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Document ID: (b)(6)

From: (b)(6)

To: Windom, John H. </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=windom, john.h.e16>

Cc:

Bcc:

Subject: FOIA Update - the FACA lawsuit

Date: Fri Aug 31 2018 14:03:28 CDT

Attachments: VA-FACA-Complaint.pdf

(b)(6)

The case I just discussed on the phone. As a result DOJ reviewers all of our FOIA replies before we release. Also, FOIA is more of a federated effort at VA so much more coordination between VA, VHA, OALC, OIT, OEHRM and others required.
Have a great weekend!

Warm regards,

(b)(6)

From: (b)(6)

Sent: Friday, August 31, 2018 9:40:18 AM

To: (b)(6)

Subject: RE: FACA lawsuit

(b)(6)

Attaching the Complaint filed in D.C. District Court.

Allegations:

Plaintiff (VoteVets Action Fund "VoteVets") alleges that:

*since January 2017, Defendants (VA and Secretary Wilke) have "repeatedly sought the advice of, and acted on the basis of collective recommendation from, influential individuals that are members of President Trump's social club, Mar-a-lago." (Compl. ¶ 2).

*the Mar-a-lago Council "Council" has acted in secret, failing to inform the public of its activities.

*the Council influenced various VA decisions, including personnel changes and “transforming the VA digital health record system” (Compl. ¶ 6).

FACA

*The Complaint alleges that the above allegations are a violation of the Federal Advisory Committee Act (FACA), as the Council has failed to adhere to FACA requirements (e.g., filing the appropriate Charter and transparency of records).

*The Complaint further states what constitutes an “advisory committee” under FACA, and alleges that the Mar-a-lago council meets these requirements (crux of the lawsuit- my thoughts)

Remedy

*In the “Prayer for Relief,” (pg. 31), Plaintiff requests that the Court

*Find that the Council is an Advisory Committee under FACA

*Declare that Defendants violated FACA

*subsequently submit the appropriate documents (Charter, meeting minutes, etc.)

*This request is known as a “Declaratory Judgment” and the remedy is an “Injunction.”

FOIA

*One thing to note is that pages 28-29 of the Complaint state that on March 5, 2018, Plaintiff filed a FOIA request for

*“records related to the role that private individuals and pro-privatization advocacy groups have played in influencing the VA Administration’s healthcare policy.” Plaintiff states that VA “failed to adequately respond to the request.”

*Plaintiff has also requested attorney fees. Possibly due to prior “bad faith” of failing to “adequately respond.” (my thoughts)

Please let me know if you have any questions regarding the complaint. I’m well-versed in civil procedure/civil litigation.

Best,

(b)(6)

Strategic Action Group (SAG)

VA OEHRM

(b)(6)

From: [redacted] (b)(6)
Sent: Thursday, August 30, 2018 5:52 PM
To: [redacted] (b)(6)
Subject: FACA lawsuit

Do you have any idea what are they suing for or about? What's the remedy

Warm regards,

[redacted] (b)(6)

Document ID: (b)(6)
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Last Modified: Fri Aug 31 14:03:28 CDT 2018

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

VOTEVETS ACTION FUND
2201 Wisconsin Ave. NW, #320
Washington, DC 20007,

Plaintiff,

v.

No. 18-cv-1925

UNITED STATES DEPARTMENT OF
VETERANS AFFAIRS
810 Vermont Ave. NW
Washington, DC 20420; and

ROBERT WILKIE, in his official capacity as
Secretary of the United States
Department of Veterans Affairs,
810 Vermont Ave. NW
Washington, DC 20420,

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff VoteVets Action Fund (“VoteVets”) hereby sues Defendants the United States Department of Veterans Affairs (the “Department” or the “VA”) and Robert Wilkie, in his official capacity as the Secretary of the VA, and alleges as follows:

1. President Trump and his Administration have made a practice of outsourcing decisionmaking on key issues of policy and government administration to private individuals, especially those who have business or social relationships with the President. These individuals have influenced, shaped, and dictated personnel and policy decisions made by the Administration. They have done so without being subjected to transparency requirements, conflict-of-interest screens, and other accountability rules required of public servants.

2. In this case, the influential individuals are members of President Trump's social club, Mar-a-Lago; the usurped authority belongs to the United States Department of Veterans Affairs; and the victims are America's veterans. Since January 2017, the Department has repeatedly sought the advice of, and acted on the basis of collective recommendations from, Ike Perlmutter, Bruce Moskowitz, and Marc Sherman. These members of the "Mar-a-Lago Council" (or the "Council") are part of this prominent and powerful advisory committee not because of any particular expertise or relevant experience. They have none—no government experience, no U.S. military experience. Rather, each simply shares a financial relationship with President Trump as a dues-paying member of the Mar-a-Lago Club, a private golf and social club in Palm Beach, Florida, owned by the Trump Organization.

3. Since its inception, the Mar-a-Lago Council has operated in secret. The Trump Administration made no public announcement upon the Council's creation, and despite the Council's extensive activities—including more than twenty meetings—the Administration has failed to inform the public about the activities of a group empowered to make recommendations affecting the lives of millions of veterans.

4. While the full extent of the Mar-a-Lago Council's work remains hidden, the scope of its influence is now coming into view. Through frequent phone calls and meetings with top officials at the Department, including private meetings held inside the Mar-a-Lago Club, the Council's views are solicited and its advice followed on a broad range of policy and personnel matters concerning veterans. This is particularly true with respect to the makeup of the VA's senior leadership. Upon the recommendation of the Mar-a-Lago Council, the VA has already made substantial changes to senior leadership posts, including the Secretary.

5. In addition to affecting personnel changes at prominent positions within the Department's leadership, the Mar-a-Lago Council has also advised the Department on, among other matters, building a national medical device registry at the VA, initiatives to prevent veteran suicide, the process for evaluating VA surgery programs, transforming the VA's digital records system, and privatizing the healthcare services currently provided by the VA.

6. The Mar-a-Lago Council has admitted that it serves as an advisory committee for the VA. The Council has boasted about its role, even. In a statement that they issued jointly, Mr. Perlmutter, Mr. Moskowitz, and Mr. Sherman said that they, together, "saw an opportunity to assist the Department of Veterans Affairs's leadership," and that they, together, "offered [their] counsel . . . to assist the President, Secretary, and VA leadership in . . . making the essential decisions . . . that affect our nation's veterans." "At all times," they said, they "offered [their] help and advice on a voluntary basis." They "were on emails and conference calls with senior staff, and [then-]Secretary Shulkin referred on numerous occasions to his discussions with outside experts," including, presumably, them. They "discuss[ed] healthcare delivery and healthcare quality challenges facing the agency" and "were always willing to share [their] thoughts." Indeed, they "provided [their] advice and suggestions so that members of the Administration could consider [their suggestions] . . . to make [the Administration's] own decisions on actions to be taken."¹

7. According to their joint statement, the Mar-a-Lago Council is "proud of any contribution [it has] been able to make to improve the healthcare provided to the fine men and

¹ *Statement by Ike Perlmutter, Bruce Moskowitz and Marc Sherman to ProPublica* (July 18-20, 2018), <https://www.documentcloud.org/documents/4704885-Full-Statement-by-Perlmutter-Moskowitz-and-Sherman.html> [hereinafter Mar-a-Lago Council Statement].

women who are served by the VA.”² The VA, on the other hand, has thus far failed entirely to square the Council’s power and influence with federal law. Thus, because Defendants have flouted important transparency requirements, the full extent of the Mar-a-Lago Council’s influence, activities, and motives remains unknown. Consequently, veterans, their families, and other affected members of the public, like Plaintiff, have almost no insight into whether or how the Council has given consideration to issues critical to veterans, including the privatization of VA healthcare services. Moreover, the lack of transparency leaves the affected public with no view at all into what, if any, precautions have been taken to ensure that members of the Mar-a-Lago Council provide advice and recommendations out of concern for the public good and not their personal profit.

8. VoteVets, an advocate for veterans, now sues to redress this unlawful and dangerous departure from required procedures. Plaintiff brings this action to enforce the Federal Advisory Committee Act, 5 U.S.C. app. 2 (the “FACA” or the “Act”). The FACA was enacted in 1972 to curb the executive branch’s reliance on superfluous and secretive “advisory committees”: ad hoc, non-federal bodies that nonetheless counseled governmental decisionmakers on significant swaths of national policy. Prior to the FACA, special interests had used these committees—and the associated veneer of governmental legitimacy—to drive federal decisionmaking outside the light of public scrutiny, participation, and debate.

9. When the government fails to adhere to the FACA’s requirements, public confidence in the government as a whole is diminished. Where, as here, that failure relates to the provision of critical benefits to America’s veterans, the consequences are particularly stark.

² *Id.*

PARTIES

10. Plaintiff VoteVets, also known as VoteVets.org, is a not-for-profit organization incorporated under the laws of the District of Columbia. VoteVets has nearly 500,000 supporters with whom it regularly communicates about issues concerning veterans, including VA health care, veterans' employment, and veterans' education benefits. VoteVets' mission is to coordinate and execute public issue campaigns on topics such as these to ensure that the voices of America's veterans are heard regarding matters of public policy.

11. Defendant the United States Department of Veterans Affairs is a federal agency within the meaning of the FACA, 5 U.S.C. app. 2 § 3(3), and of the Administrative Procedure Act ("APA"), 5 U.S.C. § 551(1), that is headquartered in Washington, D.C.

12. Defendant Robert Wilkie is sued in his official capacity as Secretary of the United States Department of Veterans Affairs.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this action arises under federal law, specifically the FACA, 5 U.S.C. app. 2, and the APA, 5 U.S.C. §§ 702, 706.

14. Venue is proper in this judicial district under 28 U.S.C. § 1391(e)(1)(A) because Defendants are an agency and an officer of the United States and because Defendant the VA resides in Washington, D.C.

STATUTORY FRAMEWORK

I. The Federal Advisory Committee Act

15. A sunshine law, the Federal Advisory Committee Act requires transparency and permits public participation when the executive branch establishes or uses non-federal bodies for the purpose of seeking advice and generating policy. When passing the FACA, Congress

explained that “[o]ne of the great dangers in the unregulated use of advisory committees is that special interest groups may use their membership on such bodies to promote their private concerns,” citing as an example an Industrial Waste Committee where “only representatives of industry were present[,]” and “[n]o representatives of conservation, environment, clean water, consumer, or other public interest groups were present.” H.R. Rep. No. 92-1017, at 6 (1972), *as reprinted in* 1972 U.S.C.C.A.N. 3491, 3496.

16. The FACA defines an “advisory committee” as

any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup . . . which is

- (A) established by statute or reorganization plan, or
- (B) established or utilized by the President, or
- (C) established or utilized by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) any committee that is composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government, and (ii) any committee that is created by the National Academy of Sciences or the National Academy of Public Administration.

5 U.S.C. app. 2 § 3(2). Advisory committees are subject to the FACA’s requirements unless specifically exempted by statute, *see id.* § 4(a); unless established by the Central Intelligence Agency, the Federal Reserve, or the Office of the Director of National Intelligence, *id.* § 4(b); or unless they are purely “local civic group[s]” or “[s]tate or local committee[s],” *id.* § 4(c). None of these exceptions applies here.

17. Among other things, the FACA requires: (1) before acting or meeting, an advisory committee must file a charter with the Administrator of the General Services Administration (“GSA”) or the head of the agency that created the committee; (2) the make-up of the committee must “be fairly balanced in terms of the points of view represented and the functions to be performed”; (3) the charter must contain appropriate provisions to “assure that the advice and

recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment"; (4) all meetings must be open to the public; (5) notice of each meeting must be published in the Federal Register; (6) all interested persons must be allowed to attend, appear before, or file statements with the advisory committee; (7) all records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, and other documents made available to or prepared for or by the advisory committee must be available to the public, and (8) detailed minutes of each meeting must be kept. *Id.* §§ 5(b)(2)-(3), 5(c), 9(c), 10(a)(1)-(3), 10(b)-(c).

18. As specifically relevant here, the FACA requires that, before an advisory committee "meet[s] or take[s] any action," a charter for the committee, containing specified information, must be filed with the GSA Administrator, "in the case of Presidential advisory committees, or . . . with the head of the agency to whom any advisory committee reports and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency." *Id.* § 9(c).

19. The FACA also requires advisory committees to facilitate public comment and participation. Thus, an advisory committee must provide "timely notice" of its meetings to the public, *id.* § 10(a)(2), and must allow interested persons to "attend, appear before, or file statements with [the] committee, subject to such reasonable rules or regulations as the Administrator [of the GSA] may prescribe," *id.* § 10(a)(3). The Administrator of the GSA has implemented these statutory obligations by requiring advisory committees to publish notice of their meetings "at least 15 calendar days prior" to the meetings, unless documented and "exceptional circumstances" require otherwise. 41 C.F.R. § 102-3.150. All meetings must be

held “in a manner or place reasonably accessible to the public” and allow “[a]ny member of the public [to] speak to or otherwise address the advisory committee if the agency’s guidelines so permit.” *Id.* § 102-3.140(a), (d).

20. In addition, the FACA requires publication of “the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, [and] other documents . . . made available to or prepared for” the committee. 5 U.S.C. app. 2 § 10(b). These materials must be released well before the relevant advisory committee meeting, so that the public can “follow the substance of the [committee’s] discussions.” *Food Chem. News v. Dep’t of Health & Human Servs.*, 980 F.2d 1468, 1472 (D.C. Cir. 1992).

21. Finally, the FACA provides that “[d]etailed minutes,” containing specified information, “of each meeting of each advisory committee shall be kept.” 5 U.S.C. app. 2 § 10(c).

