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CHAIRMAN, COMMITTEE ON
ARMED SERVICES
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS
COMMITTEE ON INDIAN AFFAIRS

United States Senate

June 17, 2016

The Honorable Robert McDonald
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Avenue
Washington, DC 20420

Dear Secretary McDonald,

I write to convey serious concern about the Department of Veterans Affairs' (VA) decision that it will not enforce key provisions in the *Veterans Access, Choice and Accountability Act of 2014* that Congress passed—and the President signed into law—in response to the nationwide wait-time scandal aimed at quickly firing employees engaged in wrongdoing.

My concern is compounded by the fact that your decision was conveyed by a VA staffer to a congressional aide, on that aide's request, in a single-line email late on Friday afternoon. Your decision and how it was transmitted to Congress reflects a contempt for Congress's constitutional oversight prerogative and fails to engender confidence in your leadership at the VA and your efforts to restore its relationship with veterans in need.

Congress expressly included in this law accountability reform measures that empower VA administrators to immediately fire poor-performing employees and employees fired for wrongdoing with no pay during an expedited appeals process. It did so to bring badly needed accountability to the VA in the wake of the scandal in care. As you know, VA audits have found widespread falsification of data to improve performance metrics and secure bonuses—problems that point to systemic and cultural problems that had to be dealt with head-on by holding individuals responsible. These provisions were intended to more effectively and decisively root-out such systemic corruption at the VA and are *vital* to making sure what happened in Phoenix—and, indeed, around the country—never happen again.

You, your agency—and the President himself—extracted the full benefit of the passage of this law among veterans across the nation who demanded accountability and improved quality of care. Yet now, after the Department of Justice's decision not to defend this law against a challenge by former Phoenix VA Director Sharon Helman, you are unilaterally refusing to enforce key elements of this very law. This decision is unconscionable and outrageous.

By no later than Wednesday, June 22, 2016, please provide the following to me:

- 1) A description of the VA's position on its intent to enforce the provisions referred to above.
- 2) An explanation of the basis for the VA's position.

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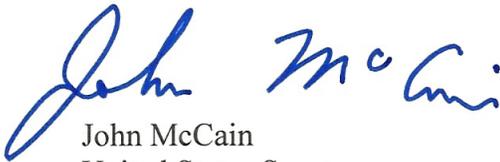
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- 3) A copy of any legal opinion or decision memorandum from, among others, the Department of Justice and the VA's general counsel, that serves as the legal or policy basis of the VA's present position.
- 4) An explanation of why, if the Department of Justice or the VA has concluded that these provisions are unconstitutional, the President signed the underlying Act into law.

Have no doubt that I will work with my colleagues to use every tool available to Congress—appropriations, litigation, additional reform legislation, or other measures—to ensure the VA fully complies with the law.

Sincerely,

A handwritten signature in blue ink that reads "John McCain". The signature is fluid and cursive, with the first name "John" written in a larger, more prominent script than the last name "McCain".

John McCain
United States Senator