

1 NOMINATION OF CHRISTOPHER E. O'CONNOR,  
2 TO BE ASSISTANT SECRETARY FOR CONGRESSIONAL AND  
3 LEGISLATIVE AFFAIRS, U.S. DEPARTMENT OF VETERANS AFFAIRS

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5 TUESDAY, JUNE 21, 2016

6 United States Senate,  
7 Committee on Veterans' Affairs,  
8 Washington, D.C.

9 The Committee met, pursuant to notice, at 2:35 p.m., in  
10 Room 418, Russell Senate Office Building, Hon. Johnny  
11 Isakson presiding.

12 Present: Senators Isakson, Boozman, Cassidy, Rounds,  
13 Sullivan, Blumenthal, Brown, Tester, Hirono, and Manchin.

14 OPENING STATEMENT OF CHAIRMAN ISAKSON

15 Chairman Isakson. I call this hearing of the Senate  
16 Foreign--Senate Foreign Relations. Senate Veterans' Affairs  
17 Committee together. We just left Foreign Relations. That  
18 is why I did that, I guess.

19 Welcome. We are glad to have you, Colonel. We will be  
20 with you in one second. We will have opening statements,  
21 and then we will introduce you accordingly, and I will make  
22 an opening statement about the same.

23 We welcome Colonel O'Connor for being here today. We  
24 appreciate his public service to the Veterans Administration  
25 and the United States Military. He has got a distinguished

1 career. We have enjoyed working with him at the VA and  
2 enjoy working with him in the future, and I am sure this  
3 confirmation hearing will go well. So, with that said, I  
4 turn to my Ranking Member, Senator Blumenthal, for any  
5 opening statement he may make.

6 OPENING STATEMENT OF SENATOR BLUEMENTHAL

7 Senator Blumenthal. Just very briefly, I want to thank  
8 you for your service to our nation, as well as your wife,  
9 Debbie, and your children, Katie and Colin. I think they  
10 may be here today. Families share in public service as we  
11 all know.

12 And I want to thank you for the work you have done  
13 already with my office on various issues concerning  
14 Connecticut's Veterans Administration activities, including  
15 the West Haven VA Hospital where you were very important,  
16 assisting us in seeking to make the pedestrian access safer,  
17 work that is ongoing and should be completed as quickly as  
18 possible. And we will be talking more about that as well as  
19 about other issues over the coming months.

20 And I thank you again for your service.

21 Chairman Isakson. Under the rules of the Committee,  
22 the testimony of all presidential nominees appearing before  
23 the Committee must be taken under oath.

24 Colonel, I would ask you to raise your right hand and  
25 repeat after me. Do you solemnly swear or affirm that the

1 testimony you are about to give before the Senate Committee  
2 on Veterans' Affairs will be the truth, the whole truth, and  
3 nothing but the truth; so help you, God?

4 Colonel O'Connor. I do.

5 Chairman Isakson. Please be seated.

6 I would be happy to recognize you for up to five  
7 minutes for any opening statement you would like to make.

1                   TESTIMONY OF COLONEL CHRISTOPHER E. O'CONNOR,  
2                   [RETIRED], NOMINEE FOR ASSISTANT SECRETARY FOR  
3                   CONGRESSIONAL AND LEGISLATIVE AFFAIRS, U.S.  
4                   DEPARTMENT OF VETERANS AFFAIRS

5           Colonel O'Connor. Thank you very much, Chairman  
6 Isakson, Ranking Member Blumenthal, distinguished members of  
7 the Committee on Veterans' Affairs. Thank you for the  
8 opportunity to testify before you today and for your  
9 consideration of my nomination to serve as the Department of  
10 Veterans Affairs Assistant Secretary for Congressional and  
11 Legislative Affairs. I am deeply humbled by President  
12 Obama's nomination and the confidence that both he and  
13 Secretary McDonald have shown in me.

14           I would like to recognize my family members that are  
15 here with me today: my wife, Debbie, who has supported me  
16 for 32 years, many of those of which I have been deployed,  
17 serving my country; my daughter, Katie, who has one class  
18 left for her degree at University of Mary Washington; and my  
19 son, Colin, who is a sophomore at Rensselaer Polytechnic  
20 Institute. Their support has been invaluable for me.

21           I would also like to thank my parents, Bernie and Jane  
22 O'Connor. My dad, who is no longer with us, was a World War  
23 II veteran Marine who served in the Corps and participated  
24 in the landings at Iwo Jima and Okinawa. I would also like  
25 to thank my father-in-law, Jack Keane, who is a retired

1 Marine and Vietnam veteran. Both of them had a tremendous  
2 influence in me and taught me a great deal about leadership.

3 And I am proud to say that my oldest son, Brian, who  
4 was commissioned a second lieutenant in the Marine Corps  
5 last summer and is now going through flight training in NAS  
6 Pensacola, is carrying on a tradition of military service.

7 I was privileged to serve in the Marine Corps for over  
8 30 years. During my career as a Marine aviator, I was  
9 fortunate to serve with young men and women who truly  
10 represented the best there is about our country.

11 While I was in the Marine Corps, I also worked  
12 congressional affairs, where I learned firsthand the value  
13 of working together with Congress to solve problems, to take  
14 care of Marines, and create an unparalleled partnership. As  
15 an air station commander at MCAS Miramar in California, I  
16 worked very closely with the local congressional delegation  
17 on preserving the operational capabilities of the air  
18 station and taking care of Marines. A congressional  
19 delegation's support was essential to accomplishing these  
20 important tasks.

21 When I was offered the opportunity to work at VA in  
22 early 2010 after I had retired, I quickly accepted it. I  
23 publically want to thank former Assistant Secretary Joan  
24 Mooney for giving me the chance to continue to serve those I  
25 have served with.

1           Working on, and in support of, veterans issues is the  
2 right post-military duty for me. It has enabled me to  
3 continue to give back, to serve not only those I served with  
4 but to serve my son's generation as well. It is a passion  
5 for me. It is something that really is not about work, it  
6 is about service, not about the money but about caring, and  
7 it is about being part of something much bigger than myself.

8           That is why I am firmly committed to carrying out the  
9 MyVA Transformation that Secretary McDonald has outlined for  
10 the Department. Placing veterans at the center of  
11 everything the Department does is the right thing to do.

12           Under Secretary McDonald's leadership and Congress's  
13 support, the Department is changing. It is an irreversible  
14 change that is destined to make VA the number one customer  
15 service agency in the Federal Government and the employer of  
16 choice of veterans and health care professionals. It is an  
17 honor to be part of that transformational journey, to see  
18 the change, and to be part of the solution.

19           I have been extremely fortunate to work on a daily  
20 basis in VA with a talented group of individuals in the  
21 Office of Government Relations, who are dedicated to VA's  
22 mission and care deeply for the veterans they serve. I am  
23 very appreciative of everything they do on a daily basis and  
24 for the support they have given me over the last two years.

25           During my tenure in VA's Office of Government

1 Relations, I have tried to ensure that there have been open  
2 lines of communications between the Department and Congress  
3 as we work together on so many important issues for  
4 veterans. I have increased engagement and increased  
5 proactive briefings on VA's initiatives, promoted increased  
6 access to senior leaders within the Department, and worked  
7 to create a collaborative relationship, especially in  
8 regards to veteran-centric legislation. Working closely  
9 together with your staffs on legislation such as the Choice  
10 Program and Appeals Modernization has demonstrated how  
11 important the congressional-VA partnership is for producing  
12 better results for veterans.