II. The VA’s FACA Guide

22. The VA publishes a VA Advisory Committee Management Guide that expands on agency expectations “to ensure that VA Federal Advisory Committees carry out their responsibilities under FACA.”³

23. In its Guide, the VA reiterates that when the FACA was enacted, Congress determined that “[n]ew committees should be established only when determined to be essential,” that “[t]here should be standard and uniform procedures governing the operation of committees,” that “Congress and the public should be kept informed of the number, purpose, membership

³ Department of Veterans Affairs, *Advisory Committee Management Guide 1* (Aug. 2017), <https://www.va.gov/ADVISORY/docs/ACMO-2017ACMOGUIDESIGNEDBYCOSVA.pdf>.

activities, and costs of advisory committees,” and that “[t]he function of advisory committees should be advisory only.”⁴

24. The Guide emphasizes that “[n]o advisory committee may meet or take any action until a charter has been filed by VA’s [Committee Management Officer] in accordance with FACA.”⁵

25. The Guide notes that

One of VA’s principal objectives in managing its advisory committees is to ensure that committee members appropriately reflect the diversity of American society and the Veteran population. In the selection of members for discretionary committees, VA is required to consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature of the advisory committee. Committees requiring technical expertise should include persons with demonstrated professional or personal qualifications and experience relevant to the functions and tasks to be performed.⁶

III. The Administrative Procedure Act

26. The APA permits judicial review by persons “suffering legal wrong because of agency action, or adversely aggrieved by agency action.” 5 U.S.C. § 702; *see id.* §§ 702-704. Under the APA, a “reviewing court . . . shall compel agency action unlawfully withheld or unreasonably delayed,” *id.* § 706(1), and “hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or not otherwise in accordance with law,” *id.* § 706(2)(A).

⁴ *Id.* at 3.

⁵ *Id.* at 10.

⁶ *Id.* at 18.

FACTS

I. The Mar-a-Lago Council Is Established and Holds Meetings Without Observance of Procedures Required by Law

27. In January 2017, the Mar-a-Lago Council was established to advise the VA on policy issues affecting veterans and the administration of the Department. As President-elect Trump said, the Council was created “to help” the Secretary of Veterans Affairs “straighten out the VA.”⁷

28. President Trump named Isaac “Ike” Perlmutter to lead the Council, and Bruce Moskowitz and Marc Sherman to serve on the Council.⁸

29. Mr. Perlmutter is the Chief Executive Officer for the entertainment and production company Marvel Entertainment. Mr. Moskowitz is a doctor practicing in West Palm Beach, Florida, and the founder of the Biomedical Research and Education Foundation. Mr. Sherman is a managing director who specializes in financial fraud and white-collar investigations with the consulting firm Alvarez & Marsal.⁹

30. While none of these men have notable experience with issues affecting veterans, all three do maintain personal relationships with President Trump that were formed or cemented through their affiliation with the President’s golf and social club, the Mar-a-Lago Club, where they are all members.

⁷ Natalia Wojcik et al., *Read the Transcript From Trump’s News Conference*, CNBC, Jan. 11, 2017, <https://www.cnbc.com/2017/01/11/transcript-of-president-elect-donald-j-trumps-news-conference.html>.

⁸ See Isaac Arnsdorf, *The Shadow Rulers of the VA*, ProPublica (Aug. 7, 2018), <https://www.propublica.org/article/ike-perlmutter-bruce-moskowitz-marc-sherman-shadow-rulers-of-the-va>.

⁹ *Id.*

31. In the words of all three Council members: “When we saw an opportunity to assist the Department of Veterans Affairs’s leadership in addressing some of the most intractable problems of the VA, we considered it an honor and a privilege to do so.”¹⁰

32. On information and belief, Mr. Perlmutter, Mr. Moskowitz, and Mr. Sherman have not been hired or appointed to formal government positions by the President, the Department, or any other agency within the federal government.¹¹

33. On information and belief, no charter for the Council has been made or filed.

34. On the VA’s website, the VA discloses 28 advisory committees.¹² The Mar-a-Lago Council is not listed among them.

35. Given that the Council has operated in secret, the full scope of its activities are unknown, except to Defendants. However, publicly available information reveals that, as of the date of this filing, the Council has held more than twenty meetings, and has maintained a close working relationship with Defendants. Mr. Perlmutter, Mr. Moskowitz, and Mr. Sherman all participated in at least nine of these meetings.

- a. On December 28, 2016, Mr. Perlmutter, Mr. Moskowitz, and Mr. Sherman convened a council of healthcare executives to meet with President-elect Trump. According to Mr. Trump’s spokesman, Sean Spicer, the meeting

¹⁰ Mar-a-Lago Council Statement, *supra* note 1.

¹¹ Arnsdorf, *supra* note 8.

¹² U.S. Department of Veterans Affairs, Advisory Committee Management Office, https://www.va.gov/ADVISORY/Advisory_Committees.asp.

included “lots of brainstorming on how to improve and reform [the Department of Veterans Affairs].”¹³

- b. On January 12, 2017, during a press conference, President-elect Trump said Mr. Perlmutter was “very, very involved” in advising his team on veterans affairs issues.¹⁴ Following the press conference, a “source with knowledge of the matter confirmed” that Mr. Perlmutter would “take on an informal, though ‘significant,’ advisory role in Trump’s administration with respect to veterans affairs.”¹⁵
- c. On or around February 7, 2017, the Mar-a-Lago Council met in person for the first time since President Trump took office.¹⁶ Then-Secretary of Veterans Affairs David Shulkin flew to Mar-a-Lago for the meeting with the Council. On information and belief, Council participants included Mr. Perlmutter, Mr. Sherman, and Mr. Moskowitz.
- d. Writing to then-Secretary Shulkin by email several days after the initial meeting at Mar-a-Lago, the Council outlined the pace at which they would update Mr. Shulkin on the Council’s recommendations and progress, saying

¹³ Priyanka Dayal McCluskey, *Partners HealthCare’s CEO Talks Obamacare, VA with Trump*, Bos. Globe, Dec. 28, 2016, <https://www.bostonglobe.com/business/2016/12/28/trump-meets-with-partners-chief-executive-fla/gwjDtaS4xrGLIU0HKUK4uK/story.html>.

¹⁴ Wojcik et al., *supra* note 7.

¹⁵ Tim Huddleston Jr., *Why Donald Trump Gave Marvel’s CEO a Shout-Out in His Press Conference*, Fortune, Jan. 11, 2017, <http://fortune.com/2017/01/11/donald-trump-marvel-ceo-ike-perlmutter/>.

¹⁶ *The Mar-a-Lago Crowd Documents*, DS-Moskowitz 1 Att 1-2_Redacted 2, ProPublica, <https://www.propublica.org/datastore/dataset/the-mar-a-lago-crowd-documents> [hereinafter ProPublica Documents]; see Arnsdorf, *supra* note 8.

they would “not need to meet in person monthly, but meet face to face only when necessary” along with “conference calls at a convenient time.”¹⁷

- e. On February 15, 2017, the Mar-a-Lago Council held a 30-minute call with then-Secretary Shulkin.¹⁸
- f. On February 23, 2017, the Mar-a-Lago Council held a 45-minute call with then-Secretary Shulkin and the President and CEO of CVS Health. Mr. Sherman was unable to participate on this call, but Mr. Moskowitz assured the group that he would update him following the call.¹⁹
- g. On February 28, 2017, the Mar-a-Lago Council held a one-hour call to discuss VA Technology Transfer with then-Secretary Shulkin and a medical technology transfer authority.²⁰ Council participants included Mr. Perlmutter, Mr. Sherman, and Mr. Moskowitz.
- h. On March 3, 2017, the Mar-a-Lago Council held a one-hour call with then-Secretary Shulkin and senior officials from Apple, the United States Digital Service, and the Mayo Clinic.²¹ Council participants included Mr. Perlmutter, Mr. Sherman, and Mr. Moskowitz.
- i. On March 4, 2017, the Mar-a-Lago Council held a 30-minute call with then-Secretary Shulkin.²²

¹⁷ *Id.*

¹⁸ *Id.* at DS Sherman 1-1_Redacted.

¹⁹ *Id.* at DS Sherman 2-3_Redacted.

²⁰ *Id.* at DS Perlmutter 1-1_Redacted.

²¹ *Id.* at DS Perlmutter 2 att 1-1_Redacted.

²² *Id.* at DS Perlmutter 3-2_Redacted.

- j. On April 11, 2017, the Mar-a-Lago Council held a one-hour call with then-Secretary Shulkin to discuss issues relating to fraud and abuse within the VA system.²³
- k. On April 12, 2017, the Mar-a-Lago Council held a one-hour call with then-Secretary Shulkin and the Chairman and CEO of Kaiser Foundation Health Plan.²⁴ Council participants included Mr. Perlmutter, Mr. Sherman, and Mr. Moskowitz.
- l. On April 17, 2017, the Mar-a-Lago Council held a 30-minute call with Johnson & Johnson's executive staff.²⁵ Council participants included Mr. Perlmutter, Mr. Sherman, and Mr. Moskowitz.
- m. On April 17, 2017, the Mar-a-Lago Council attended a one-hour dinner with then-Secretary Shulkin.²⁶
- n. On April 27, 2017, the Mar-a-Lago Council attended a one-and-one-half hour breakfast with then-Secretary Shulkin.²⁷
- o. On April 27, 2017, the Mar-a-Lago Council attended a two-hour tour of the Walter Reed Army Medical Center.²⁸ Council participants included Mr. Perlmutter, Mr. Sherman, and Mr. Moskowitz.

²³ *Id.* at DS Sherman 4-1_Redacted.

²⁴ *Id.* at DS Sherman 5-2_Redacted.

²⁵ *Id.* at DS Sherman 6-2_Redacted.

²⁶ *Id.* at DS Sherman 7-1_Redacted.

²⁷ *Id.* at DS Perlmutter 4-1_Redacted.

²⁸ *Id.* at DS Perlmutter 5-5a-2_Redacted.

- p. On May 30, 2017, the Mar-a-Lago Council held a thirty-minute call with then-Secretary Shulkin.²⁹
- q. On June 14, 2017, the Mar-a-Lago Council held an hour-and-a-half call with then-Secretary Shulkin and staff at the VA, Apple, the Mayo Clinic, Johns Hopkins University, Brigham Health, Connected Health and Partners Health Care, Biomedical Research & Education Foundation, Kaiser Permanente, the Cleveland Clinic, and Mount Sinai Health System.³⁰ Council participants included Mr. Perlmutter, Mr. Sherman, and Mr. Moskowitz.
- r. On September 1, 2017, the Mar-a-Lago Council held a 30-minute call with then-Secretary Shulkin.³¹ Council participants included Mr. Perlmutter, Mr. Sherman, and Mr. Moskowitz.
- s. On December 18, 2017, the Mar-a-Lago Council held a one-hour call with then-Secretary Shulkin, the CEO of the Miami Cancer Institute, and two executives from the American College of Surgeons.³² Mr. Sherman participated in the call; Mr. Perlmutter and Mr. Moskowitz were included in the correspondence scheduling the call.
- t. On January 29, 2018, the Mar-a-Lago Council held a one-hour call with then-Secretary Shulkin.³³

²⁹ *Id.* at DS Moskowitz 4-1a-2-Redacted.

³⁰ *Id.* at DS Moskowitz 6-1a-3_Redacted.

³¹ *Id.* at DS Sherman 9-2_Redacted.

³² *Id.* at DS Sherman 10-7_Redacted.

³³ *Id.* at DS Moskowitz 6-1_Redacted.

- u. On February 27, 2018, the Mar-a-Lago Council held a three-hour meeting with then-Secretary Shulkin.³⁴ On information and belief, the meeting occurred at the Mar-a-Lago Club.
- v. On Robert Wilkie's first day as then-acting VA Secretary, Mr. Sherman was waiting for Mr. Wilkie in his office.³⁵
- w. On April 2, 2018, the Mar-a-Lago Council held a 30-minute meeting with then-acting Secretary Wilkie.³⁶
- x. From November 2017 to at least April 2018, the Council participated "on two or three monthly calls" with the VA contracting team responsible for implementing a ten-year project to reform the VA's digital records system.³⁷
- y. On April 2, 2018, then-acting Secretary Wilkie met with the Council at the Mar-a-Lago Club.³⁸

36. Defendants and the Council failed to publish notices of these meetings in the Federal Register. Nor have Defendants or the Council made available any material that the Council has generated or received in connection with these meetings or with its work more generally. Finally, there is no record that Defendants and the Council have kept or published minutes of the Council's many meetings.

³⁴ *Id.* at DS Perlmutter 7-1_Redacted.

³⁵ Arnsdorf, *supra* note 8.

³⁶ ProPublica Documents, *supra* note 16, at RW Sherman 1 (Acting Sec)-1_Redacted.

³⁷ Arthur Allen, 'Who the Hell Is This Person?' Trump's Mar-a-Lago Pal Stymies VA Project, Politico, Apr. 30, 2018, <https://www.politico.com/story/2018/04/30/trump-doctor-health-technology-508297>.

³⁸ ProPublica Documents, *supra* note 16, at RW Itinerary-Fayetteville, NC-WPB, FL 04.17-20.2018-8_Redacted.

37. As further described below, had notices of the above meetings been published and had the meetings been open to the public, as required by the FACA, VoteVets would have mobilized efforts to ensure that its views on privatization on other veterans' issues were well-represented at the meetings.

