

June 1993

FEDERAL EMPLOYMENT

Inquiry Into Sexual Harassment Issues at Selected VA Medical Centers





United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-253883

June 30, 1993

The Honorable Barbara Mikulski
Chair, Subcommittee on Veterans Affairs,
Housing and Urban Development,
and Independent Agencies
Committee on Appropriations
United States Senate

The Honorable John D. Rockefeller
Chairman, Committee on Veterans Affairs
United States Senate

On March 5, 1993, you asked us to determine the nature and extent of sexual harassment in the Department of Veterans Affairs (VA) medical centers. Your request followed a highly publicized VA Inspector General report of serious sexual harassment offenses at the Atlanta Medical Center. Among other things, you asked us to provide information on sexual harassment at VA in time for it to be considered during the Department of Veterans Affairs' Senate appropriations hearing, scheduled for May 27, 1993.

We briefed staff from the Senate Subcommittee on Veterans Affairs, Housing and Urban Development, and Independent Agencies, and senior VA officials on the results of our visits on May 25, 1993, and provided a brief summary of our observations for use at VA's appropriations hearing. This report provides additional details on our observations and analysis.

Scope and Methodology

To meet the requested time frame, we agreed to (1) continue reviewing the closed complaints of sexual harassment at VA that we reported in a March 1993 testimony on VA sexual harassment,¹ (2) obtain information from VA about the number of formal complaints of sexual harassment currently being processed, (3) visit as many VA medical centers as feasible and assess whether sexual harassment appeared to be prevalent at those centers, and (4) review the VA medical centers' handling of sexual harassment complaints.

¹Federal Employment: Sexual Harassment at the Department of Veterans Affairs (GAO/T-GGD-93-12, Mar. 30, 1993).

Between April 26 and May 14, 1993, we visited 12 VA medical centers in 12 states (see app. I for a list of the cities in which facilities we visited were located). We judgmentally selected these medical centers to achieve (1) geographic representation, (2) a mix of larger and smaller centers, and (3) a mix of centers with known problems and those where few problems had been reported. Our selection was also largely influenced by the availability of nearby GAO regional office staff who could be made available on very short notice and were knowledgeable about equal employment opportunity (EEO) complaint processes and the sensitivities of sexual harassment complaints.

For each visit, we met with key officials responsible for the management of the medical center and for the implementation of VA's responsibility to investigate and resolve EEO complaints, including complaints of sexual harassment. We also met with representatives of VA employee groups (e.g., officials of unions, women's groups, and nurses' associations) and with individual employees. In all, we identified and interviewed about 260 officials and employees.

In addition, with VA's assistance, we invited all employees at each center to bring to our attention their concerns about instances of sexual harassment that they believed had occurred during the past 2 years, whether or not the allegations had resulted in informal or formal complaints. We provided off-site telephone numbers and contact locations for employees to use if they did not wish to make VA aware of their complaints, and we agreed to consider such contacts to be confidential.

Our visits were limited to about 1 week at each medical center, and we did not investigate the allegations brought to our attention. As a result, we could not take a position on the validity of specific allegations of sexual harassment, nor did we consider it appropriate to identify individual facilities in discussing the conditions we observed. It should also be noted that our observations could not be generalized beyond the 12 centers we visited. However, because we observed similar problems at many of the centers, we believe our observations point to issues that warrant VA's attention.

We did our work between March 1993 and June 1993 in accordance with generally accepted government auditing standards.

Results in Brief

VA's Office of Equal Employment Opportunity (OEEO) records showed 1 or more sexual harassment complaints at 109 of its 171 medical centers during fiscal year 1992. However, the number of reported complaints may not be a reliable indicator of the extent to which sexual harassment problems exist within a particular facility. At the Atlanta Medical Center, for example, no complaints were reported, but the facility was later found to have serious sexual harassment problems.

The allegations we received at the centers we visited involved a range of behaviors including but not limited to such actions as making sexual innuendos, pressure for dates, touching, and pressure for sex. Although the total number of complaints and allegations of sexual harassment was small when compared to the numbers of employees at VA, the potential for incidents of sexual harassment appeared to be greater at some centers than at others.

On the basis of a combination of factors, including concerns employees expressed to us about fear of reprisal, the procedures used by the centers to handle sexual harassment complaints, the extent and level of perceived sexual harassment, and the extent to which allegations of sexual harassment were reported to us but not to VA, it appeared to us that 3 of the 12 centers had more difficulty dealing with sexual harassment-related problems than did the others. At six centers, problems did not appear to us to be as prevalent, but we found some areas that warranted attention, including evidence of lack of trust in management, fear of reprisal, or concerns about EEO complaint processing. At the remaining three centers, no allegations of sexual harassment were reported to us that were not already known to VA, complaints appeared to have been resolved promptly, and employees expressed confidence that complaints could be made without fear of reprisal and that management would handle them appropriately.