13 I firmly respect Congress's oversight role, and if  
14 confirmed, I will work tirelessly to improve the  
15 Department's responsiveness to congressional requests for  
16 information. I know there have been times where we could  
17 have done a better job and be more responsive, and I promise  
18 you I will work to improve our performance.

19 In closing, my experience in the Marine Corps working  
20 congressional affairs, as a base commander working with the  
21 local community and public leaders, and the knowledge I have  
22 gained over the last six years working in VA, have given me  
23 the skills and leadership and management experience to be an  
24 effective Assistant Secretary for Congressional and  
25 Legislative Affairs.

1           If confirmed, I look forward to working with you to  
2 further enhance the relationships between the Department and  
3 Congress so, together, we can meet the important needs of  
4 our veterans we proudly serve.

5           Thank you very much for the opportunity to testify  
6 before you today, and I look forward to your questions.

7           [The prepared statement of Colonel O'Connor follows:]



1 Chairman Isakson. Colonel, which one of your daughters  
2 is at Mary Washington?

3 My son-in-law graduated from Mary Washington. That is  
4 a great school.

5 Ms. O'Connor. Thank you.

6 Chairman Isakson. You are a lot more attractive than  
7 he is, too. So we are glad that you are here today.

8 Glad to have your entire family here today, Colonel.

9 Colonel, three or four questions I have. First and  
10 foremost, every morning when I wake up regardless of what  
11 time it is, and oftentimes it is early, I turn on television  
12 as I am doing my exercises on the floor to try and listen to  
13 what the news of the day is. Unfortunately, for me, it  
14 seems like far too often the Veterans Administration is the  
15 first story to hit the airwaves, whether it is the incident  
16 with cockroaches in the hospital of the VA in Chicago,  
17 Illinois, or the hospital in Denver, Colorado that had the  
18 overrun, or incidents of that nature. And I do not bring  
19 this up as a negative, but I bring this up as a fact of the  
20 matter.

21 In your job, if confirmed, will you do everything you  
22 can to be proactive and make sure this Committee knows in  
23 advance to the extent possible when something like this is  
24 going to hit so we are prepared for it?

25 Colonel O'Connor. I will, sir. I think it is

1   extraordinarily important to be able to share that  
2   information before you get to see it from the media source  
3   and ensure that you are aware of what is going on.

4           Chairman Isakson. Well, sometimes that is not  
5   possible, but I think most of the time that it is. And,  
6   unfortunately, it presents a bad image of the VA that is an  
7   image that is not really meritorious because my experience  
8   with the VA has been basically very good.

9           There are problems. It is the second largest agency in  
10   the Federal Government, and you are going to have problems  
11   from time to time. But having the Committee in the loop  
12   from the beginning is a whole lot better in terms of  
13   responses we are going to end up making from an educated  
14   standpoint versus an uneducated standpoint.

15           You have said in a pre-hearing statement that your goal  
16   is to respond to the Committee on simple questions within 48  
17   hours and all other questions Congress might ask within 10  
18   business days. How well do you think VA actually complies  
19   with those deadlines?

20           Colonel O'Connor. Those are our goals, and I think we  
21   do average. I think there is absolutely room for  
22   improvement. On those that are requests for information  
23   that are routine, I think we are very good at turning that  
24   around and providing the Committee with the information that  
25   they have asked for. I think as the issues get more

1 complex we have a more difficult time of trying to meet  
2 those time goals.

3 Folks in my office, the biggest concern I have is  
4 ensuring that once we get the request for information that  
5 we get it to the respective organization that is going to  
6 provide the information and then work to ensure all the way  
7 through delivery that it is done as quickly as possible.

8 Chairman Isakson. If you are confirmed for this  
9 position, what will be your most important principal  
10 requirement and responsibility?

11 Colonel O'Connor. My most important--

12 Chairman Isakson. In your opinion.

13 Colonel O'Connor. My most important is open lines of  
14 communications. I think that is the most important thing in  
15 creating a foundation of a good, solid relationship--the  
16 ability to have those lines of communications, pick up the  
17 phone, ask questions, get an answer, and not have to wait or  
18 have excessive delays.

19 Chairman Isakson. And, basically, that is going to be  
20 your responsibility in this position, is that not correct?

21 Colonel O'Connor. It is, sir. It will be.

22 Chairman Isakson. And will you work with the  
23 Secretary? You were complimentary of Secretary McDonald,  
24 and I am complimentary of the Secretary. I think he is  
25 doing a heck of a job and trying awfully hard.

1           But some of the problems Secretary McDonald has had  
2 have been communications of his own. I hope you will work  
3 to help ensure we temper some of our communication from time  
4 to time so we have a little better visual image of the  
5 Veterans Administration from those quotes that come out, and  
6 if you will work on that I would appreciate it.

7           Colonel O'Connor. Yes, sir, I will work on that.

8           Chairman Isakson. What do you think is the most  
9 important thing that the Committee could do to improve our  
10 relationship with the Veterans Administration?

11          Colonel O'Connor. Well, I know, sir, from where we  
12 stand today, getting the Veterans First Act Passed is  
13 extremely important to moving forward with the  
14 transformation and to doing more with veterans. The  
15 Secretary supports that Act. We have worked with your  
16 staff. And that is going to be a game-changer for veterans.

17          Chairman Isakson. That was a great answer because that  
18 was what I was hoping you were going to say.

19          Let me just say this Committee voted unanimously to  
20 pass out the Veterans First Act. Every member, Democrat and  
21 Republican alike, had a lot to do with that thing.

22          I had hoped to get it to the floor under a UC about a  
23 month ago, and then the wheels kind of came off because of  
24 other competition one way or another, but we are getting  
25 ready. In fact, the Ranking Member and I are having a

1 meeting later on today which hopefully will help facilitate  
2 us moving towards being able to do that before the break in  
3 July.

4 But after the Attorney General's declaration that she  
5 was not going to act on behalf of the Veterans  
6 Administration to enforce the Veterans Choice Act and the  
7 Secretary, much to my chagrin, who yesterday, in an  
8 interview with the press, said he was going to take up and  
9 follow her lead and not depend on the Veterans Choice Act  
10 either, unless this Committee and this Senate and the  
11 Congress of the United States passed the Veterans First Act,  
12 with the changes we have in accountability and especially  
13 for senior executive leadership of the VA, we are going to  
14 have a VA that has no accountability whatsoever. Would you  
15 agree with that?

16 Colonel O'Connor. Sir, I think when the Secretary  
17 evaluated the Attorney General's decision he made the  
18 decision internally. He firmly believes in accountability  
19 and holding these executives accountable. He just does not  
20 want to see any action he would take under the expedited  
21 removal to be reversed because he is fearful that the  
22 unintended consequences of reversing it would be worse than  
23 holding somebody accountable under the preexisting  
24 regulations.

25 Chairman Isakson. And I respect that and do not take

1 issue with that except to say that because of the decision  
2 of the Attorney General and because of Secretary McDonald's  
3 decision, if we do not act quickly and with due diligence to  
4 get the Veterans First Act passed, we are going to have a  
5 difficult time enforcing accountability in the Veterans  
6 Administration among senior executive management. Would you  
7 agree with that?

8 Colonel O'Connor. I think the culture in the  
9 Department is changing, sir. I think that the Secretary,  
10 where he is leading the Department is effecting change. I  
11 believe that when he gets up and addresses all of his senior  
12 executives and talks about accountability, sustainability,  
13 and accountability, it is resonating. The change is  
14 happening.