II. The Mar-a-Lago Council Advises the Department on Policy and Personnel Matters

38. The Council has broad license to provide advice and recommendations to President Trump and the VA on all manner of issues affecting veterans and the administration of the Department, and Defendants have utilized such advice and recommendations.³⁹ According to public reports, the Council “is exerting sweeping influence on the VA from Mar-a-Lago.”⁴⁰

39. According to public reports, the Council “[s]poke with VA officials daily,” “review[ed] all manner of policy and personnel decisions,” “bombarded VA officials with demands,” and “prodded the VA to start new programs,” and “officials travelled to Mar-a-Lago at taxpayer expense to hear [the Council’s] views.”⁴¹ Indeed, in a statement by Mr. Perlmutter, Mr. Sherman, and Mr. Moskowitz, the Council admitted that “[s]ince late 2016, we have shared our views and perspectives on a number of occasions with VA leadership.”⁴²

40. Officials within the Department have confirmed the extent of the Mar-a-Lago Council’s influence. Discussing a ten-year project to reform the VA’s digital records system, one Department official said, “We just had to make the Mar-a-Lago [Council] comfortable with the deal. . . . They have someone’s ear. Power and influence are power and influence.”⁴³ A former

³⁹ See Arnsdorf, *supra* note 8.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Mar-a-Lago Council Statement, *supra* note 1.

⁴³ Allen, *supra* note 37.

Department official went further, saying “[e]verything needs to be run by [the Mar-a-Lago Council]” because “[t]hey view themselves as making the decisions.”⁴⁴

41. Given that the Council has operated outside of public view, the full scope of its influence on policy matters is unknown, except to Defendants. However, publicly available information reveals that the Council is working to provide advice and recommendations with regard to, at a minimum, the following:

- a. *Nomination of David Shulkin*. On January 11, 2017, President Trump nominated David Shulkin to serve as Secretary of the VA. The nomination was made, in part, on the recommendation of the Mar-a-Lago Council.⁴⁵
- b. *Veteran suicide*. Beginning in February 2017, the Council convened a series of conference calls with executives at Johnson & Johnson, leading to the development of a public awareness campaign about veteran suicide.⁴⁶ The Council and the Department planned to promote the campaign by ringing the closing bell at the New York Stock Exchange. According to public reports, “[t]he event also turned into a promotional opportunity for Perlmutter’s company.” Marvel, its parent company, Disney, and Johnson & Johnson sponsored the event, where “Shulkin rang the closing bell standing near a preening and flexing Captain America, with Spider-Man waving from the trading pit, and Marvel swag was distributed to some of the attendees.”⁴⁷

⁴⁴ Arnsdorf, *supra* note 8 (quoting a former VA official).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

- c. *Mobile application for veterans.* The Council recommended that Apple and the VA develop an app for veterans to find nearby medical services. The Council then facilitated a series of calls with senior Apple executives to implement their recommendation. In one such meeting, on June 14, 2017, Council members led a call regarding the recommendation in which, according to Department records, the following individuals participated: the Secretary of Veterans Affairs, the Acting Under-Secretary for Health, a Senior Advisor to the Secretary, the Acting Assistant Secretary & Chief Information Officer, a Senior Advisor to the Acting Under-Secretary for Health, the CEO of Apple, the COO of Apple, the Director of Global Government for Apple, the Vice President for Public Policy and Government Affairs of Apple, and more than ten executives from medical institutions.⁴⁸ VA officials reported back to the Council to update members on progress. In one email, a senior Department official told the Council, “I will update the tracker, and please do let me know if this helps answers [sic] questions around Apple’s efforts or if additional clarification is required.”⁴⁹ Council member Marc Moskowitz brought his son Aaron Moskowitz on to advise the VA on the project.
- d. *Medical device registry.* On June 4, 2018, at the recommendation of Council members, the VA organized a summit of experts on medical device registries with the goal of building a national registry that notified patients of medical device product recalls. Council members joined Department officials on

⁴⁸ ProPublica Documents, *supra* note 16, at DS Perlmutter-6-Att-6_Redacted.

⁴⁹ Arnsdorf, *supra* note 8.

weekly conference calls to discuss organizing the “Medical Device Registry Summit” and making a public commitment to build a registry at the VA. During his remarks at the summit, then-acting Secretary Peter O’Rourke thanked Council member Mr. Moskowitz for being one of the “driving forces” behind the initiative.⁵⁰ Leading up to the summit, SreyRam Kuy, a Senior Advisor to the VA Secretary charged with organizing the summit, requested a meeting with then-Secretary Shulkin to provide an “update on the Medical Device Registry Summit/Bruce Moskowitz efforts.”⁵¹

- e. *Cerner contract.* According to four former and current senior VA officials, Council members played a significant role in recommending, and at some points even directing, VA action on the transformation of the VA’s digital records system, the biggest health information technology project in history.⁵² In June 2017, then-Secretary Shulkin awarded a major contract for work related to the overhaul to Cerner Corp. However, due to Council member concerns with the company, the agreement was delayed for months.⁵³ During that time, a team of investigators from VA’s Office of Information and Technology were tasked with evaluating Council member concerns and were even directed to look into the Cerner system Mr. Moskowitz used in his personal business.⁵⁴ The Council’s involvement in the project was so

⁵⁰ *Id.*

⁵¹ ProPublica Documents, *supra* note 16, at DS-Moskowitz-7-1-Redacted.

⁵² Allen, *supra* note 37.

⁵³ *Id.*

⁵⁴ *Id.*

pervasive that on February 27, 2018, then-Secretary Shulkin flew to Mar-a-Lago for the purpose of meeting with Mr. Perlmutter, Mr. Moskowitz, and Mr. Sherman to “close the deal on the Cerner contract.”⁵⁵

- f. *VA privatization.* The Council has advised the Department to privatize essential healthcare services the VA provides to veterans. For example, in an email to then-Secretary Shulkin and other VA officials on September 18, 2017, the Council said,

We have been talking to Dr. Shulkin for many months about identifying the existence of healthcare delivery issues at VA medical centers As an example, we think that some of the VA hospitals are delivering some specialty healthcare when they shouldn't and when referrals to private facilities or other VA centers would be a better option. Not every VA hospital has both the breadth and depth of specialized medical expertise in every specialty, which then creates risk to the patients and the system. One idea discussed was to institute a self-rating program, but self-ratings are rarely of any practical use. Our solution is to make use of the academic medical centers and medical trade groups, both of whom have offered to send review teams to the VA hospitals to help in this effort. The purpose of this email is to see if you know of any impediments to taking them up on this offer and to get your thoughts in general about this approach.⁵⁶

On September 24, 2017, then-Secretary Shulkin responded to the Council recommendation, saying,

I agree with Ike and the team that measuring VA against private hospitals is critical—so while [the Centers for Medicare and Medicaid Services] is not able to deliver this for months we have now developed our own tool to do this—we are fine tuning the model this week and can share it by [F]riday. If it does not get us where we need to be then working quickly with an independent group would make a great deal of sense.⁵⁷

- g. *Evaluation of VA surgery programs.* At the Council's recommendation, the VA developed a plan for the American College of Surgeons to evaluate the

⁵⁵ Arnsdorf, *supra* note 8.

⁵⁶ ProPublica Documents, *supra* note 16, at DS-Moskowitz-5-4_Redacted.

⁵⁷ *Id.*

surgery programs at several VA hospitals. In December 2017, after discussing the idea with then-Secretary Shulkin, Mr. Sherman reported back to Michael Zinner, a member of the American College of Surgeons' board of regents. In an email sent by Mr. Sherman to Mr. Zinner on December 6, 2017, Mr. Sherman said, "[The VA Secretary] is ready to kick it off and is standing by for me to set up a call with you, David Hoyt, me and him to do so."⁵⁸ After Mr. Zimmer assured Mr. Sherman that he would "get working on this call," Mr. Sherman added several individuals to the email chain, including Mr. Perlmutter and Mr. Moskowitz. When adding the Council members, Mr. Sherman explained that he was "including my gang as a cc."⁵⁹ On February 14, 2018, then-Secretary Shulkin emailed a progress update on the project to at least two Council members, telling the Council, "We're getting close."⁶⁰ Several months later, on March 7, 2018, then-Secretary Shulkin advised his staff to set up a conference call with the American College of Surgeons to develop a contract for the work, telling him he wanted the project "to start asap."⁶¹

- h. *Tracking human tissue devices.* On January 19, 2018, then-Secretary Shulkin and at least five other senior VA officials attended a meeting with the American Association of Tissue Banks ("AATB") and the AATB Tissue Policy Group. Following the meeting, the organizations sent then-Secretary

⁵⁸ *Id.* at DS-Sherman-10-7_Redacted.

⁵⁹ *Id.*

⁶⁰ *Id.* at DocumentsReport2018-07-09-11.

⁶¹ *Id.*

Shulkin a proposal to “partner with the VA” in developing “the development of appropriate systems for tracking and tracing all devices, including human tissue devices.”⁶² On February 2, 2018, then-Secretary Shulkin forwarded the proposal to Council member Mr. Moskowitz for the Council’s recommendation, saying “Bruce - what do you think of this?” Mr. Moskowitz responded with a recommendation, to which then-Secretary Shulkin stated, “Ok.”⁶³

- i. *Firing of David Shulkin.* Just as Mr. Shulkin’s tenure at the helm of the Department began, in part, on the recommendation of the Mar-a-Lago Council, it likewise came to an end once Mr. Shulkin fell out of favor with the Council. According to three former Trump Administration officials, while several factors contributed to Mr. Shulkin’s firing, it was his friction with the Mar-a-Lago Council over the Cerner contract that ultimately led to President Trump’s decision to remove the VA Secretary. On December 4, 2017, Jake Leinenkugel, the White House Senior Advisor on veterans affairs, sent a memo to a political appointee within the Department outlining “key items that need to be addressed within the VA Leadership structure.”⁶⁴ Among the items Mr. Leinenkugel highlighted were to “[p]ut [Shulkin] on notice to exit” and “[u]tilize outside team (*Ike*)” when considering options for replacing him.⁶⁵

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Email from Jake Leinenkugel to Camilo J. Sandoval (Dec. 4, 2017), <https://assets.documentcloud.org/documents/4614204/Leinenkugel-Sandoval-Memo.pdf>.

⁶⁵ Arnsdorf, *supra* note 8 (emphasis added) (second alteration in the original).

- j. *Mental Health*. The Council provided input on the development of a mental health initiative. On February 28, 2018, Department chief of staff Peter O'Rourke responded to the Council's recommendations related to the new initiative, saying, "Received." "I will begin a project plan and develop a timeline for action."⁶⁶

42. In addition to its actions, the Council's own words, and the words of Trump Administration officials, show that in holding the meetings and making the recommendations detailed above, the Council operated as a group.

- a. When Mr. Sherman was unable to participate in a Council meeting on February 23, 2017, Mr. Moskowitz assured Council members that he would "update [Mr. Sherman] after the call."⁶⁷
- b. On September 7, 2017, Mr. Perlmutter sent an email to then-Secretary Shulkin regarding a story he had been told about a veteran having trouble accessing military records. With other Council members copied on the email, Mr. Perlmutter stated, "we are making very good progress, but this is an excellent reminder that we are still very far away from achieving our goals."⁶⁸
- c. On September 24, 2017, then-Secretary Shulkin responded to a Council recommendation saying, "I agree with Ike and the team that measuring VA against private hospitals is critical."⁶⁹ "Ike" refers to Mr. Perlmutter; "the team" refers to the Council.

⁶⁶ ProPublica Documents, *supra* note 16, at Responsive-Docs_Redacted.

⁶⁷ *Id.* at DS Sherman 2-3.

⁶⁸ *Id.* at DocumentsReport2018-07-09-11-53-56_Redacted[2].

⁶⁹ *Id.* at DS-Moskowitz-5-4_Redacted.

- d. On October 22, 2017, Mr. Perlmutter sent an email congratulating then-Secretary Shulkin for his interview on Fox News. With other Council members copied on the email, Mr. Perlmutter stated, “That interview really did a great service to what you (and we) are doing to improve the quality of care for our veterans for the long term.”⁷⁰
- e. On February 14, 2018, then-Secretary Shulkin emailed the Council to update members on progress regarding the implementation of a Council recommendation. Mr. Shulkin said, “We’re getting close.”⁷¹
- f. On February 24, 2018, then-Secretary Shulkin emailed Mr. Moskowitz to forward a data-sharing proposal the Department received from several major hospitals. Mr. Moskowitz replied to Mr. Shulkin, promising to “discuss with everyone.”⁷²
- g. On February 28, 2018, shortly after Peter O’Rourke became Department chief of staff, he emailed the Council—Mr. Perlmutter, Mr. Sherman, and Mr. Moskowitz—saying, “Thank you for your support of the President, the VA, and me as we work to make the VA great.” The Council replied to the email and shared contact information for Council members with Mr. O’Rourke, saying “please feel free to contact any of us at anytime . . . look forward to achieving the goals discussed.”⁷³

⁷⁰ *Id.* at DocumentsReport2018-07-09_11-53-56_Redacted[2].

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.* at Responsive-Docs_Redacted.