Alleged incidents of sexual harassment are underreported under VA's current system. At six centers, complaints were addressed using administrative processes, such as administrative review boards or union grievance processes, to either supplement or replace the EEO complaint process. Although alternative methods of resolution may be appropriate in some cases, complaints outside the EEO process are not reported to VA headquarters. Moreover, employee rights under EEO laws may be compromised when alternative processes are used. We also observed other problems with complaint processing at some centers. For example, employees did not always fully understand what process was being used,

posted EEO information was sometimes out of date, the required number of EEO counselors were not always appointed, and counselors were not always available during all work shifts.

During our visits to medical centers, we found that communications intended for all employees did not always reach them. Our letter to employees, which was distributed through the VA distribution system, did not reach all employees at 7 of the 12 centers we visited. While VA cooperated in our efforts to overcome this problem for our study, this situation may be symptomatic of a broader communications problem warranting VA attention. Also, we were told at several centers that it would be difficult to provide 4 hours of mandatory training on sexual harassment called for by the Secretary of Veterans Affairs because of logistical problems of releasing employees for this amount of training. Concern was especially prevalent for the night shifts, where staffing is thin.

The Secretary of Veterans Affairs has issued several communications to employees and managers since January 1993 that expressed his commitment to "zero tolerance" for sexual harassment. He said that reprisals should not be taken against employees who make sexual harassment and other EEO complaints and that agencywide training on sexual harassment would be mandatory.

VA officials expressed full agreement with the conclusions and recommendations in this report. After VA officials were briefed on the results of our work, the Secretary required a center-by-center assessment of the handling of sexual harassment at all VA centers based in large part on our observations.

Background

Title VII of the Civil Rights Act of 1964, as amended, and the Civil Service Reform Act of 1978 provide that federal employees should receive fair and equitable treatment in employment without regard to, among other things, gender and marital status. Sexual harassment, as distinguished from the gender discrimination prohibited under the civil rights and employment laws, was initially defined as unacceptable conduct in regulations issued by the Office of Personnel Management in 1979.

In 1980, the Equal Employment Opportunity Commission (EEOC) issued regulations stating that sexual harassment was an unlawful employment practice. Subsequent case law has clarified that unlawful sexual harassment exists when unwelcomed sexual advances, requests for sexual

favours, and other verbal or physical conduct of a sexual nature are committed as a condition of employment or basis for employment action (quid pro quo) or when this conduct creates a hostile working environment. A key word is "unwelcomed," because unlawful sexual harassment may exist when the target of the conduct perceives that he or she is being harassed, whether or not the perpetrator intended to create a hostile environment. EEOC issued revised guidelines for processing EEO complaints, including complaints of sexual harassment, that became effective in October 1992.

Prior to January 1993, VA had largely decentralized its process for processing EEO complaints to the medical centers and other work units. This decentralization further highlighted concerns about whether the investigation and resolution of EEO complaints were sufficiently independent of the management of the centers, especially when high-level officials were alleged to be harassers. Those concerns led the House of Representatives to pass legislation proposed by the House Committee on Veterans Affairs (H.R. 1032) to establish a complaint investigation and processing capability in VA that would be independent of operating units such as its medical centers.

In one of his first acts after taking office, the Secretary of Veterans Affairs issued a letter to all employees declaring that sexual harassment would not be tolerated. He also curtailed the decentralization of complaint processing, required that all sexual harassment complaints be reviewed by higher level officials, and stipulated that investigators be appointed by VA headquarters EEO officials.

Complaints of Sexual Harassment Occurred at Many VA Medical Centers

VA records showed that 85 formal² sexual harassment complaints were processed and closed from fiscal year 1989 through fiscal year 1992 at 59 medical centers. At the request of the Chairman, Subcommittee on Oversight and Investigations, House Committee on Veterans Affairs, we examined the records for 30 of these cases and testified on the results of our review before the Committee on March 30, 1993.

We reported that one-third of the cases we reviewed were settled by agreement and almost one-third were rejected for failure to follow procedures, such as failing to see an EEO counselor within 30 days of the alleged incident. We also reported that complaints appeared to be handled

²An allegation is considered to be a formal complaint when the complainant decides to have the agency investigate and decide upon the merits of the allegation. Up to that point, allegations discussed between a complainant and an EEO counselor are considered to be informal.

inconsistently, that files and records were incomplete, and that long delays occurred in the assignment of investigators and in the completion of counseling and investigation activities.