15 I know what is expected of me, and I know what would  
16 happen if I did not fulfill those expectations.

17 Chairman Isakson. Well, for the record--and this is  
18 not a question; it is just my statement--I appreciate your  
19 answer, but if we do not have an accountability mechanism  
20 for the Secretary to use, that clearly gives him the line of  
21 authority and the line of appeal in terms of senior  
22 management, we are going to have a situation that is less  
23 than satisfactory as far as I am concerned to send the  
24 message to the public we are doing everything we can to  
25 overcome what have been some of the shortcomings of the VA

1 in the past few months ahead.

2 With that said, I will turn to the Ranking Member.

3 Senator Blumenthal. Thanks, Mr. Chairman.

4 Let me ask you first about the West Haven VA facility.

5 I am told that the construction there is underway on an  
6 expedited basis. Is there a way to accelerate it?

7 Colonel O'Connor. Right before coming over, I checked  
8 on that, sir, and folks there are saying that they are going  
9 to award the design phase within the next day or so. I do  
10 not know whether it is approximately a 60-day period there.

11 But, you know, when you raised that issue with the  
12 Secretary at one of the Four Corners Breakfasts, he made  
13 sure and directed me to get in touch with Veterans Health  
14 Administration, and ensure the facility understood the  
15 concerns you had in regards to that crosswalk and the  
16 injuries that were sustained by the veteran crossing, and to  
17 move forward on that as quickly as possible. And I believe  
18 we are.

19 Senator Blumenthal. I appreciate that attention. It  
20 is well deserved. There have been a number of injuries over  
21 the past years, one of them fatal, and so I hope that we can  
22 continue to discuss how to accelerate that timetable that  
23 exists now.

24 On the issue of accountability, can you tell me what  
25 the Attorney General said and when she said it and what the

1 Secretary said and when?

2 Colonel O'Connor. I apologize, sir. I believe the  
3 Attorney General's response was May 31st. I am unable to  
4 explain her response in legal terms. I think the concern  
5 was, though, that she felt it was not defensible and  
6 therefore was not going to defend the appeal. So that was  
7 the information that the Secretary based his decision on and  
8 how he would proceed to holding senior executives  
9 accountable from that point on.

10 Senator Blumenthal. Did the Secretary consult his own  
11 legal counsel?

12 Colonel O'Connor. I believe so; yes, sir.

13 Senator Blumenthal. And did the Attorney General of  
14 the United States instruct the Secretary as to what he  
15 should say or do?

16 Colonel O'Connor. I am not familiar with that, sir.

17 Senator Blumenthal. And Chairman Isakson asked you  
18 about the Veterans First Bill. If, in fact, there are  
19 constitutional issues and defects in the current  
20 accountability procedures or provisions, adopting the  
21 Veterans First Bill is not only essential but also important  
22 to take account of those issues, correct?

23 Colonel O'Connor. Yes. And I think one of the  
24 discussions the Secretary had with both gentlemen was the  
25 concern obviously with the accountability also gave



1 flexibility in hiring and for medical center directors and  
2 VISN directors and the importance of being able to attract  
3 the right talent to be able to fill those important  
4 positions. And I know the Secretary feels strongly about it  
5 and supports the provisions.

6 Senator Blumenthal. Is the Secretary satisfied that  
7 the issues that caused him to say he would not enforce the  
8 present law have been satisfied in the Veterans First Act?

9 Colonel O'Connor. I am not aware of any objections at  
10 this time, sir.

11 Senator Blumenthal. Has he consulted with the Attorney  
12 General of the United States?

13 Colonel O'Connor. I do not know, sir.

14 Senator Blumenthal. I suggest that he should so that  
15 we do not encounter the same situation again. There is no  
16 reason, in my view, that any constitutional issue should be  
17 raised. But rather than waiting for her opinion until after  
18 we adopt the measure, I would like to be assured that her  
19 opinion is that it is, in fact, fully and completely  
20 constitutional as I believe it is.

21 Colonel O'Connor. Yes, sir, I will bring that back.

22 Senator Blumenthal. On the issue of appeals, as you  
23 know better than we do, the reform of the appeals process is  
24 certainly a high priority goal of the Veterans First  
25 legislation. We have supported it, but we are still

1 awaiting a score as I understand it. Is that correct?

2 Colonel O'Connor. I believe CBO still has not issued a  
3 formal score; although, informally, they have addressed with  
4 the House Veterans' Affairs Committee that it is a very low  
5 cost. And I know later this week Deputy Secretary Gibson is  
6 testifying on the counterpart legislation.

7 Senator Blumenthal. My understanding is, in fact, that  
8 a score has been given to the House committee but not yet to  
9 us. Is that correct?

10 Colonel O'Connor. I am aware that the House knows that  
11 it is a very low score. We have not seen any formal  
12 documentation.

13 Senator Blumenthal. Well, let me suggest as a first  
14 order of business, even before you are confirmed, that  
15 perhaps, I say respectfully, you track down whatever exists  
16 on paper or whatever number has been informally provided to  
17 anyone because the Secretary certainly has made very clear  
18 his desire to see the appeals process reformed. We cannot  
19 do it without a score.

20 The Chairman and I have practically berated the  
21 appropriate officials to provide a score. And so I think it  
22 behooves everyone here to have whatever information is  
23 available. So I would be grateful if you could make that a  
24 first order of business.

25 Colonel O'Connor. Will do, sir.

1           Senator Bluementhal. Thank you.

2           Thank you, Mr. Chairman.

3           Chairman Isakson. It is so nice to have a good lawyer  
4 as your Ranking Member.

5           Senator Rounds.

6           Senator Rounds. Thank you, Mr. Chairman.

7           Colonel O'Connor, I appreciated the opportunity to  
8 visit with you earlier in our office, and let me assure you  
9 that we want to work with you to get the job done for the  
10 veterans, and I appreciate your sense of how important your  
11 job is.

12           One of the issues that I think you are going to be  
13 challenged with is whether or not you have the capabilities  
14 within the office as it sits today to get the job done. I  
15 want to share with you where we are coming from and then ask  
16 your thoughts, and I want you to give us your current  
17 position.

18           I understand that the job of responding to over 4,000  
19 requests a year is a daunting task, and I appreciate the  
20 efforts of you and your office to work with Congress and the  
21 American people.

22           Can you tell me the specific steps your office takes to  
23 follow up on outstanding requests once they are logged and  
24 tasked out in the system?

25           For example, my staff submitted one request for

1 information to your office on February 23rd. That still has  
2 not been answered other than to say upon receipt that it had  
3 been forwarded to the Health Team.

4 Another request from earlier this year took 39 days to  
5 get a response, and that was only after we specifically  
6 followed up to make sure your office knew we had not  
7 forgotten about it.

8 I understand that a majority of requests require you to  
9 reach out to other directorates in the VA and coordination  
10 between the offices can be difficult, but I just want to get  
11 an idea for the follow-up process for those requests once  
12 you have tasked them out.

13 Colonel O'Connor. Once we task them out, they are  
14 assigned to a team within our organization and to a  
15 congressional relations officer who is a member of that  
16 team. They are responsible for tracking it to completion.  
17 We send it to the respective organization that is going to  
18 compile the answer.

19 The key is to continue the open dialogue with that  
20 organization on the status of that and to provide feedback  
21 from the office from which the request came so that there  
22 will not be any mistake that it has been lost in a black  
23 hole somewhere. The goal is to continue that dialogue and  
24 ensure that if there are problems associated with the--

25 Senator Rounds. So let me just--so the goal is 10

1 days, approximately. So, okay, at the end of 10 days, is  
2 there a follow-up within the system? Is there an automated  
3 system? Is there a process that reminds, a tickler file  
4 that it is established within the office, that brings it  
5 back up in front of an individual responsible for getting  
6 back to a congressional office?