- h. On February 28, 2018, Mr. Sherman responded to Mr. O'Rourke's e-mail, stating, "We are always excited to provide each of our thoughts to you and the Secretary as you both move forward in making decisions on how to best run and improve the veterans healthcare delivery system."⁷⁴
- i. On April 21, 2018, in an email to then-acting Secretary Wilkie, Mr. Moskowitz stated, "I am sure that I speak for the group, that both you and Peter astounded all of us on how quickly and accurately you assessed the key problems and more importantly the solutions that will be needed to finally move the VA in the right direction."⁷⁵
- j. In an April 21, 2018 email to then-acting Secretary Wilkie, Mr. Perlmutter expressed, "For the first time in 1 1/2 years we feel everyone is on the same page. . . . Again, please know we are available and want to help any possible way 24/7."⁷⁶
- k. Finally, in a statement issued jointly over July 18-20, 2018, Mr. Perlmutter, Mr. Moskowitz, and Mr. Sherman detailed the Mar-a-Lago Council's influence and activities. The joint statement is worth quoting at length (below). The statement's use of collective pronouns (*e.g.*, "we," "our"), without exception, and its descriptions of how the Council set about its business, underscore what the above lists of actions and statements make clear: that the Council operated as an advisory committee.

⁷⁴ *Id.*

⁷⁵ *Id.* at RE_[EXTERNAL] Meeting follow up_Redacted.

⁷⁶ *Id.* at RE_[EXTERNAL] From & Ike Perlmutter_Redacted.

Statement by Ike Perlmutter, Bruce Moskowitz and Marc Sherman

The three of us come from very different backgrounds, but we have long shared a deep concern for the health of our veterans. When we saw an opportunity to assist the Department of Veterans Affairs's leadership in addressing some of the most intractable problems of the VA, we considered it an honor and a privilege to do so. After the President's election, we saw an opportunity to share our expertise in organizational management and our personal relationships with healthcare experts around the country to assist the VA as it undertook an aggressive reform of its healthcare delivery and systems. We offered our counsel, and the advice of these healthcare experts, to assist the President, Secretary and VA leadership in their making the essential decisions—sometimes life or death—that affect our nation's veterans. At all times, we offered our help and advice on a voluntary basis, seeking nothing at all in return.

It was Mr. Perlmutter's personal relationship with the President that allowed us the opportunity to be of service. Since late 2016, we have shared our views and perspectives on a number of occasions with VA leadership. For the most part, those interactions were either to facilitate introductions to subject matter healthcare and technology experts with whom we had relationships, or to discuss healthcare delivery and healthcare quality challenges facing the agency and therefore affecting our veterans. While we were always willing to share our thoughts, we did not make or implement any type of policy, possess any authority over agency decisions, or direct government officials to take any actions. That was not our role, and we were at all times very well aware of that. We provided our advice and suggestions so that members of the Administration could consider them as they wished to make their own decisions on actions to be taken. To the extent anyone thought our role was anything other than that, we don't believe it was the result of anything we said or did.

At no time was our volunteer assistance a secret. We were on emails and conference calls with senior staff, and Secretary Shulkin referred on numerous occasions to his discussions with outside experts. He specifically mentioned one or more of us at public events covered by the media. We were also present at a post-meeting White House press gaggle on VA-related issues. We are proud of any contribution we have been able to make to improve the healthcare provided to the fine men and women who are served by the VA. None of us has gained any financial benefit from this volunteer effort, nor was that ever a consideration for us. The only benefit we gained was the satisfaction of helping America's veterans get the very best healthcare possible, in the most efficient and effective manner.

Since late 2016, we have shared our views and perspectives on various issues on a number of occasions with VA leadership. For the most part, those interactions were either to facilitate introductions to subject matter healthcare and technology experts with whom we had relationships, or to discuss healthcare delivery and

healthcare quality challenges facing the agency that affected America's veterans.

...⁷⁷

DEFENDANTS ARE VIOLATING THE FACA AND HARMING PLAINTIFF

43. As detailed above, the Mar-a-Lago Council is an advisory committee under the FACA. The Council has an organized structure, a fixed membership, and a specific purpose. The Council is comprised of at least three members—Mr. Perlmutter, Mr. Moskowitz, and Mr. Sherman—who, under Mr. Perlmutter's leadership, make recommendations and provide advice to the Department and other federal officials. The Council's aim is to influence how the Department carries out its mission with respect to an ever-growing number of discrete goals and projects.

44. Nonetheless, Defendants and the Council have not complied with the FACA's requirements. The Council lacks a charter. Defendants have not published notice of the Council's meetings, and thereby have thwarted any attempts by Plaintiff and others to participate in those meetings. Defendants have not made public the materials provided to or generated by the Council. And Defendants and the Council have not kept minutes of the Council's meetings, all in violation of the FACA, and with harmful effects on Plaintiff and others.

45. Plaintiff VoteVets has a distinct interest in the Administration's policies towards veterans, and in its efforts to privatize healthcare services for veterans in particular. VoteVets believes the VA healthcare system should not, and must not, be privatized. On April 4, 2018, VoteVets issued a statement criticizing the Administration's attempts to transfer the healthcare "system relied on by millions of American veterans into the hands of for-profit health groups." On March 5, 2018, in an effort to access information related to the Administration's privatization efforts, VoteVets submitted a Freedom of Information Act request to the VA. As relevant here,

⁷⁷ Mar-a-Lago Council Statement, *supra* note 1.

Plaintiff's FOIA request sought records related to the role private individuals and pro-privatization advocacy groups have played in influencing the Administration's VA healthcare policy. In particular, the request sought communications from the Department related the President Trump's firing of then-Secretary Shulkin and whether Mr. Shulkin's opposition to VA privatization efforts contributed to his termination. The Department failed to adequately respond to Plaintiff's FOIA request. As a result, Plaintiff was forced to file suit on April 4, 2018, to obtain the requested information.

46. VoteVets works to counter VA privatization efforts in a number of other ways as well. VoteVets educates its supporters via email and social media about the issue and the Administration's privatization plans. VoteVets advocates at the federal level for laws and policies that support and strengthen the continuation of a public VA healthcare system. VoteVets also expends significant resources educating the broader public about the dangers of VA privatization. For example, on September 14, 2017, VoteVets announced a \$400,000 advertising campaign across thirteen states to mobilize Americans to oppose the Administration's privatization efforts.

47. Given VoteVets' dedication to improving veterans policy and advocacy against the privatization of VA services—and therefore, its keen interest in understanding and uncovering the Mar-a-Lago Council's activities, and desire to take part in the Council's business—Defendants' violation of the FACA has harmed and will harm VoteVets in at least two ways. First, by violating the public records requirements of the FACA, Defendants have denied VoteVets its statutory right to review the Mar-a-Lago Council's documents and meeting minutes. Second, by violating the requirements of FACA, Defendants have deprived VoteVets of

its statutory right to participate in the Mar-a-Lago Council's meetings and represent its views to the Council regarding, among other issues, the privatization of VA services.

CLAIM FOR RELIEF

Count One (Violation of the FACA and the APA)

48. Plaintiff repeats and incorporates by reference each of the foregoing allegations as if fully set forth herein.

49. The Mar-a-Lago Council is an advisory committee within the meaning of the FACA because it is a "council . . . which is established or utilized by" Defendant the VA "in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government." 5 U.S.C. app. 2 § 3(2).

50. By failing to file a charter for the Council, Defendants and the Council failed to comply with the FACA's non-discretionary requirement under 5 U.S.C. app. 2 § 9(c). Therefore, under the APA, Defendants have unlawfully withheld or unreasonably delayed agency action, 5 U.S.C. § 706(1), and acted contrary to law, *id.* § 706(2)(A).

51. By failing to publish notice of Council meetings in the Federal Register and by failing to allow interested parties to attend those meetings, Defendants and the Council are failing to comply with the FACA's non-discretionary requirements under 5 U.S.C. app. 2 § 10(a)(1)-(3). Therefore, under the APA, Defendants have unlawfully withheld or unreasonably delayed agency action, 5 U.S.C. § 706(1), and acted contrary to law, *id.* § 706(2)(A).

52. By failing to make available "the records reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by" the Council, Defendants and the Council are failing to comply with the FACA's non-discretionary requirements under 5 U.S.C. app. 2 § 10(b). Therefore, under

the APA, Defendants have unlawfully withheld or unreasonably delayed agency action, 5 U.S.C. § 706(1), and acted contrary to law, *id.* § 706(2)(A).

53. By failing to “ke[ep]” “[d]etailed minutes” of all Council meetings, Defendants and the Council are failing to comply with the FACA’s non-discretionary requirements under 5 U.S.C. app. 2 § 10(c). Therefore, under the APA, Defendants have unlawfully withheld or unreasonably delayed agency action, 5 U.S.C. § 706(1), and acted contrary to law, *id.* § 706(2)(A).

54. Defendants’ failure to comply with the FACA in relation to the Mar-a-Lago Council is “final agency action for which there is no other adequate remedy in a court,” and therefore is “subject to judicial review.” *Id.* § 704; *see id.* § 702.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

1. declare that Defendants’ creation and administration of the Mar-a-Lago Council violates the FACA and the APA, and that the Council is therefore unlawful;
2. enjoin Defendants from utilizing the Mar-a-Lago Council as an advisory committee unless and until Defendants and the Council comply with the FACA;
3. through the named Defendants, enjoin the Mar-a-Lago Council from meeting, advising Defendants, and otherwise conducting Council business unless and until Defendants and the Council comply with the FACA;
4. order Defendants to file a charter for the Council;
5. order Defendants to publish notice of the Council’s meetings in the Federal Register;
6. order Defendants to permit public participation at the Council’s meetings;

7. order Defendants to ensure that detailed minutes of the Council's meetings are kept;
8. order Defendants to provide to Plaintiff a full and complete copy of all records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, and other documents that have been made available to, or prepared for or by, the Council;
9. award Plaintiff its costs, attorneys' fees, and other disbursements for this action; and
10. grant any other relief this Court deems appropriate.

Dated: August 16, 2018

Respectfully submitted,

/s/ Adam Grogg

Adam Grogg (D.C. Bar No. 1552438)
Karianne M. Jones (D.C. Bar No. 187783)
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Counsel for Plaintiff

CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

<p>I. (a) PLAINTIFFS VoteVets Action Fund</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Adam Grogg, Karianne Jones, and Javier Guzman Democracy Forward Foundation 1333 H St. NW, Washington, DC, 20005 (202) 448-9090</p>	<p>DEFENDANTS United States Department of Veterans Affairs; Robert Wilkie, in his official capacity as Secretary of the United States Department of Veterans Affairs</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p> <p>ATTORNEYS (IF KNOWN)</p>																								
<p>II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border: none;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DFT</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DFT</td> </tr> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input checked="" type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>				
<p><input type="radio"/> E. General Civil (Other)</p> <table style="width:100%; border: none;"> <tr> <td style="width:50%; border: none;"> <p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p> </td> <td style="width:50%; border: none;"> <p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 27 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent – Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p> </td> </tr> </table>		<p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 27 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent – Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p>	<p style="text-align: center;">OR</p> <p><input type="radio"/> F. Pro Se General Civil</p> <table style="width:100%; border: none;"> <tr> <td style="width:50%; border: none;"> <p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p> </td> <td style="width:50%; border: none;"> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input checked="" type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p> </td> </tr> </table>		<p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p>	<p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input checked="" type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>
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<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Defendants have violated the APA, 5 U.S.C. § 706, and the Federal Advisory Committee Act, 5 U.S.C. app. 2

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form

DATE: <u>Aug. 16, 2018</u>	SIGNATURE OF ATTORNEY OF RECORD <u>/s/ Adam Grogg</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

VoteVets Action Fund

Plaintiff(s)

v.

United States Department of Veterans Affairs; Robert Wilkie, in his official capacity as Secretary of the United States Department of Veterans Affairs

Defendant(s)

Civil Action No. 18-CV-1925

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) United States Department of Veterans Affairs
810 Vermont Ave. NW
Washington, DC 20420

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Adam Grogg
Democracy Forward Foundation
1333 H St. NW
Washington, DC 20005

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 18-CV-1925

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

VoteVets Action Fund

Plaintiff(s)

v.

United States Department of Veterans Affairs; Robert Wilkie, in his official capacity as Secretary of the United States Department of Veterans Affairs

Defendant(s)

Civil Action No. 18-CV-1925

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Robert Wilkie, in his official capacity as Secretary of the United States Department of Veterans Affairs
810 Vermont Ave. NW
Washington, DC 20420

A lawsuit has been filed against you.

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If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 18-CV-1925

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on *(date)* _____ , and mailed a copy to the individual's last known address; or

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AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

VoteVets Action Fund

Plaintiff(s)

v.

United States Department of Veterans Affairs; Robert Wilkie, in his official capacity as Secretary of the United States Department of Veterans Affairs

Defendant(s)

Civil Action No. 18-CV-1925

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) United States Department of Veterans Affairs et al. c/o United States Attorney General 950 Pennsylvania Ave. NW Washington, DC 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Adam Grogg
Democracy Forward Foundation
1333 H St. NW
Washington, DC 20005

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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_____ on *(date)* _____ ; or

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_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
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Printed name and title

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Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

VoteVets Action Fund

Plaintiff(s)

v.

United States Department of Veterans Affairs; Robert Wilkie, in his official capacity as Secretary of the United States Department of Veterans Affairs

Defendant(s)

Civil Action No. 18-CV-1925

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) United States Department of Veterans Affairs et al. c/o United States Attorney for the District of Columbia 555 4th St. NW Washington, DC 20530

A lawsuit has been filed against you.

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Adam Grogg
Democracy Forward Foundation
1333 H St. NW
Washington, DC 20005

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ANGELA D. CAESAR, CLERK OF COURT

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Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Document ID: (b)(6)

From: Cashour, Curtis </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacocashoc>
To: Byrne, Jim (OGC) </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=byrne, james m987>; Mitrano, Catherine (SES) (OGC) </o=va/ou=va martinsburg/cn=recipients/cn=vacomitrac>; Hipolit, Richard (OGC) </o=va/ou=va martinsburg/cn=recipients/cn=vacohipold>
Cc: Ullyot, John </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacoulyoj>; Hutton, James </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=james.hutton>; Powers, Pamela </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=powers, pamela80c>
Bcc:
Subject: RE: FACA lawsuit
Date: Wed Aug 15 2018 16:07:06 CDT
Attachments:

WH approved. We are sending the statement now.