VA records also showed that in fiscal year 1992, there were at least 250 informal and 43 formal EEO complaints involving sexual harassment at 109 of its 171 medical centers. Many of the centers had only 1 or 2 complaints, while others had up to 13 complaints. It is unclear whether larger numbers of complaints indicate a more serious problem than smaller numbers, because a larger number of complaints could arise if management is willing and open about dealing with them. It is noted, for example, that there were no complaints reported at the Atlanta Medical Center, although a VA Inspector General investigation found widespread and egregious sexual harassment had been ongoing at that center for several years.

The numbers of formal complaints are relatively small when compared to the number of employees (about 205,000) at VA medical centers; however, formal complaints may reflect only a small portion of sexual harassment experienced. In 1988, the Merit Systems Protection Board issued the results of its most recent governmentwide survey of sexual harassment, which found that in 1987, VA ranked second among major agencies in the extent to which females perceived sexual harassment and first among males. According to the survey projections, 49 percent of VA's female employees and 21 percent of its male employees perceived some form of sexual harassment during 1987.

A Range of Sexual Harassment Issues Surfaced at 12 Medical Centers Visited

At the 12 medical centers we visited, we explored a number of issues related to sexual harassment and the handling of complaints of sexual harassment. These issues included (1) formal and informal complaints filed, including evidence of multiple allegations against an alleged harasser and whether high-level officials were alleged to be harassers; (2) how complaints were processed; (3) availability and training of EEO counselors; (4) employee perceptions about management's willingness to deal with complaints and whether employees felt a fear of reprisal or lack of trust in management; and (5) whether allegations of sexual harassment that had not been reported to VA were brought to our attention.

Employees at the 12 centers we visited raised about 70 formal and informal sexual harassment complaints and discussed an additional 27 allegations of sexual harassment with us that had not been previously disclosed. Sexual harassment allegations made by these employees

involved a range of behaviors, including supervisors who requested sexual favors from employees; the continuous harassment of multiple employees by their supervisor; daily conversations of a sexual nature, touching, and unwanted advances from male employees; the chief of a service who commented on female employees' bodies, told sexually explicit or sexist jokes, made sexual innuendos, and attempted to obtain invitations to female employees' homes; pressure for dates; improper, derogatory, or sexually explicit language; unwelcome touching; unwelcome requests for female employees' home telephone numbers and meetings outside of work; and pressure for sex.

On the basis of our observations on the type and number of such allegations and our observations on the other issues we examined, it appeared to us that the potential for incidents of sexual harassment was greater at three centers than at the nine others. Specifically, we observed that the three facilities had a greater degree of

- allegations of sexual harassment, including multiple incidents of harassment and harassment involving high-level officials,
- allegations involving sexual harassment as a condition of employment or associated with an employment action,
- concerns about management's and EEO officials' handling of complaints, and
- alleged reprisals against individuals who filed sexual harassment complaints and expressed fear of reprisals among the employees we talked to.

In addition, relatively larger numbers of allegations about sexual harassment that had not been reported to VA were brought to our attention at these centers.

At six centers, we observed one or more of the following conditions: problems with complaint processing, fear of reprisal, mistrust of management's ability to handle complaints appropriately, or allegations that had not been brought to VA's attention, including quid pro quo allegations or allegations involving high-level officials.

The remaining three centers appeared to us to be at the other end of the range. Although incidents of sexual harassment were alleged to have occurred at these centers, management was aware of them, and the issues were resolved promptly. Employees we talked to at these centers expressed trust in management to handle complaints and did not report a

fear of reprisal. At these centers, no allegations were brought to our attention that had not been reported to VA.

Alternative Processes for Complaint Processing Can Lead to Underreporting and Concerns About Employee Rights

The complaint process established for resolving EEO or sexual harassment complaints under EEOC and VA regulations currently provides, among other things, for (1) counseling and informal dispute resolution that maintain confidentiality for the complainant; (2) filing of a formal complaint and appointment of an investigator from outside the medical center; (3) reporting of complaints to VA headquarters and EEOC for monitoring and oversight; and (4) appeals from decisions at the medical center to VA headquarters and to EEOC and the courts. Information about the process is to be made available to employees.

At six of the centers we visited, we observed that some sexual harassment complaints either had been or were being processed outside of the EEO complaint processing procedures. At two centers, some complaints were handled through the union grievance process. In four centers, medical center directors established administrative review boards to investigate the complaints. Administrative review boards are provided for under VA regulations to investigate a wide range of conduct or quality of care incidents, including patient deaths and employee altercations. In some sexual harassment cases, medical center directors told us that they preferred these alternative procedures because they led to quicker resolution of the complaints and were less costly than the EEO process.