7 Colonel O'Connor. Each and every week, sir, we compile  
8 our dashboard that lists the complete array or complete  
9 numbers of requests for information but from the respective  
10 committees and then from other members of Congress. And we  
11 talk and go through that, identifying any issues that are  
12 causing problems and where if it needs more senior personnel  
13 involvement.

14 But we rely on our individuals instead of creating  
15 further layers to manage their account, if you will, either  
16 requests for information, questions for the record,  
17 hearings, and to manage that effectively, and to identify  
18 when they have problems with that.

19 Senator Rounds. So is the expectation then that the  
20 office making the request needs to follow up at the end of  
21 10 days in order to get a response?

22 Colonel O'Connor. No. The expectation is that our  
23 office is always responsible and needs to be actively  
24 pursuing and be persistent.

25 Senator Rounds. Would it be appropriate to have

1 perhaps somewhere within the tickler system that you have  
2 got to where if we do not have it within 10 days there is at  
3 least a follow-up to assure us that we have not been lost in  
4 the system for an extended period of time?

5 Colonel O'Connor. Absolutely. And that is the part  
6 when the Chairman asked me earlier about having--you know,  
7 what is the most important thing on lines of communications.  
8 And that is an instance where we have better work to do in  
9 that regards when there are delays, that we do not just  
10 leave somebody sitting and wondering, and rather, they at  
11 least know we are working it, it has not been lost, and no  
12 one has been forgotten.

13 Senator Rounds. Of the more than 4,000 congressional  
14 responses that you have provided to Congress in the last  
15 year, would you classify a majority of those as unique, or  
16 do you find your office consistently responding to the same  
17 questions?

18 In addition to the briefings you conduct and set up by  
19 request, is there more the VA could be doing to proactively  
20 brief and engage with members and their staffs that might,  
21 in turn, cut down on the heavy request workload?

22 With your background in the Marine Corps Legislative  
23 Affairs, do you ever compare DoD's model to the VA's  
24 approach?

25 Colonel O'Connor. I do, and I have tried to implement

1 a lot of the things I learned when I worked at Marine Corps  
2 Leg Affairs. One of the things we have tried to do is  
3 increase the number of briefings and especially increase the  
4 number of getting the subject matter expert together with  
5 the individuals asking the question. For one thing, it  
6 eliminates back and forth.

7 Senator Rounds. Is there a high redundancy on the  
8 questions that are being asked?

9 Colonel O'Connor. Not really.

10 Senator Rounds. Really?

11 Colonel O'Connor. Not really. Each and every question  
12 we get is unique to some degree. I wish I could say there  
13 would be a cookie-cutter response, but there is not. The  
14 members are asking about their respective states, their  
15 districts, and therefore, we have to provide a unique set of  
16 information.

17 But in regards to what you said earlier, it is our goal  
18 to be more proactive, to tell you about what we are doing  
19 and not have you ask for, you know, what we are doing. What  
20 we try to do is increase the interaction with senior  
21 leaders. Specifically, Under Secretary for Health Shulkin  
22 and Assistant Secretary for Information Technology Council  
23 coming over and talking with committing more than previously  
24 and to try to keep that flow of information going.

25 Senator Rounds. Very good. Thank you.

1 Thank you, Mr. Chairman.

2 Chairman Isakson. Thank you, Senator Rounds.

3 Senator Manchin.

4 Senator Manchin. Thank you.

5 And, Colonel O'Connor, thank you for your service. I  
6 know your family is proud of your service; they should be.

7 And I am sure you are proud of your family. And I can tell  
8 your daughter you will be so relieved when she takes that  
9 last class and everything is over, right?

10 Colonel O'Connor. Yes.

11 Senator Manchin. As a father, I understand completely,  
12 and I know she will do it.

13 Let me just say this: Your offices, we work with them.  
14 It is good and everything.

15 I am going to follow up on Senator Rounds. In our  
16 offices we probably get our two highest priorities call-wise  
17 is VA and social security. I think it is in probably all of  
18 us, 100 of us. And with that, people want--they want an  
19 answer.

20 And the only thing I can do is I hold all my  
21 caseworkers accountable for their cases. So, if they get a  
22 case, they get an answer to me every week on that case--how  
23 many they have pending, how many news ones, how many they  
24 close--so we are on top of it continuously.

25 And I think what needs to be considered here is that--I



1 can just tell you what our staff feels like, and the  
2 caseworkers. When we call you, you all have been very  
3 gracious. You hand it off, and then it basically gets in  
4 cyberspace or something.

5 We are hoping that maybe we will--you know. And  
6 sometimes they really have to dog it. And you have always  
7 been good on intervening and getting back; I will say that.  
8 But if we do not dog it, it does not get done.

9 Does that make sense?

10 Colonel O'Connor. No, it does make sense.

11 Senator Manchin. And I am not being critical. I am  
12 just telling you the facts of life because I know if that is  
13 my highest caseload I know it is Mike's, I know it is  
14 Bill's, and I know it is Johnny's.

15 We are all getting--I mean, I love it. We have  
16 wonderful states and have a lot of veterans, and we are  
17 trying to give them the best service. So we get a little  
18 bit antsy about this.

19 Colonel O'Connor. I understand. Our team that has the  
20 office here in Russell to provide casework support, they  
21 handle upwards of 25 to 27,000 particular inquiries. And  
22 our goal is--

23 Senator Manchin. And that is what period of time? The  
24 25,000 is when?

25 Colonel O'Connor. On an average yearly basis.

1 Senator Manchin. Yes.

2 Colonel O'Connor. Where we try, both our office here  
3 in Russell and in Rayburn.

4 Senator Manchin. Sure.

5 Colonel O'Connor. Now we understand that constituent  
6 casework is--

7 Senator Manchin. Let me tell you one thing; if some of  
8 us could bring our heads of our caseworkers in our states  
9 and bring them to sit with you.

10 Colonel O'Connor. We would love to have--

11 Senator Manchin. If you have a roundtable sometime,  
12 Johnny, if we could bring him in, it would be wonderful. I  
13 think it would help us understand the mammoth problem that  
14 you all have and the enormity of your work, but also  
15 understand theirs, too.

16 So we ought to do that, Johnny, if I could request  
17 that. Put a working group together with you all?

18 Chairman Isakson. That is an excellent suggestion. I  
19 would think we have got the budget to get him up here, and I  
20 am sure the VA would like more than anything to meet with  
21 them.

22 Senator Manchin. Well, Johnny, on that, just on this  
23 Committee here, if we could all bring our caseworkers.

24 Colonel O'Connor. We would love to support that, sir.

25 Senator Manchin. Okay. Now the other question I have:

1 You have been working in congressional affairs in VA for the  
2 past six years. Done a great job. In the past six years  
3 you have served under two secretaries; you have endured  
4 crises, like the Phoenix wait time scandal, the opiate  
5 scandal in Tomah, Wisconsin; seen the birth and the  
6 evolution of the Choice Program, and an awful lot more in  
7 between.

8 So my question would be: What is the most important  
9 lesson you have learned in the past six years, and what can  
10 we do different?

11 Colonel O'Connor. Well, the most important lesson I  
12 think I have learned and seen is putting veterans at the  
13 center. And we oftentimes as a Department have not put the  
14 veteran first. We have maybe put the Department first, put  
15 our own employees first.