Curt Cashour

Press Secretary

Department of Veterans Affairs

202-461-7388

Curt.Cashour@va.gov

@curtcashour

From: Byrne, Jim (OGC)
Sent: Wednesday, August 15, 2018 4:59 PM
To: Cashour, Curtis <Curt.Cashour@va.gov>; Mitrano, Catherine (SES) (OGC) <Catherine.Mitrano@va.gov>; Hipolit, Richard (OGC) <Richard.Hipolit@va.gov>
Cc: Ullyot, John <John.Ullyot@va.gov>; Hutton, James <James.Hutton@va.gov>; Powers, Pamela <Pamela.Powers@va.gov>
Subject: RE: FACA lawsuit

Please run this response by your public affairs folks in the WH.

From: Cashour, Curtis
Sent: Wednesday, August 15, 2018 4:56 PM
To: Byrne, Jim (OGC) <Jim.Byrne@va.gov>; Mitrano, Catherine (SES) (OGC) <Catherine.Mitrano@va.gov>; Hipolit, Richard (OGC) <Richard.Hipolit@va.gov>
Cc: Ulyot, John <John.Ulyot@va.gov>; Hutton, James <James.Hutton@va.gov>
Subject: FW: FACA lawsuit

Jim/Cathy/Dick,

Please see below from ProPublica. Are you OK with the following response:

(b)(5)

Curt Cashour
Press Secretary
Department of Veterans Affairs

202-461-7388

Curt.Cashour@va.gov

@curtcashour

From: [redacted] (b)(6)
Sent: Wednesday, August 15, 2018 4:51 PM
To: Cashour, Curtis <Curt.Cashour@va.gov>
Cc: VA Public Affairs <VAPublicAffairs@va.gov>
Subject: [EXTERNAL] FACA lawsuit

Hi Curt,

[redacted] (b)(5)

[redacted] (b)(5)

[redacted] (b)(5)

Thanks,

[redacted] (b)(6)

[redacted] (b)(6)

Document ID: (b)(6)

From: Cashour, Curtis </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacocashoc>
To: Byrne, Jim (OGC) </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=byrne, james m987>; Mitrano, Catherine (SES) (OGC) </o=va/ou=va martinsburg/cn=recipients/cn=vacomitrac>; Hipolit, Richard (OGC) </o=va/ou=va martinsburg/cn=recipients/cn=vacohipold>
Cc: Ullyot, John </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacoulyoj>; Hutton, James </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=james.hutton>; Powers, Pamela </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=powers, pamela80c>
Bcc:
Subject: RE: FACA lawsuit
Date: Wed Aug 15 2018 16:05:37 CDT
Attachments:

Will do. Thanks.

Curt Cashour

Press Secretary

Department of Veterans Affairs

202-461-7388

Curt.Cashour@va.gov

@curtcashour

From: Byrne, Jim (OGC)
Sent: Wednesday, August 15, 2018 4:59 PM
To: Cashour, Curtis <Curt.Cashour@va.gov>; Mitrano, Catherine (SES) (OGC) <Catherine.Mitrano@va.gov>; Hipolit, Richard (OGC) <Richard.Hipolit@va.gov>
Cc: Ullyot, John <John.Ullyot@va.gov>; Hutton, James <James.Hutton@va.gov>; Powers, Pamela <Pamela.Powers@va.gov>
Subject: RE: FACA lawsuit

Please run this response by your public affairs folks in the WH.

From: Cashour, Curtis
Sent: Wednesday, August 15, 2018 4:56 PM
To: Byrne, Jim (OGC) <Jim.Byrne@va.gov>; Mitrano, Catherine (SES) (OGC) <Catherine.Mitrano@va.gov>; Hipolit, Richard (OGC) <Richard.Hipolit@va.gov>
Cc: Ulyot, John <John.Ulyot@va.gov>; Hutton, James <James.Hutton@va.gov>
Subject: FW: FACA lawsuit

Jim/Cathy/Dick,

Please see below from ProPublica. Are you OK with the following response:

(b)(5)

(b)(5)

Regarding Ike Perlmutter, Bruce Moskowitz and Marc Sherman

(b)(5)

(b)(5)

(b)(5)

(b)(5)

Curt Cashour

Press Secretary

Department of Veterans Affairs

202-461-7388

Curt.Cashour@va.gov

@curtcashour

From: [redacted] (b)(6)
Sent: Wednesday, August 15, 2018 4:51 PM
To: Cashour, Curtis <Curt.Cashour@va.gov>
Cc: VA Public Affairs <VAPublicAffairs@va.gov>
Subject: [EXTERNAL] FACA lawsuit

Hi Curt,

[redacted] (b)(5)

[redacted] (b)(5)

[redacted] (b)(5)

Thanks,

[redacted] (b)(6)

[redacted] (b)(6)

Document ID: (b)(6)

From: Byrne, Jim (OGC) </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=byrne, james m987>
To: Cashour, Curtis </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacocashoc>; Mitrano, Catherine (SES) (OGC) </o=va/ou=va martinsburg/cn=recipients/cn=vacomitrac>; Hipolit, Richard (OGC) </o=va/ou=va martinsburg/cn=recipients/cn=vacohipold>
Cc: Ullyot, John </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacoulyoj>; Hutton, James </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=james.hutton>; Powers, Pamela </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=powers, pamelaa80c>
Bcc:
Subject: RE: FACA lawsuit
Date: Wed Aug 15 2018 15:58:49 CDT
Attachments:

Please run this response by your public affairs folks in the WH.

From: Cashour, Curtis
Sent: Wednesday, August 15, 2018 4:56 PM
To: Byrne, Jim (OGC) <Jim.Byrne@va.gov>; Mitrano, Catherine (SES) (OGC) <Catherine.Mitrano@va.gov>; Hipolit, Richard (OGC) <Richard.Hipolit@va.gov>
Cc: Ullyot, John <John.Ullyot@va.gov>; Hutton, James <James.Hutton@va.gov>
Subject: FW: FACA lawsuit

Jim/Cathy/Dick,

Please see below from ProPublica. Are you OK with the following response:

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)

Curt Cashour

Press Secretary

Department of Veterans Affairs

202-461-7388

Curt.Cashour@va.gov

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To: Cashour, Curtis <Curt.Cashour@va.gov>
Cc: VA Public Affairs <VAPublicAffairs@va.gov>
Subject: [EXTERNAL] FACA lawsuit

Hi Curt,

(b)(5)

(b)(5)

(b)(5)

Thanks,

(b)(6)

(b)(6)

Document ID: (b)(6)

From: O'Shea, Laura </o=va/ou=va martinsburg/cn=recipients/cn=vacoosheal>
To: Clancy, Carolyn </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vhacoclancc>; Walters, Ronald </o=va/ou=va martinsburg/cn=recipients/cn=vacowalter>; Friel, Kevin, VBAVACO </o=va/ou=vba philadelphia/cn=recipients/cn=pmckfrie>; Ruhlman, James, VBAVACO </o=va/ou=vba philadelphia/cn=recipients/cn=edujruhl>
Cc: (b)(6)
(b)(6)
Gregory, Marie, VBAVACO </o=va/ou=vba philadelphia/cn=recipients/cn=vscmgreg>; Pape, Lisa M. </o=va/ou=va martinsburg/cn=recipients/cn=vhacopapel>; Terrell, Brandye, VBAVACO </o=va/ou=vba philadelphia/cn=recipients/cn=edubkidd>
Bcc:
Subject: Presentation - Monday, October 23
Date: Fri Oct 20 2017 12:45:37 CDT
Attachments: Agenda October 23 and 24.docx
FACA press release FINAL.DOCX

Good afternoon,

Thank you for agreeing to present to the Veterans' Family, Caregiver, and Survivor Advisory Committee on Monday, October 23.

As you know, the Committee is chaired by Sen. Elizabeth Dole and has a number of prominent members (member list can be found in the attached press release). We appreciate your time in participating.

Each of you will be presenting overviews of your organization with an emphasis on programs and services directed toward one or more of the target populations (families, caregivers, and survivors). Please spend as much time on these programs as possible given the time allowed as this is the focus of the Committee.

I have attached for you a copy of the near final agenda.

Please let me know if you have any questions or require additional information. Thanks, L.

Document ID: 0.7. (b)(6)

Owner: O'Shea, Laura </o=va/ou=va martinsburg/cn=recipients/cn=vacoosheal>

Filename: Agenda October 23 and 24.docx

Last Modified: Fri Oct 20 12:45:37 CDT 2017

Could not print file content for:

Document ID: 0.7.1305.1938975-000001

Attachment Name: Agenda October 23 and 24.docx

Locator: esa:pst/*:\vaausdcscw201\OS\Collections\GCL 99663 FOIA Democracy Forward Foundation\Batch 1 Online 3
\Carolyn Clancy\Carolyn.Clancy@va.gov-4-AUG2017.pst:00000000169a53b6869479499b7aeb0fd23eec6104752600:
:0700648a544ca80745e8905488c62336022a31b15473fb8040713d00a3bc98660a5f

Reason: Attachment read error

Document ID: (b)(6)

Owner: O'Shea, Laura </o=va/ou=va martinsburg/cn=recipients/cn=vacoosheal>

Filename: FACA press release FINAL.DOCX

Last Modified: Fri Oct 20 12:45:37 CDT 2017

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Page 062 of 134

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of the Freedom of Information and Privacy Act

Document ID: (b)(6)

From: Davis, Lynda </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacodavis11>
To: Bowman, Thomas </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=bowman, thomas61a>; Wright, Vivieca (Simpson) </o=va/ou=va martinsburg/cn=recipients/cn=vhacowrighv1>
Cc:
Bcc:
Subject: RE: Dinner for FACA at Doles
Date: Fri Oct 13 2017 15:38:40 CDT
Attachments:

Great! You will get the invitation soon.

Lynda C. Davis, Ph.D.
Chief Veterans Experience Officer
Department of Veterans Affairs

Sent with Good (www.good.com)

From: Bowman, Thomas
Sent: Friday, October 13, 2017 1:22:22 PM
To: Wright, Vivieca (Simpson); Davis, Lynda
Subject: RE: Dinner for FACA at Doles

Wow...nice!

From: Wright, Vivieca (Simpson)
Sent: Friday, October 13, 2017 4:10 PM
To: Davis, Lynda; Bowman, Thomas
Subject: RE: Dinner for FACA at Doles

Thank you, I would love to.

From: Davis, Lynda
Sent: Friday, October 13, 2017 4:09 PM
To: Bowman, Thomas; Wright, Vivieca (Simpson)
Subject: Dinner for FACA at Doles

Thank you both for all your support for the Veterans Family, Caregiver and Survivor FACA whose first meeting will be October 23 and 24 in DC under the invitation of the Secretary and the leadership of Chairwoman Elizabeth Dole and Vice Chairman Sherman Gillian.

Senator Dole will be hosting a dinner for the committee on the evening of Sunday October 22nd for the FACA members and - a heads up for your pre planning (b)(5) you will be receiving an invitation or call from the Senator to also attend with the Secretary.

Again my appreciation, Lynda

Lynda C. Davis, Ph.D.
Chief Veterans Experience Officer
Department of Veterans Affairs

Sent with Good (www.good.com)

Document ID: (b)(6)

From: Bowman, Thomas </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=bowman, thomas61a>
To: Wright, Vivieca (Simpson) </o=va/ou=va martinsburg/cn=recipients/cn=vhacowrighv1>; Davis, Lynda </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacodavisl1>
Cc:
Bcc:
Subject: RE: Dinner for FACA at Doles
Date: Fri Oct 13 2017 15:22:22 CDT
Attachments:

Wow...nice!

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Sent: Friday, October 13, 2017 4:10 PM
To: Davis, Lynda; Bowman, Thomas
Subject: RE: Dinner for FACA at Doles

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Lynda C. Davis, Ph.D.
Chief Veterans Experience Officer
Department of Veterans Affairs

Sent with Good (www.good.com)

Document ID: (b)(6)

From: Wright, Vivieca (Simpson) </o=va/ou=va
martinsburg/cn=recipients/cn=vhacowrighv1>
To: Davis, Lynda </o=va/ou=exchange
administrative group
(fydibohf23spdlt)/cn=recipients/cn=vacodavisl1>; Bowman, Thomas
</o=va/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=bowman, thomas61a>
Cc:
Bcc:
Subject: RE: Dinner for FACA at Doles
Date: Fri Oct 13 2017 15:10:15 CDT
Attachments:

Thank you, I would love to.

