war; must they fight another when they return home sick?

Rosie Lopez-Torres summed up the fidelity of these young patriots in her tribute to her [former soldier](#) and state trooper husband, for whom she has fought so relentlessly:

“He would go in a heartbeat to serve our nation again, and our state.”

*Jeffrey Phillips is executive director of the [Reserve Officers Association of the United States](#), which promotes a strong and ready reserve force. He is a retired U.S. Army Reserve major general.*

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