16 Senator Manchin. I gotcha.

17 Colonel O'Connor. And we have never--now under

18 Senator Manchin. That mission has changed under Bob?

19 Colonel O'Connor. The mission stayed the same. How we  
20 are doing it is changing.

21 Senator Manchin. Okay. I gotcha.

22 Colonel O'Connor. That is about putting the veteran  
23 first.

24 Senator Manchin. There was one other. When I was  
25 governor, some of the best work that was done in my

1 organization was the Department of Veterans Assistance; we  
2 had a VA.

3 As the Assistant Secretary of Congressional and  
4 Legislative Affairs, one of your responsibilities is working  
5 with and maintaining communication with state governments.  
6 How do you think the VA at the Federal level can work with a  
7 government?

8 I mean, our offices, we are U.S. Senate, and we are  
9 Congress and all that. But I know the governor's office and  
10 the state offices of VA. Do you have liaisons for that,  
11 too?

12 Colonel O'Connor. Yes. That is one of the--when we  
13 did a reorganization within the office, the Office of  
14 Intergovernmental Affairs moved to what was the Office of  
15 Congressional and Legislative Affairs and formed the Office  
16 of Government Relations. And here now under one umbrella  
17 office, we have responsibility for interfacing with all  
18 levels of government--state, tribal governments, and  
19 Federal, as well as county and city. So we have the  
20 capability to ensure that the information that we are  
21 providing is getting out to the entire spectrum of important  
22 stakeholders.

23 Senator Manchin. Well, Colonel, I look forward to  
24 voting for you and supporting you and helping you in any way  
25 we can our mission.

1           And, if I can make the formal request to the Chairman  
2 on bringing the caseworkers up to have a roundtable, that  
3 would be I think immensely helpful to both of us. Our  
4 staffs would understand it, your staffs would understand it,  
5 and together we can make a better product. Okay?

6           Colonel O'Connor. Yes, sir. I look forward to that.

7           Senator Manchin. Thank you, sir. Appreciate it.

8           Colonel O'Connor. Thank you.

9           Chairman Isakson. Not only do I think it is a good  
10 idea, but I am going to appoint you and Senator Rounds to  
11 co-chair that event. And let's try and do it before the  
12 15th of July because by the 15th of July we are going to be  
13 scattered for seven weeks.

14          Senator Manchin. We will get one--we will get each one  
15 of our members, you and John and all of us, our caseworkers.  
16 We will bring them up here.

17          Chairman Isakson. We will make the committee room  
18 available which should be an appropriate room if you will  
19 work to get the appropriate staff from the VA here present.

20          Colonel O'Connor. We will.

21          Chairman Isakson. And I will bring the donuts.

22          Senator Manchin. Colonel, we will want to do that and  
23 we will set it up.

24          Colonel O'Connor. Yes, please.

25          Chairman Isakson. And tell Senator Rounds that I

1 nominated him. You all be sure and let him know.

2 Senator Cassidy.

3 Senator Cassidy. Thank you.

4 Colonel O'Connor. Thank you.

5 Senator Cassidy. Welcome, sir, and thank you for your  
6 life of service. I think you kind of addressed the  
7 shortcomings and the progress that everybody hopes to be  
8 made, and I will just point out when it comes to questions  
9 for the record we have questions for the record still  
10 pending from October 2015.

11 And so to state what everybody else has, there have  
12 been some issues as regards timeliness of response. But let  
13 me suggest also something which I had mentioned when I first  
14 got on this Committee, and it is probably a little bit  
15 different than what others would have.

16 You have the data, at least I am told you do, that  
17 tells us for each hospital and each VA clinic the number of  
18 outpatient visits per provider, the number of no-shows,  
19 those people who have visits but do not show up, the number  
20 of complaints, and the number of complaints per employee.  
21 You have for those who missed their appointment when is  
22 their next scheduled appointment.

23 As a physician, I run into providers across the nation  
24 who will tell me their story. One told me the story of her  
25 mental health clinic where if the patient was a half an hour

1 late they were rescheduled for weeks later. A mental health  
2 clinic. People having a hard time keeping it together.

3 You know that. I would like to know that. I have  
4 asked in the past because the only way we can do meaningful  
5 oversight if we have a facility-specific profile of how well  
6 it is run.

7 You mentioned how they are trying to change the mission  
8 to where the patient is first and everything revolves around  
9 the patient. Unless we know the numbers, we do not know if  
10 that is being executed. And I have no doubt in some  
11 hospitals it is high-performing, particularly for some  
12 departments, and in others not so much.

13 And some it, frankly, may be a doc told me: Listen, my  
14 nurse practitioner gave me six months that she was leaving,  
15 but I could not advertise until after she left, and then it  
16 took me six months to fill. So a year after I knew she was  
17 leaving, we finally filled the position. And that does not  
18 include...

19 So, if all of a sudden we see a slowdown in number of  
20 patients seen per provider or per provide team, well, that  
21 would invite that question. I only know it because a doc  
22 stopped me at a meeting and told me, let me tell you my VA  
23 story.

24 So I guess my plea, which for all of us is, is for  
25 greater timeliness in response, both to our requests as well

1 as that of our workers.

2 And now I have the additional: If you can give him  
3 every facility in Georgia, me, every facility in Louisiana,  
4 et cetera, and their hospital, clinic, and department-  
5 specific statistics, and I can compare the mental health  
6 facility in New Orleans versus the one in Houston or  
7 Atlanta, then I will feel like I am learning something.

8 And it will be less of a black box, where I am not  
9 quite sure I do know, into: We have looked at the numbers,  
10 and we are seeing that you are doing better, and over time  
11 it is even getting better.

12 So it is not a question there. It is just kind of a  
13 request that I made to one of your colleagues, and I will  
14 just make it again.

15 But, again, thank you for your service and thank you  
16 for taking on this job.

17 Colonel O'Connor. Thank you, sir.

18 Senator Cassidy. I yield back.

19 Chairman Isakson. Thank you, Senator Cassidy.

20 Senator Boozman.

21 Senator Boozman. Thank you.

22 I would like to--you know. There has been a lot of  
23 talk--this has just come out--about the fast-track firings.  
24 Can you tell me--I know we have discussed it already in the  
25 Committee. Can you tell me your position on that?



1           Colonel O'Connor. Insofar as, sir, what the Secretary-  
2 -when he found out about the Attorney General's decision to  
3 not defend the position of the expedited removal, he felt  
4 that he did not want to pursue using that authority because  
5 of the unintended consequences of getting it overturned at a  
6 later date, and therefore, determined the best way to go  
7 forward in holding executives accountable within the  
8 Department was to use the preexisting accountability  
9 authorities that he had. He does not want to see us, see  
10 the Department, removing anybody only to have the courts  
11 later reinstate them.

12           Senator Boozman. Yes, the problem is that our  
13 responsibility of the Committee is to hold him and you  
14 responsible also.

15           And, again, I just do not understand the reasoning. We  
16 passed a law; we both agree with that. And the Secretary  
17 has decided that because he is concerned about lots of  
18 "what-ifs" that he is not going to follow the law. Is that  
19 correct?

20           Colonel O'Connor. I believe, sir, that he is--

21           Senator Boozman. But that is the essence of it, isn't  
22 it?

23           Colonel O'Connor. I think he is reviewing what the  
24 Attorney General determined and using the Department of  
25 Justice decision, if you will--

1           Senator Boozman. So his attitude is that the Attorney  
2 General trumps Congress passing a law?

3           Colonel O'Connor. I think his concern, sir, again is  
4 using that authority only to have it, at some later date,  
5 reversed.

6           Senator Boozman. And I think that is fine, but to me,  
7 the chain of command or the chain of protocol is he talks to  
8 us about that, and then you know, if his concern is valid,  
9 then we change the law. But he does not get to decide what  
10 laws he is going to enforce and not.