From: Davis, Lynda
Sent: Friday, October 13, 2017 4:09 PM
To: Bowman, Thomas; Wright, Vivieca (Simpson)
Subject: Dinner for FACA at Doles

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Again my appreciation, Lynda

Lynda C. Davis, Ph.D.
Chief Veterans Experience Officer
Department of Veterans Affairs

Sent with Good (www.good.com)

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of the Freedom of Information and Privacy Act

Document ID:

(b)(6)

From:

(b)(6)

on

behalf of Clancy, Carolyn </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vhacoclancc>

To:

Cc:

Bcc:

Subject: VFCSAC Charter Inaugural Committee Meeting

Date: Fri Oct 06 2017 11:26:29 CDT

Attachments: Agenda October 23 and 24.docx
FACA press release FINAL.DOCX
rev2sp_10.23.17 Caregiver FACA - Clancy.pdf

StartTime: Mon Oct 23 12:00:00 Central Daylight Time 2017

EndTime: Mon Oct 23 12:45:00 Central Daylight Time 2017

Location: Room 230

Invitees:

Recurring: No

ShowReminder: No

Accepted: No

Document ID: (b)(6)

Owner: (b)(6) </o=va/ou=exchange administrative group (fydibohf23spdlt) /cn=recipients/cn: (b)(6) n behalf of Clancy, Carolyn </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vhacoclancc>
Filename: Agenda October 23 and 24.docx
Last Modified: Fri Oct 06 11:26:29 CDT 2017

Agenda – October 23-24, 2017

DAY ONE: October 23, 2017		
9:05am-9:10am	Call to Order	Dr. Lynda Davis, VA Chief Experience Officer Ms. Christine Merna, Designated Federal Official (DFO)
9:10am-9:15am	Introduce Secretary of Veterans Affairs	Dr. Lynda Davis
9:15am-9:30am	Opening Remarks, Secretary of Veterans Affairs	Hon. David J. Shulkin, M.D.
9:30am-9:40am	Opening Remarks, Committee Chair	Hon. Elizabeth Dole
9:40am-10:10am	Member Introductions	Committee Members
10:10am-10:30am	Presentation of Certificates and Group Photo	Dr. Lynda Davis Ms. Christine Merna
10:30am-11:15am	Ethics training	Ms. Carol Borden, Deputy Ethics Official, VA Office of General Counsel
11:15am-11:25am	Advisory Committee Management Office, Committee Training	Mr. Jeffrey Moragne, Director, VA Advisory Committee Management Office
11:25pm-12:00pm	Opening Remarks, VA Chief Veterans Experience Officer	Dr. Lynda Davis, VA Chief Veterans Experience Officer
12:00pm-1:00pm	Lunch	
1:00pm-1:45pm	Overview of VA Veterans Health Administration (VHA)	Dr. Carolyn Clancy, Executive In Charge, VHA
1:45pm-2:30pm	Overview of VA Veterans Benefits Administration (VBA)	Ms. Cheryl Flohr, Deputy Director, Pension and Fiduciary Service Mr. James Ruhlman, Assistant Director for Policy and Procedures, Education Service
2:30pm-2:45pm	Break	
2:45pm-3:15pm	Overview of VA National Cemetery Administration (NCA)	Mr. Ron Walters, Interim Under Secretary for Memorial Affairs
3:15pm-4:30pm	Facilitated Work Group Activity	Committee Members – small groups, facilitators, and DFOs
4:30pm-5:00pm	Report Out	Committee Members

DAY TWO: October 24, 2017		
9:05am-9:05am	Call to Order	Hon. Elizabeth Dole
9:05am-9:30am	Public Comment	Members of the Public who have registered to speak (limit 5 minutes per person)
9:40am-9:55am	VA Geriatric and Gerontology Advisory Committee	Rear Admiral W. Clyde Marsh, Chair Dr. Kenneth Shay, DFO
10:00am-10:10am	VA Office of Survivor Assistance	Ms. Moira Flanders, Director, VA Office of Survivor Assistance
10:10am-12:00pm	Committee Facilitated Discussion	Committee Members and Facilitators
12:00pm-1:00pm	Lunch	
1:00pm-1:15pm	Committee Charge	Hon. Elizabeth Dole
1:15pm-2:00pm	Small Group Facilitated Discussion	Committee Members and Facilitators
2:00pm	Adjourn	

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Filename: FACA press release FINAL.DOCX

Last Modified: Fri Oct 06 11:26:29 CDT 2017

Page 074 of 134

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Filename: rev2sp_10.23.17 Caregiver FACA - Clancy.pdf
Last Modified: Fri Oct 06 11:26:29 CDT 2017



Carolyn M. Clancy, MD
Executive In Charge, Veterans Health Administration (VHA)

*Working to Improve Services for
Veteran-Families, Caregivers and Survivors*

Committee Briefing
October 23, 2017

A Strong System for Our Nation's Veterans

- **VHA employs over 306,000 full-time staff, plus:**
 - More than **15,000** affiliated medical faculty
 - More than **73,000** volunteers
 - More than **127,000** health professions trainees

- **VHA has 1,700 points of care, including:**
 - More than **160 VA medical centers**
 - More than **1,000 outpatient sites of care**, e.g., community clinics
 - More than **300 Vet centers** (including mobile units and support)

WE ARE the LARGEST integrated health system

We Are Veterans, Serving Our Veterans



Today...

- **VHA employs over 100,000 Veterans**
- **Serving 9+ Million Enrolled Veterans**

Timely Services For Veterans and Their Families, Caregivers, and Survivors



“Everything depends on execution; having just a vision is no solution.”

– Stephen Sondheim

Prioritizing Veterans And Those That Support Them



**Putting
Veterans
at the
center of
their care**

Leveraging 3 “C’s” to Achieve Excellence in Delivery of Care



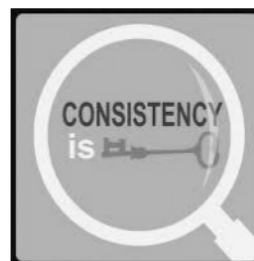
Outperforming Others in Quality Across the VHA System

Providing the right care at the right place at the right time, **every** time.

The VA outpatient care has consistently **outperformed** non-VA outpatient care, on nearly all quality measures.

Out of 47 Outpatient Measures:

VA BETTER	45
VA SAME	2
VA WORSE	0



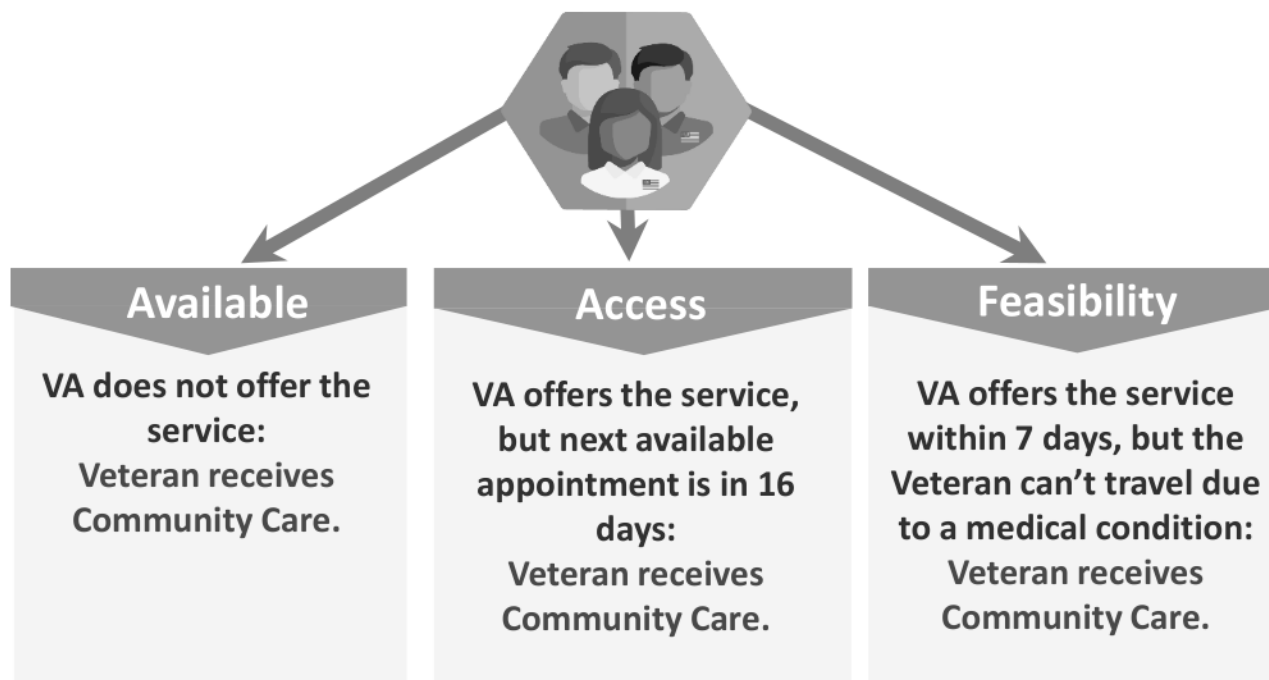
Preparing to Provide Greater Choice: Veteran CARE Program

Clinically based decisions on when and where Veterans receive care, always involving the Veteran and their provider.



Where Our Veterans Will Receive More Flexibility

Example: A 68-year-old Veteran needs a cardiology appointment in the next 7 days:



Increasing Our Reach Through VA Anywhere to Anywhere



- **> 9 Million episodes of Telehealth**
- **> 700,000 Veterans using Telehealth**
- **> 336,000 Tele-Mental health visits**
- **> 5000 Tele-ICU patients**
- **NOW – VA Providers can care for our VA patients, across state lines!**

Improving Engagement and Usability with Innovative Tools

- mobile.va.gov/appstore
- 36 VA mobile apps
 - National Release – 23
 - Field Testing - 13
- Links to commercial app store and direct links to mobile apps
- Training materials
- App user feedback

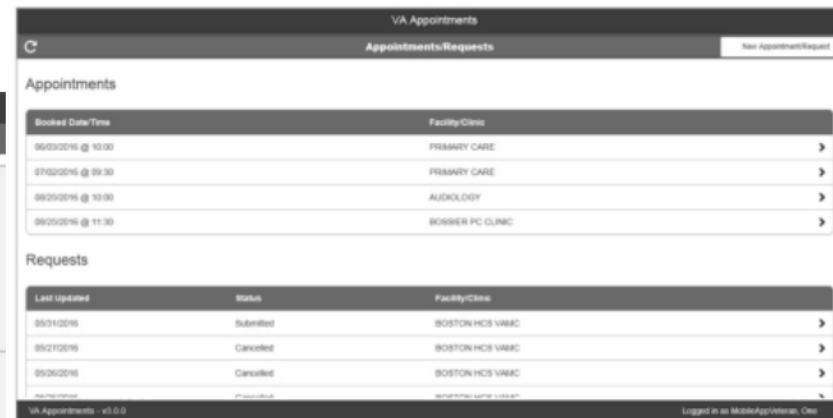
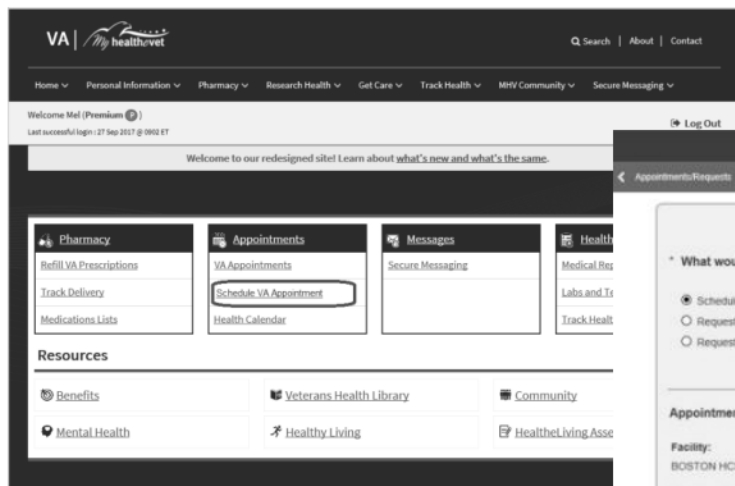


Making Things Easy for Veterans and Those There For Them



Veteran Appointment Request

- Self-schedule primary care appointments and request assistance in booking other appointment types.
- See details for pending, confirmed, and upcoming appointments.
- Communicate with schedulers – receive updates and more.
- At 100 VA Medical Centers – finalizing integration w/ MyHealtheVet



Relieving Wait-Times: Seeing Patients Faster Than the Private Sector

Average Physician Appointment Wait Times in the Private Sector



According to the 2017 Merritt Hawkins (MH) Survey of Appointment Wait Times, average wait times in the private sector grew by 30% (since 2014) in large markets.

VA has maintained shorter/better wait times in all specialties measured by the MH survey. In some cases, **VA is over 40% better** than all surveyed specialties, in both Large/Mid-Sized Markets. This is GREAT news for the VA!

Specialty	VA NATIONAL	MH Large Markets	MH Mid-Sized Markets
Cardiology	18.3 days	21.1 days	32.3 days
Dermatology	18.1 days	32.3 days	35.1 days
Obstetrics/Gynecology	23.0 days (Gyn only in VA)	26.4 days	23.1 days
Orthopedics	20.8 days	11.4 days	15.0 days
Family Practice	17.0 days (VA Prim Care)	24.1 days	32.0 days

And Saving Lives of Veterans and Others in Crisis or Need

VA is providing mental health service to **Other than Honorable** (OTH) Veterans --- same day -- - and for up to 90 days of treatment.

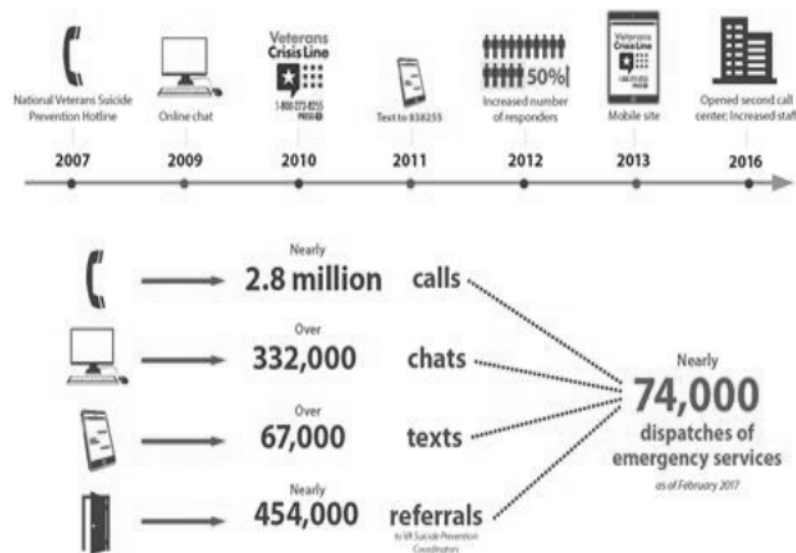
The **VA Suicide Prevention and Mental Health** program offices are consolidated into a single operating unit - with a single goal.

Veterans Crisis Line (VCL) is saving more lives - fielding ~2,000 calls daily.

- Improving wait times (calls are answered in under 8 seconds)
- New 3rd Facility is opening in the next few months – to serve more Veterans, faster.

VA requires all staff to receive **S.A.V.E.** training

Veterans Crisis Line: 9 years of saving lives



Finding the Right Place, For the Right Care, at the Right Time

Veterans who reported they were Always or Usually able to get an appointment when needed for Primary Care (Routine)

FACILITY NAME	DISTANCE IN MILES	PERCENT OF VETERANS
A. Washington VA Medical Center 202-745-8000 50 Irving Street, Northwest Washington, DC 20422 Show Less Show on Map	2	77 %
B. Southeast Washington VA Clinic 202-745-8685 820 Chesapeake Street, Southeast Washington, DC 20032 Show Less Show on Map	5	77 %
C. Southern Prince George's County VA Clinic 301-423-3700 5801 Allentown Road Camp Springs, MD 20746 Show Less Show on Map	10	83 %
D. Fort Belvoir VA Clinic 571-231-2408 9300 Dewitt Loop Fort Belvoir VA 22060	15	74 %

Site Name	NPI	ICD-9-CM	ICD-10-CM	ICD-9-CM	ICD-10-CM	ICD-9-CM	ICD-10-CM	ICD-9-CM	ICD-10-CM
Subaru Chicago	1970	12.801	0.80	84	17.5	2.000	12.801	0.80	84
Subaru Lincoln	24	0.12	0.12	88	12	12	0.12	0.12	88
Regional Average	0.48	0.82	0.81	81	15	14	0.48	0.82	81
Regional Value	0.48	0.81	0.80	80	16	14	0.48	0.81	80
National Top 10 Percent	0.68	0.88	0.88	88	20	16	0.68	0.88	88
National Top 25 Percent	0.60	0.80	0.80	80	17	16	0.60	0.80	80
Subaru VA Medical Center	235	0.80	0.80	87	14.000	13.801	0.80	0.80	87
ICD-9-CM	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available
DEFENDERS HEALTHCARE READY GROVE MEDICAL CENTER	224	1.24	0.85	85	14	14	1.24	0.85	85
CONVA NATIONAL MEDICAL CENTER	0.48	1.01	0.80	80	14	14	1.01	0.80	80
ARKOKE LAKE WALKER SERVICES	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available
CALVERT GEORGETOWN HOSPITAL	1.75	0.88	0.88	88	14	14	0.88	0.88	88
FORT BELVOIR HOSPITAL	1.00	0.80	0.80	80	16	14	0.80	0.80	80
FREDERICK MEDICAL HOSPITAL	0.80	0.79	0.80	80	16	14	0.79	0.80	80
GEORGE VA MEDICAL CENTER HOSPITAL	1.52	2.30	0.82	82	17	16	2.30	0.82	82
HOLY CROSS GERIATRIC HOSPITAL	0.80	0.80	0.80	80	16	14	0.80	0.80	80
HOSPITAL FOR SPECIAL SURGERY	1.78	0.84	0.84	84	17	16	0.84	0.84	84
HOSPITAL GEORGETOWN UNIVERSITY HOSPITAL	1.34	1.04	0.81	81	16	14	1.04	0.81	81
HOSPITAL SAINT MARTINUS HOSPITAL	1.13	0.81	0.81	81	14	14	0.81	0.81	81
HOSPITAL SOUTHERN LEANING HOSPITAL CENTER	1.96	0.88	0.88	88	16	14	0.88	0.88	88

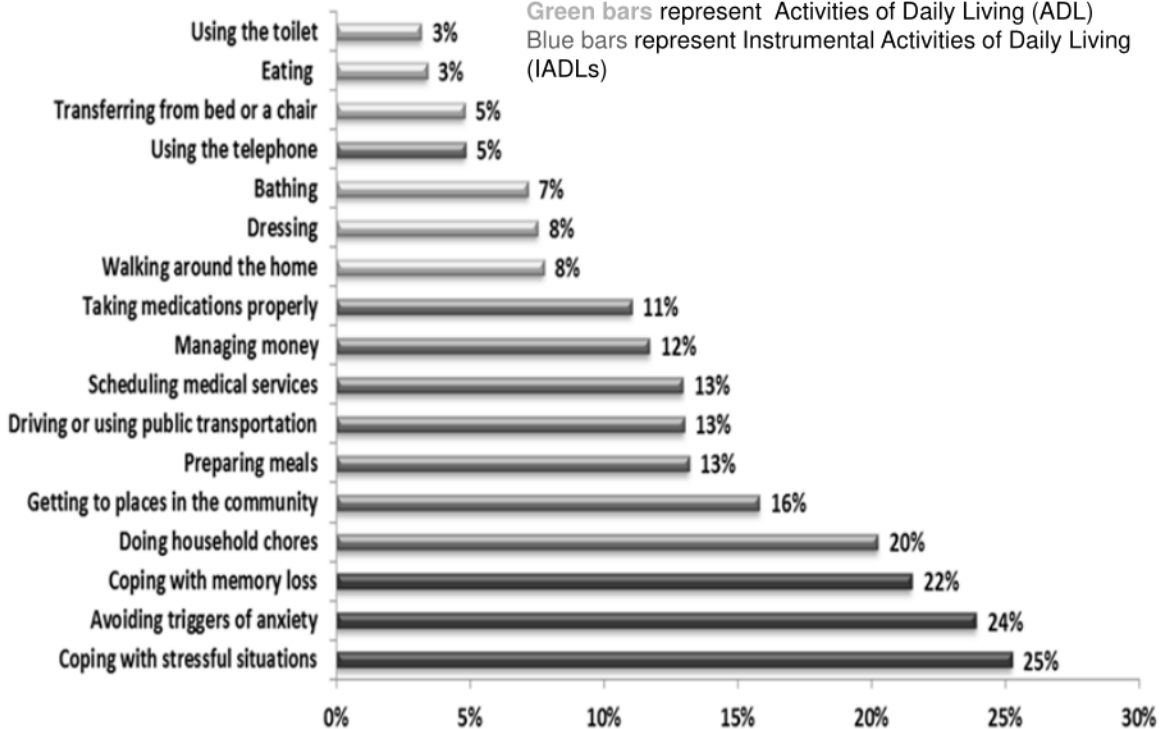
Improving Services and Support For The “Unsung” Heroes

Family
Families
Grandparents
Compassion
Grandkids
Caregiver
Grandchildren
Caring
Supporters
Supporter
Compassionate
Empathy
Caregivers
Veteran
Widow
Widower
Love
Parents
Spouses
Children
Care Survivor
Groups
Support
Survivors
Veterans

Focusing on Those, There for Our Veterans – VHA Force Multiplier

Required Assistance for Basic Activities

Red bars represent cognitive needs
 Green bars represent Activities of Daily Living (ADL)
 Blue bars represent Instrumental Activities of Daily Living (IADLs)



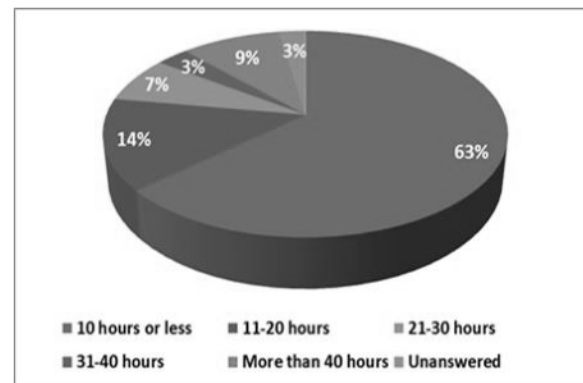
Of the estimated **2.4 million enrollees** (27%) receiving any assistance with daily living activities, most (**63%**) receive **10 hours or less assistance per week.**

VETERANS HEALTH ADMINISTRATION

Source: 2016 Survey of Enrollees

Who is caring for enrolled Veterans? (n=2,385,358)

Spouse	59%
Adult Child	26%
Friend or Neighbor	20%
Brother or Sister	10%
Parent	9%



Delivering Services that Support Families and Caregivers

In-Home Care

- Skilled Nursing
- Home Health Aide
- Home Based Primary Care
- Veteran Directed Home & Community Based Care

Respite Care

Services to Address Mobility

- Equipment
- Home Modification
- Automobile Modification

Education and Training

Financial Support

- Aid and Attendance
- Caregiver Stipend (Post 9-11)

Information and Referral

- Caregiver Web site: www.caregiver.va.gov
- Caregiver Support Line: **1-855-260-3274** (LCSW staffed; over 250,000 calls received)

Caregiver Support

- Caregiver Support Coordinators
- Peer Support Mentoring Program
- Building Better Caregivers™
- Spouse Telephone Support
- REACH VA
- Support Groups



Improving the Front Lines for Caregivers and Supporters

- Located at each VA medical center
- Clinical experts on caregiver issues about VA and non-VA resources
- Organize Caregiver focused activities and services
 - National Family Caregivers Month (November)
- Ensure Caregiver sensitivity is integrated into all programs
- Provide National Caregiver Support Line follow-up



Providing Comprehensive Assistance and Support

- Clinical Program, providing the following additional services to family caregivers of eligible Veterans injured in the line of duty on or after September 11, 2001:
 - Stipend
 - Enrollment in CHAMPVA
 - Mental Health
 - Beneficiary Travel
 - Education and Training
 - Additional respite
- Program participation **must**:
 - Be in the clinical best interest of the Veteran
 - Support the Veteran's progress in treatment



General Caregiver Support for Those Who Care for Veterans

- Clinical Program, providing the following services to caregivers of Veterans enrolled in VA health care
 - Regardless of era of service or reason for requiring a caregiver
 - Training and Education
 - Diagnosis Specific Programs for Caregivers
 - Caregiver Support Line
 - Caregiver Support Program Website
 - Email Listserv



Connecting Caregivers and Supporters with Info they Need

- Provides zip based interactive Caregiver Support Coordinator locator
- Contact info for Support Line
- “Caregiver Toolbox”
- Caregiver “connections” with stories from peer Caregivers
- Link to application for benefits / services with live chat support
- Caregivers and Veteran Videos
- Averaging **over 1,000 hits per day** with 3 pages viewed during a visit



www.caregiver.va.gov

**And Continuing to Make VHA
Better – Every Day**

THANK YOU

Document ID:

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From:

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To:

Ballesteros, Mark </o=va/ou=va
martinsburg/cn=recipients/cn=vacoballem>; Bayard, Dave
</o=va/ou=va martinsburg/cn=recipients/cn=vacobayard>; Blaha,
Lydia B. </o=va/ou=exchange administrative group
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Lewis, VBAVACO </o=va/ou=vba
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Doug </o=va/ou=va martinsburg/cn=recipients/cn=vacocarmod>;
Carr, Robert (Mike), VBAVACO </o=va/ou=vba
philadelphia/cn=recipients/cn=caprcarr>; Jon.Coen2@va.gov
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martinsburg/cn=recipients/cn=(b)(6)

Bcc:

Subject: News Release - U.S. Department of Veterans Affairs Announces Formation of New Veterans' Family, Caregiver, and Survivor Advisory Committee; Names Senator Elizabeth Dole Chair

Date: Mon Oct 02 2017 13:52:19 CDT

Attachments: FACA press release FINAL.docx
image001.png

The news release attached and below will be issued today at 3:35 p.m. Please make appropriate notifications.

(b)(6)

Dept. of Veterans Affairs

Office of Public and Intergovernmental Affairs

810 Vermont Ave., NW

Washington, DC 20420

Tel. 202-461-5845

(b)(6)@va.gov

VA ceased to be named the Veterans Administration on March 15, 1989 when President Ronald Reagan elevated it to a Cabinet level department.

At that time, VA became the Department of Veterans Affairs.

U.S. Department of Veterans Affairs Announces Formation of New Veterans' Family, Caregiver, and Survivor Advisory Committee; Names Senator Elizabeth Dole Chair

Committee to focus awareness and action on the needs

of military families and caregivers, as well as the veterans they support

WASHINGTON — Today the U.S. Department of Veterans Affairs (VA) announced the formation of the Veterans' Family, Caregiver, and Survivor Federal Advisory Committee as part of VA Secretary David Shulkin's commitment to supporting our nation's Veterans and those who care for them,.

The new Committee will be chaired by former U.S. Senator Elizabeth Dole, a noted advocate for military caregivers, and the founder of the Elizabeth Dole Foundation and the Hidden Heroes Campaign, both of which regularly collaborate with the VA on issues related to military caregiving.

"The VA is committed to the delivery of highest quality care and support to our Veterans, and recognizes the essential role their families, caregivers, and survivors have every day," said Secretary Shulkin. "Senator Dole is an accomplished and experienced advocate for Veterans' caregivers I am honored that she will Chair this landmark Committee."