11          Are there any other things that he is concerned about  
12 that he might not follow because he is concerned about  
13 unintended consequences down the road that we do not know  
14 about?

15          Colonel O'Connor. No, sir.

16          Senator Boozman. Okay. Do you agree with his  
17 decision?

18          Colonel O'Connor. Yes, sir, I do. I think the  
19 unintended consequences of reversing, if you are removing  
20 somebody from their position only at a later date to have  
21 them come back, I think--

22          Senator Boozman. Do you agree with the--I understand  
23 that, and like you say, that is an argument to make. Do you  
24 agree that he has got the authority to simply not follow a  
25 law that Congress has passed because his concern for

1 unintended consequences?

2 Colonel O'Connor. I think, sir, in--yes, I believe he  
3 does given what the Department of Justice determined.

4 Senator Boozman. Okay.

5 Colonel O'Connor. Because, sir, he is still... he is  
6 still holding people accountable. It is just which  
7 authority is he doing it under. It is not--

8 Senator Boozman. Well, he was quoted as saying the old  
9 process is fine. So is it fine, or is he doing something  
10 different? I mean, that is his quote.

11 Colonel O'Connor. The old process still enables him to  
12 hold people accountable, sir.

13 Senator Boozman. So I guess the question is: You have  
14 been around a couple years. Why haven't we been doing that,  
15 with the old process?

16 I think that there is real concern that we have not  
17 been doing a good job of that. I think that concern has  
18 been, you know, again from leadership within the VA also.  
19 So, if the old process is fine, why haven't we been using  
20 that process to do what we need to do?

21 Colonel O'Connor. I firmly believe, sir, that the  
22 Secretary has outlined what he--his view of accountability  
23 and to all of his senior executives. We know what is  
24 expected of us within the senior executive corps and what we  
25 need to deliver.

1           Senator Boozman. So can you give me some examples of  
2 what you are doing to try and hold people accountable that  
3 is different?

4           Colonel O'Connor. Well, I can give examples from  
5 within my own office in that I think the most important  
6 thing, insofar as leadership I learned in the Marine Corps,  
7 is to ensure that all your employees understand what is  
8 expected of them and how their jobs contribute to the  
9 overall accomplishment of the mission.

10          Along that line, I think as a leader you owe your  
11 employees continuous feedback. It is just not done during  
12 the midyear performance review or performance appraisal.  
13 And, if there are problems, you address them with the  
14 employee and their supervisor to ensure that they understand  
15 what they need to do to meet the levels of expectation.

16          Senator Boozman. With a very distinguished career in  
17 the Marine Corps, after doing that, did you occasionally  
18 have to fire some people?

19          Colonel O'Connor. We had to do--we had to take actions  
20 against people.

21          Senator Boozman. And so you occasionally had to fire  
22 some people.

23          Colonel O'Connor. We did not have--I am kind of  
24 getting uncomfortable talking about specific personnel in a  
25 small office, but we had to make--

1           Senator Boozman. No, I am talking about in your Marine  
2 Corps.

3           Colonel O'Connor. Oh, in the Marine Corps, yes.

4           Senator Boozman. And you needed to do that to make the  
5 place--you did what you said, you know, regarding your  
6 Marine Corps leadership, and I agree with that totally, and  
7 you--you know, nobody has exhibited that more than you have  
8 in the sense of your career.

9           But I guess what we are saying, or what I am saying, is  
10 that we need to do all those things, but at the end of the  
11 day, this is like the sixth largest--if this were a  
12 corporation, this is the sixth largest corporation in the  
13 country. At the end of the day, there are people that do  
14 not work out, and they need to be gotten rid of in a fairly  
15 easy way. So, again, that is the problem I have got.

16           Now I do want to thank you so much for your service and  
17 truly respect all that you stand for.

18           Thank you, Mr. Chairman.

19           Chairman Isakson. Senator Boozman, I want to thank you  
20 for your questions.

21           Before I get to another Marine, Senator Sullivan, I  
22 want to make a comment.

23           Colonel, you are a good Marine, and I respect the  
24 answers that you gave to the questions that were just asked  
25 because you were supporting your boss, and that is what you

1 do in the military and in service. But as you can see, this  
2 Committee is--from the remarks that I made earlier, the  
3 Ranking Member has made, and that have been made by other  
4 members, this situation in terms of accountability has got  
5 to be dealt with.

6 We are looking for communication between the Secretary  
7 and the Department and ourselves to make sure we get this  
8 Veterans First Bill implemented, we have accountability  
9 within the Veterans Administration, and nothing is going to  
10 stop us as a committee from pursuing that until it happens  
11 because until we do the VA is going to be in jeopardy.

12 I will just make that comment.

13 Senator Sullivan.

14 Senator Sullivan. Thank you, Mr. Chairman.

15 And, Colonel O'Connor, I appreciate the opportunity to  
16 meet with you yesterday and thought we had a good  
17 discussion. I want to also mention that how much I, and I  
18 know others, respect your service in the Marine Corps and  
19 what you did there. Three decades.

20 I think it is clear what you just said. You know, the  
21 Marine Corps would not be putting up with not even a  
22 minuscule amount of what goes on at the VA. People would be  
23 fired like that, and you know that as well as I do. So  
24 there is a frustration level here, and I think you are  
25 seeing it on the Committee.

1           But you know, as you and I talked about, I mean, I was  
2 home in Alaska just last weekend and had a Vietnam corpsman  
3 and had an opportunity to talk to him. He used to work at  
4 the VA, served his country with the Marines, patched up and  
5 probably saved a lot of Marines' lives, and this is the  
6 first thing he talked to me about--this lack of  
7 accountability. And he was even a VA employee.

8           So it just goes well beyond the Committee here. I  
9 mean, these are constituents of mine raising the lack of  
10 accountability issue.

11          I think it goes to the ultimate issue that we all know  
12 needs to happen, which is rebuilding the trust between the  
13 VA and our veterans.

14          So I really think Senator Boozman's line of questioning  
15 is actually a really, really important line of questioning  
16 because what the Secretary is doing in my view is starting  
17 to lay out a dangerous precedent. And to kind of have the  
18 Congress say, "Here is what we are going to do," and have  
19 him say--without even having the law challenged.

20          It is one thing to take it all the way and have someone  
21 challenge it and then go to court and then the court  
22 overturn it. But to just say, "Ah, the Attorney General  
23 thinks it is not going to hold water, so we are never going  
24 to use this law," that is a dangerous precedent without any  
25 limiting principle. Any executive can do that on anything.

1           And this administration has been very, very, you know,  
2 roughshod with the rule of law in my view, and this is just  
3 another example. I think it is a very, very dangerous  
4 precedent.

5           So count me as somebody who thinks that is not the  
6 discretion that the Secretary should have and it is  
7 certainly not the discretion that the Attorney General  
8 should be providing the VA. You need to take the law to its  
9 max extent, use it, and if it is overturned in a court then  
10 we should have the discussion. But it is very frustrating.

11           But let me give you a little bit more of a context of  
12 why it is frustrating from the position you are in. If you  
13 are going to do something that major when you know, you the  
14 VA know, that this Committee has been so focused on this  
15 accountability issue, and then you are just going to do it,  
16 and the Chairman and the Ranking Member read about it, like  
17 I did, in "Stars and Stripes" and "Military Times," that is  
18 a failure on the part of the congressional liaison offices.  
19 We should not--if there is a major change in policy, we  
20 should not be reading about it in the newspaper.