The Committee will advise the Secretary, through the Chief Veterans Experience Officer, on matters related to Veterans' families, caregivers, and survivors across all generations, relationships, and Veteran status, with a focus on gaining a better understanding of the use of VA care and benefits services, and factors that influence access, quality, and accountability for those services. A key element of the committee's work will be to engage Veteran family members, research experts, and family service providers as a way to better understand their needs and identify ways VA can continue to support them in the best possible way.

"Military families, caregivers, and survivors are truly our nation's hidden heroes, and make great sacrifices each and every day on behalf of their loved ones, so we must do more to support them on their journey. VA, under Secretary Shulkin's leadership, is stepping up at a time of tremendous need and opportunity," said Senator Elizabeth Dole, herself a caregiver to her husband, former U.S. Senate Majority Leader Robert J. Dole, a World War II veteran injured in combat. "I am proud to serve as chair of such a critical committee, alongside some of the nation's top voices on the issues that affect Veterans and their families."

Serving alongside Senator Dole on the committee will be Mr. Sherman Gillums (Vice Chair), Ms. Mary Buckler, Ms. Bonnie Carroll, Ms. Melissa Comeau, Ms. Harriet Dominique, Ms. Jennifer Dorn, Ms. Ellyn Dunford, Dr. Robert Koffman, Lt. Gen. (U.S. Army, Ret.) Mike Linnington, Mr. Joe Robinson, Ms. Elaine Rogers, Brig. Gen. (U.S. Army, Ret) Dr. Loree Sutton, Mr. Francisco Urena, Ms. Shirley White, Ms. Lee Woodruff, and Ms. Lolita Zinke.

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Filename: FACA press release FINAL.docx
Last Modified: Mon Oct 02 13:52:19 CDT 2017

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Filename: image001.png
Last Modified: Mon Oct 02 13:52:19 CDT 2017

image001.png for Printed Item: 17 (Attachment 2 of 2)

VA



U.S. Department
of Veterans Affairs

News Release

Office of Public Affairs
Media Relations

Washington, DC 20420

Page 109 of 134

www.va.gov

Document ID:

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From:

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martinsburg/cn=recipients/cn=vacocarrib> on behalf of Bowman,
Thomas </o=va/ou=exchange administrative group
(fydibohf23spdlt)/cn=recipients/cn=bowman, thomas61a>

To:

Bowman, Thomas </o=va/ou=exchange
administrative group (fydibohf23spdlt)/cn=recipients/cn=bowman,
thomas61a>

Cc:

Bcc:

Subject: SECVA Mtg w/Senator Eliz Dole, Caregiver at Home Initiative

Date: Fri Sep 29 2017 06:42:59 CDT

Attachments: Briefing memo template for Secretary and Senator Dole 9.29.17.docx
FACA press release.docx
Moonshot - ChooseHome COE Overview 9.28.17 LD.PPTX

StartTime: Fri Sep 29 10:00:00 Central Daylight Time 2017

EndTime: Fri Sep 29 11:00:00 Central Daylight Time 2017

Location: SECVA Suite

Recurring: No

ShowReminder: No

Accepted: No

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behalf of Bowman, Thomas </o=va/ou=exchange administrative group (fydibohf23spdlt)
/cn=recipients/cn=bowman, thomas61a>

Filename: Briefing memo template for Secretary and Senator Dole 9.29.17.docx

Last Modified: Fri Sep 29 06:42:59 CDT 2017

Briefing Memorandum Template

TO: Dr. David Shulkin

FROM: Dr. Lynda Davis

RE: Meeting with Senator Elizabeth Dole

DATE: 9/29/18

TIME: 11:00 a.m.
10:50am.

CONTACTS: Dr. Lynda Davis and Jason Thomas and Anna Schuster

OVERVIEW

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(b)(5)

ABOUT THE ORGANIZATION

The Elizabeth Dole Foundation is a non-profit organization

RELEVANT BIOS

(b)(5)

BACKGROUND OF ORGANIZATION/GROUP

VA'S SUPPORT OF THE ORGANIZATION

VA supported the Elizabeth Dole Foundation Caregiver Summit last year.

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Filename: FACA press release.docx

Last Modified: Fri Sep 29 06:42:59 CDT 2017

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Page 117 of 134

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Filename: Moonshot - ChooseHome COE Overview 9.28.17 LD.PPTX
Last Modified: Fri Sep 29 06:42:59 CDT 2017



VA's Moonshot Initiative - Choose Home

The Center of Excellence for Veteran Family/Caregivers

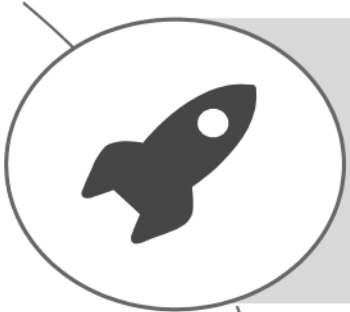
Overview - September 29, 2017



VA's Moonshot Initiative – Choose Home

“... so that no Veteran has to leave home” VA Secretary David Shulkin

VISION



VA will **enable aging and disabled Veterans and Family Caregivers to** achieve their desire to ***Choose Home**** for their care, benefits and services through the delivery of highest quality, comprehensive, coordinated services in the communities in which they live.

MISSION



VA will launch an initiative to:

Create a personal, **comprehensive Choose Home Plan**

Identify home and community navigation pathways/networks for Veterans and Family Caregivers

Establish a **Center of Excellence**

GOALS



Enable Veterans and their Family Caregivers ***access to comprehensive care and benefits***

Help Veterans and Family Caregivers ***easily navigate services and programs*** inside and outside VA

Establish a ***Center of Excellence that disseminates knowledge*** into policy, practice, and innovations that allow Veterans to stay in their homes with assistance to the Family Caregivers who support them

The Center of Excellence (COE) for Veterans Family/Caregivers

Goal

Create and support a Center of Excellence (COE) that conducts, identifies and disseminates research, innovations and best practices to improve access to personal, comprehensive, highest quality care, benefits and services for Veterans, Family and Caregivers who choose to live at home.

Structure

1. Establish an internal VA Center of Excellence (COE) in collaboration with HSR&D and existing VA COEs and renown experts, particularly those of the Elizabeth Dole Foundation
 - Build on the current capacity of Caregiver Support Evaluation Initiative
 - Coordinate with VA research resources, e.g. GRECC, QUERI, Long-term Care COIN
2. Create a Research Advisory Board* from VA, non-profit organizations, private sector and academia to identify, prioritize and promote research on Veteran family/caregiver support issues
3. Led an Executive Order Interagency Task Force on Veteran Caregiver Support

COST: Research Advisory Board: honoraria, convening costs, communication/dissemination \$75,000/year (+ staff time); Research support: 5 grants @ \$50-\$100,000/year/grant (matching funds or stand-alone) Year 1: \$325K-\$575K; Year 3: \$825K-\$1.5M

Center of Excellence (COE) Veteran Family Caregiver Fellowships

About Fellowships

- Relatively easy to implement. No need for substantive ‘brick-and-mortar’ infrastructure (applicants/fellows based at their host institutions)
- Broad impact beyond a single site, facility or institution
- Legacy effect from train the trainer and/or launching an ongoing research portfolio beyond grant cycle
- Internal VA Fellowships (with legislation mandate/internal support) could be complemented by parallel process at academic institutions or Foundations with external funding.
- Collaborate with the Elizabeth Dole Foundation and others on curriculum development



Clinician Fellowship

A fellowship for clinicians (e.g., SW, geriatricians, PCPs, RNs) related to the development of services for the Veteran and family/caregiver



Clinical Researcher Fellowship

A fellowship for clinical researchers specializing in clinical case management and studying issues that may impact a Veteran and family/caregiver

Cost: VA would support Fellowships for employees through legislated/internal mechanisms; external funding for non-VA fellows.

**5 fellows @\$125k/yr (S+F) \$625K; Conferences/convening: \$100K/year; Total: \$725,000/year (rough estimate)

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From: Leinenkugel, Jake </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacoleinet>
To: Erwin, Mark T. </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacoerwinm>; Blackburn, Scott R. </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacoblacks1>; Ulyot, John </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacoulyoj>; Fureigh, Brandon </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacofureib>; Hutton, James </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=james.hutton>; Tallman, Gary </o=va/ou=va martinsburg/cn=recipients/cn=vacotallmg>; Davis, Lynda </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacodavis1>
Cc: Gough, James </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacogoughj2>; Selnick, Darin </o=va/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=vacoselnid>
Bcc:
Subject: RE: WH next Thursday
Date: Fri Apr 21 2017 04:40:28 CDT
Attachments:

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Sent with Good (www.good.com)

-----Original Message-----

From: Erwin, Mark T.
Sent: Thursday, April 20, 2017 10:47 PM Eastern Standard Time
To: Blackburn, Scott R.; Ulyot, John; Leinenkugel, Jake; Fureigh, Brandon; Hutton, James; Tallman, Gary
Cc: Gough, James
Subject: RE: WH next Thursday

Scott, your list of VSOs looks solid.

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(b)(5)

(b)(5)

Mark

-----Original Message-----

From: Blackburn, Scott R.

Sent: Thursday, April 20, 2017 04:30 PM Eastern Standard Time

To: Ulyot, John; Leinenkugel, Jake; Fureigh, Brandon; Hutton, James; Tallman, Gary

Cc: Erwin, Mark T.; Gough, James

Subject: RE: WH next Thursday

Sorry for just getting back now.

(b)(5)

(b)(5); (b)(6)

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From: Ullyot, John
Sent: Thursday, April 20, 2017 8:41 AM
To: Blackburn, Scott R.; Leinenkugel, Jake; Fureigh, Brandon; Hutton, James; Tallman, Gary
Subject: Re: WH next Thursday

Thanks very much Scott — this looks like a great outline reflecting the Secretary's intent from our meeting yesterday.

Looks like we have a number of next steps from your outline:

(b)(5)

(b)(5)

Thanks again,

John U.

From: "Blackburn, Scott R." <Scott.Blackburn@va.gov>
Date: Thursday, April 20, 2017 at 12:06 AM
To: "Leinenkugel, Jake" <Thomas.Leinenkugel@va.gov>, Department of Veterans Affairs Department of Veterans Affairs <john.ullyot@va.gov>, "Fureigh, Brandon" <Brandon.Fureigh@va.gov>, "Hutton, James" <James.Hutton@va.gov>

Subject: WH next Thursday

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Let me know what you think.

Scott

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of the Freedom of Information and Privacy Act

Document ID: (b)(6)

From: None
To: Marc Sherman <mbsherman@gmail.com>
Cc:
Bcc:
Subject: RE: [EXTERNAL] Re: FW: Follow ups
Date:
Attachments:

Thanks Marc. I appreciate all the help.

I spent this morning on Capitol Hill making sure the staff understands the logic behind the delay. I think we are in a good spot with them for now. Congressman Roe, as you predicted, gets it. Some of the others, less so...but we

From: Marc Sherman [mailto:mbsherman@gmail.com]
Sent: Thursday, December 21, 2017 9:27 AM
To: Blackburn, Scott R.
Subject: [EXTERNAL] Re: FW: Follow ups

All three of these items are actively in progress. I know they are all working on #1. On the third item, Bruce has identified multiple candidates and I will be talking to him later today and will get a more detailed update and get back to you.

On Wed, Dec 20, 2017 at 2:53 PM, Blackburn, Scott R. <Scott.Blackburn@va.gov> wrote:
Marc – I hope you are having a great week. I want to follow up on 3 things:

* Any progress on the punch-list of issues from the 5 CIOs? Is there anything I can do to help this along? The Secretary has been nagging me about this.

* Were you able to connect with Bruce and/or the 5 CIOs to see if anyone of them would be willing to help with a January external review of interoperability solutions? This is similar to the punch-list but will be more public. As I mentioned, MITRE will be helping put this together for us. The Office of American Innovation has given us a few suggestions that we will include. We have connected with Dr. Frank Opelka from the American College of Physicians and he will be working together with us on this.

* Any luck identifying an executive that would be willing to come on as a government employee? The Secretary has also been nagging me about this.

Thanks so much! I hope you are enjoying the holidays and will hopefully get some time off over the break.
Scott

From: Blackburn, Scott R.
Sent: Thursday, December 14, 2017 12:13 AM
To: Marc Sherman
Subject: Follow ups

Marc,

It was great meeting you in person earlier this week. Thank you so much for the offers to help. I really appreciate all that you and others are doing.

I just wanted to follow up on 3 items we discussed.

#1) Identifying an experienced executive willing to become a government employee ("insider") to help us drive this from the inside. As discussed, outside advisors/consultants can only do so much in government due to ethics laws, etc. We really need someone on the inside. The pay stinks (I took a pay cut from \$1m+ down to \$171k per year) and it is a pain in the neck – but also tremendously fulfilling. This person is really going to want to do it for the greater good. There are two options that could work.

* A Kurt Heyssel like executive that we could hire as a "India Pale Ale" (or whatever IPA stands for). This would be one of the 5 CIOs #2 or something like that.

* A former CIO that we can trust that doesn't need the money. We have the ability to quickly hire "experts" on a non-competitive basis. Again, the pay will stink so anyone looking for something fair/respectable need not apply. This will truly be "public service".

#2) The punch-list of issues that the 5 CIOs have volunteered. Do you think this is possible for us to get by the end of next week (December 22)? This would allow me to get our team to work on this over the holiday week and get a gap analysis done.

#3) A date in early January. If you can give me a date in early January, we will make it work. I will also work to make sure that we do this within FACA guidelines so we don't inadvertently break any rules.

Thanks again for all the support. On behalf of my fellow Veterans, it is very much appreciated.

Scott

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