21           Do you have any comment on that?

22           Colonel O'Connor. I think we could have done it  
23 differently and done it better.

24           Senator Sullivan. What would you have done  
25 differently?



1           Colonel O'Connor. Given the reaction, we would have  
2 hopefully addressed the issue to the Committee before it was  
3 ever presented to the public in any way, shape, or form.

4           Senator Sullivan. I think that is absolutely you  
5 should have done that. And not just given the reaction;  
6 that is not the reason you should do that.

7           If you are trying to change policy that this Committee  
8 and the Congress of the United States has passed, and you  
9 try to unilaterally change it, and you are going to do that,  
10 I think you need to come to the Chairman and the Ranking  
11 Member and the rest of this Committee and thoroughly,  
12 thoroughly brief us on why you are going to do that before  
13 it gets announced in the press and we are all blindsided by  
14 it and our constituents are reading yet another story where  
15 it seems like the VA does not take accountability seriously.

16           Can you commit to doing that if you are confirmed?

17           Colonel O'Connor. I do confirm we answered a request  
18 for information on this. We should have done it  
19 differently. I think hindsight being 20/20, if we went  
20 back, we would not do it the same way. And we are very much  
21 aware of the frustration that we created by doing it in that  
22 manner.

23           Senator Sullivan. Mr. Chairman, may I have time for  
24 one more question?

25           Chairman Isakson. Certainly.

1           Senator Sullivan. So another area where I think there  
2 has been frustration, and I think it is among all members,  
3 is the responsiveness of the VA where a lot of offices--I  
4 know mine included. We make requests, and then we wait, and  
5 we wait, and then we are always trying to proactively say,  
6 "Hey, any luck on this request?" "No." "Any luck on this  
7 request?" "No."

8           And it seems like we are the ones always reaching out,  
9 and I think that that can be reversed. If you know that  
10 there is an interest of the Committee members on requests  
11 that we have had, you should be proactively reaching out to  
12 us and even if you do not have the information. "Hey, we  
13 know this is important to you, Mr. Chairman, but we do not  
14 have it yet, but we are on it." Right.

15           I think that would breed a lot more trust just between  
16 the Committee and the VA because just from this Committee's  
17 records, in the last couple months, it has taken 3 months  
18 for the VA to answer a routine question, 49 days for the VA  
19 to tell the Committee that they do not have a policy  
20 requiring doctors performing compensation exams and provide  
21 copies of their resumes to the veterans being examined if  
22 the veteran requests it.

23           I have a whole list, and I am going to submit them for  
24 the record, where the Committee was asking questions and it  
25 was taking any time from three months to six months for the

1 VA to get back. And these are not big questions. They are  
2 pretty routine questions.

3 So could you commit to, and maybe you can comment on,  
4 the issue of responsiveness to this Committee? Because,  
5 ultimately, it is not only our questions of policy; it is  
6 questions of cases that involve America's veterans.

7 And at the end of the day, we need to get back to  
8 making sure our veterans have the trust and confidence in  
9 the VA, and taking forever to answer questions does not  
10 build that trust and confidence.

11 Colonel O'Connor. Yes, sir, I will commit to doing  
12 things differently. As I mentioned earlier, one of the key  
13 things from my experience working Marine Corps Leg Affairs  
14 was the open lines of communications and the way we would  
15 interface with congressional offices.

16 Much like you said, there were often times where we  
17 would just say, "We have a problem. We will get back to  
18 you." And, in fact, because of our relationships that was  
19 good enough, and there were no negative comments, and we  
20 were able to--

21 Senator Sullivan. But that is not happening right now  
22 with the VA.

23 Colonel O'Connor. But that is where we want to get to,  
24 and that is why I still want to do this job. Because I  
25 believe getting there is extraordinarily important to build

1 better relationships between Congress and VA.

2 And on talking to your staff, I mean, we are getting  
3 there. The people we are hiring, the people who work in the  
4 office now understand, and they are doing a good job of  
5 having that communication. And I have empowered them to  
6 have those open lines of communications and not to--you do  
7 not have to run things all the way through chains of  
8 command. You have got to be able to interface.

9 And the key thing that I mentioned and I will  
10 reiterate, when we do run into problems, we have to alert  
11 people we are having problems, there are delays, and to give  
12 some level--some expectation of when somebody can expect  
13 something and not just "We are working on it." There has  
14 got to be something better and more concrete than that.

15 Senator Sullivan. Well, I think if you do that those  
16 would be very important reforms that we would all welcome.  
17 Thank you.

18 Thank you, Mr. Chairman.

19 Chairman Isakson. We will do a second round in case  
20 anyone wants to ask some more questions, but I want to ask a  
21 follow-up on what has been said by every member of the  
22 Committee. Do the requests that come to the Department from  
23 members of the Committee go to your office first and then  
24 you assign them to the appropriate person to respond?

25 Colonel O'Connor. The majority of them do, yes, sir.

1 Chairman Isakson. Okay. Well, then you can be a  
2 catalyst to solve the biggest problem that was described so  
3 well by Dan Sullivan. The minute you get that and you  
4 assign it, you should have a rule that if it cannot be  
5 responded to in 48 hours, which is your desire to do so on  
6 simple questions, that a call goes from whomever you assign  
7 it to, to the office of the member of the Senate, that it is  
8 going to take longer than 48 hours and to tell them when  
9 they can expect it.

10 And if it is a complicated question or one that you  
11 normally would guarantee a 10-day delivery, which you all do  
12 not do, require that once you assign it, they pick up the  
13 phone and call Senator Blumenthal's office or my office or  
14 Senator Sullivan's, and say, "I cannot do it in 10 days, but  
15 I will try to get it by X, and I will call you back."

16 There is an absence of responsive communication, in my  
17 judgment, from the VA to members or to staff members on the  
18 staff of members, that leaves this issue bigger than it  
19 really is, but it is a big issue. And I think you can tell  
20 from listening to everybody around here that a lot of us end  
21 up getting caught not knowing the answer to questions we  
22 ought to have already known because you all did not get the  
23 response to us in a timely fashion.

24 So, number one, if you are confirmed, that is the first  
25 thing. If I were you, I would institute some system where

1 they respond back to you, where you know if members are not  
2 getting a response that they are not getting it.

3 Secondly, it is obvious from everybody--we did not have  
4 a meeting before this meeting to say here is what we are  
5 going to ask you. We did not discuss this amongst  
6 ourselves, any of us. But every member that has come in and  
7 asked questions, without exception, has addressed this issue  
8 of accountability, the issue of taking the position of  
9 Loretta Lynch and the issue that the Secretary has taken.

10 And we are not going to stop until we get a situation  
11 set where we have an accountability mechanism in the VA that  
12 works, holds the VA accountable, and makes it happen. I  
13 think the Veterans First Bill is the bill that does that.

14 But whatever the case, when you go back and report to  
15 headquarters, what did they talk about or what did they ask  
16 you about, we talked about two things:

17 One, responding to member requests in a timely fashion  
18 and creating a mechanism to know how that is happening at  
19 the Department, number one.

20 And secondly, and most importantly, to deal with this  
21 issue of accountability and the decision the Secretary has  
22 made to not follow up, as Loretta Lynch did as well, because  
23 for every one of us in here that is a nonstarter. It is  
24 something that has got to be fixed, and the sooner the  
25 better, when passing Veterans First.

1           And, with that said, I will turn to the Ranking Member  
2 if he has a question or a comment.

3           Senator Blumenthal. Thank you.

4           First, just a minor correction to a point made by my  
5 colleague and friend, Senator Sullivan. Actually, the law  
6 has been challenged in court in a case called Helman v.  
7 Veterans Affairs Administration.

8           In the brief submitted by the Department of Justice, as  
9 I read it, the Department declines to defend the decision of  
10 the administrative judge below. It is challenged on the  
11 basis that it is an unconstitutional procedure that has been  
12 set forth under the statute because the final authority is  
13 vested in that administrative judge, which seems a fairly  
14 narrow decision by the Department of Justice, but still  
15 highly consequential for all the reasons that we have stated  
16 here because the Department of Justice declining to defend a  
17 statute of the United States is a decision of the highest  
18 and most profound consequence.

19           You have heard the consensus here that there is a lot  
20 of doubt on this Committee about the correctness of that  
21 decision. It may be well justified, but we have no  
22 explanation for it from either the Attorney General of the  
23 United States or the Secretary of Veterans Affairs.

24           I understand that Secretary McDonald is not a lawyer.  
25 He is a distinguished graduate of West Point. And I think

1 his training is in the business area, and certainly he has a  
2 lot of accomplishment in that area.

3 And you are not a lawyer unless I am mistaken. So we  
4 are not going to hold you to try to explain that decision.

5 Where I am going is to say I would like to ask, with  
6 the Chairman's permission, for a formal explanation from the  
7 Attorney General of the United States through the Secretary  
8 of Veterans Affairs of whatever decision has been made and  
9 what the reasons for it are.

10 The Attorney General of the United States, by the way,  
11 has a responsibility to obey the Constitution. So, if there  
12 is an unconstitutional statute, certainly the issue of  
13 enforceability is raised.

14 And as Attorney General I sometimes faced the decision  
15 whether to enforce a statute that I had questions about in  
16 terms of constitutionality, and generally for me, the  
17 standard was, in a sense, unconstitutionality beyond a  
18 reasonable doubt in effect. So I cannot even remember a  
19 time when I did not enforce a statute, but there may well  
20 have been.

21 My point is that I think the Congress, and particularly  
22 this Committee, deserves an explanation, as Senator Sullivan  
23 said very correctly, and the Chairman, not just to read  
24 about it in the "Military Times" or "Stars and Stripes," but  
25 an explanation in writing formally as to what the reasons



1 are for this decision to decline to defend a decision or a  
2 statute.

3 And that may all be a long-winded way of saying--and  
4 not blaming you because this was a decision above your pay  
5 grade, so to speak, but--simply that if you could make sure  
6 that this Committee is provided with such an opinion.

7 Colonel O'Connor. I will.

8 Senator Blumenthal. Thank you.

9 Chairman Isakson. Senator Sullivan, Senator Boozman,  
10 question?

11 Senator Boozman. The only comment I would make is I  
12 think that is an excellent suggestion, and certainly, you  
13 know, if we need to--if you need any help with the rest of  
14 the Committee, I think, you know, that would be very  
15 appropriate. But I really would like to know officially,  
16 you know, what this is all about.

17 And then also, I thought the summary that Senator  
18 Isakson talked about, the concerns that we have regarding  
19 that issue, but also the member requests as Senator Sullivan  
20 talked about.

21 And then also, at the local--you know, problems that  
22 they have when you are dealing with facilities. They are  
23 also trying to get information and struggling in that  
24 regard, too.

25 And I would really like to see a more proactive

1 approach and a little bit less defensive actions in those  
2 regards.

3 Thank you, Mr. Chairman, and thank you to the Ranking  
4 Member for having a very, very good hearing.

5 Chairman Isakson. Without objection, the statistics  
6 that were referred to by Senator Sullivan will be submitted  
7 for the record and will appear in the record in terms of the  
8 responsiveness of the Department.

9 Senator Sullivan. Thank you, Mr. Chairman.

10 [The information follows:]

11 / COMMITTEE INSERT

1 Chairman Isakson. Also, for the Ranking Member's  
2 edification, while he was away, Senator Manchin,  
3 involuntarily but was assigned by me, and Senator Rounds,  
4 who left early and was assigned by me, are going to co-chair  
5 a roundtable in this room hopefully before the 15th of July  
6 with the appropriate people at the VA and each of our  
7 caseworkers in our offices back home, so we get some one-on-  
8 one-dialogue back and forth between that communication.

9 Senator Blumenthal. I think that is an excellent idea,  
10 and as usual, the Chairman's best decisions are made without  
11 my being in the room.

12 Chairman Isakson. I would never agree to that, but you  
13 clean up what I mess up, and I appreciate that a lot.

14 Senator Blumenthal. I really, very seriously, think it  
15 is a great idea. Thank you, Mr. Chairman.

16 Chairman Isakson. This was a tough hearing, and I  
17 understand--yes, Senator Sullivan.

18 Senator Sullivan. Mr. Chairman, I just want to  
19 reiterate what the Ranking Member said. I think it is  
20 really important as a follow-up to this hearing to get a  
21 full briefing from senior officials at the VA but, probably  
22 more important, senior officials at the Justice Department.

23 This issue of accountability is an enormously important  
24 one for literally millions of Americans. And for us to work  
25 through it as a Congress and pass legislation and then have

1 the Attorney General of the United States essentially say,  
2 "Sorry, I am not going to enforce it because I think it is  
3 unconstitutional," we need a heck of a lot more of a  
4 detailed briefing, very detailed briefing. And, again, it  
5 should have been done well before they started to implement  
6 this policy.

7 So I just want to thank Senator Blumenthal for that  
8 good suggestion, and I certainly will be somebody who  
9 attends that briefing when we get it by the Justice  
10 Department. But it should be soon. It should be real soon,  
11 and I think they owe it to us.

12 Chairman Isakson. Well, the Ranking Member and I will  
13 make that request to DoJ as expeditious as possible, and we  
14 have a meeting in an hour where we can begin that process.

15 What I was about to say a minute ago is, Colonel, this  
16 was a tough hearing, and it was a tough hearing because  
17 there are some tough issues to be dealt with at the Veterans  
18 Administration.

19 And you are going to be, if you are confirmed for this  
20 position--which, hopefully, we will move expeditiously to  
21 get that confirmation moving. But, if you are confirmed for  
22 this position, you have got a big job and you have a short  
23 period of time to fulfill it, about seven months.

24 But we are serious as a heart attack about trying to  
25 get to the bottom of this issue in terms of more timely

1 responses, number one, and clear, streamlined accountability  
2 in the Veterans Administration, and an explanation for the  
3 Attorney General's decision, and the subsequent acceptance  
4 of the Secretary of the Attorney General's decision, not to  
5 enforce the law of the land passed by the Congress of the  
6 United States and signed by the President of the United  
7 States.

8         With that, it has been a great day. We are delighted  
9 to have your family here today.

10         We will leave the record open for a--

11         Senator Blumenthal. Can I make one quick comment?

12         Chairman Isakson. Senator Blumenthal.

13         Senator Blumenthal. Pardon me, Mr. Chairman.

14         It has been a tough hearing, but you have done a really  
15 good job at this hearing. And I look forward, as the  
16 Chairman does, to your swift confirmation.

17         Senator Sullivan. Mr. Chairman, I would just add that  
18 I agree with that. And I certainly plan on voting for  
19 Colonel O'Connor, and hopefully, we get him in there soon.

20         Chairman Isakson. Nobody is going to know their job  
21 better than you by the time you get there; I can promise you  
22 that.

23         We appreciate your being here. Appreciate your family  
24 being here. Wish you the best of luck.

25         And this Committee meeting stands adjourned.

1           [Whereupon, at approximately 3:35 p.m., the Committee  
2 was adjourned.]