One problem with using alternative complaint processing procedures to handle sexual harassment complaints is that the complaints may not be reported to VA headquarters. As a result, sexual harassment incidents are being underreported to senior VA managers. At the 12 centers we visited, at least 24 complaints were not reported to headquarters because an alternative process had been used. This is 55 percent of the total number of complaints that had been reported from those centers.

Other concerns related to maintaining the confidentiality and rights of the complainant. Although EEO complaint processes can be time-consuming because of delays in appointing investigators or the time required to collect information, many EEO complaints are resolved at the informal stages during which some degree of confidentiality can be maintained for the complainant. In addition, the EEO process provides for a relatively independent investigation of the complaint and permits the complainant to

appeal the decision if he or she is not satisfied with the outcome at the local level.

Neither administrative review boards nor union grievance procedures provide clear protection of confidentiality at the early stages of the process or permit further appeals. Moreover, administrative review boards are appointed unilaterally by the medical center director and are usually composed of senior medical center officials. This can be perceived to be an inappropriate degree of control of the process by management, especially when high-level officials are alleged to be harassers.

In the complaints we reviewed, we also found that employees were sometimes unaware that the EEO process was not being used. In one case, for example, an employee filed a complaint with a medical center director, who convened an administrative review board. The employee believed that an EEO complaint had been filed and was later upset to discover that the board's investigation had compromised the confidentiality the employee expected. In another case, an administrative review board was convened in addition to an EEO complaint process, which resulted in the employee being subjected to concurrent investigations and multiple interviews on the same issues. The employee perceived this as harassment by management for filing the complaint.

Confusion about the process may mislead employees about what to expect or about what rights they have in the process. Use of another process could also lead to employees being denied their rights under EEO laws. For example, an employee who was subject to an administrative review board investigation and later attempted to file a complaint under EEO regulations may have the complaint rejected for failure to file in a timely manner.

Fear of Reprisals Is Relatively Widespread

Employees at 10 of the centers we visited expressed some fear of reprisals initiated by VA supervisors and/or managers if complaints were filed, and the fear appeared to be strongest at 6 of the centers. At nine centers, allegations were made about specific reprisals the employees believed had occurred, with more than one such allegation being made at six centers. At some centers, employees who contacted us to discuss allegations did not wish them to be reported to VA and cried or showed other signs of significant emotion over the possibility that VA would learn of their complaints and they would lose their jobs. It was pointed out to us that the VA medical center is a major employer in some cities, and opportunities for other similar jobs are very limited.

Two of the centers we visited had been the scene of highly publicized sexual harassment complaints in the past few years. The complainants in these cases had testified before Congress, and the complaints remain in the public eye because the complainants have filed further civil actions. At both of these centers, we found continuing concern and debate about the cases—some employees supported the complainant, and others supported the accused harasser. At these facilities, mistrust of management and fear of reprisals seemed in large part to stem from the continuing debate about the complaints and whether reprisals against the complainants had occurred.

Concern about reprisals is also reflected in VA's EEO complaint statistics, where almost a quarter of the complaints currently on record involve allegations of reprisals. This situation recently led the Secretary of Veterans Affairs to issue a policy statement that reprisals were improper and would not be tolerated.

EEO Counselors Were Generally Knowledgeable but Other Problems Were Identified With EEO Complaint Process

At each center we visited, we reviewed the process used to handle the complaints we were aware of and discussed our observations with EEO and management officials. In general, we found that EEO counselors—who are a key element in any EEO complaint process—were generally well informed. However, in addition to the concern described earlier about the use of alternative processes to resolve sexual harassment complaints, we also observed a variety of problems with the centers' EEO programs.

During our visits to the 12 centers, we met with 58 EEO counselors, or 73 percent of the counselors appointed at those centers. Overall, most of the EEO counselors we met with had received EEO counselor training and understood their role in the EEO complaint process. The employees we talked to who had contacted EEO counselors generally reported that they were satisfied with the counselors' handling of their situations. At some centers, however, we found that information posted about the EEO complaint process was out of date and that posters identifying the EEO counselors were not current. It is also notable that at seven centers, there were instances in which employees we talked to, including some counselors, did not appear to understand the difference between sexual harassment and gender discrimination. While both actions are prohibited, the issues that need to be addressed in the two situations may be significantly different.

At seven of the centers we visited, we observed questionable EEO complaint processing practices or employees who expressed concerns about management's role in the process. In at least two centers, the EEO coordinator—the official responsible for overseeing the center's EEO process and making reports to VA headquarters—routinely directed or influenced the assignment of EEO complaints to EEO counselors. We were told this was an effort to balance workload. This practice is specifically inconsistent with the Secretary's directive that employees may select the counselor of their choice. In two other centers, we were told that EEO officials had inappropriately discouraged an employee from filing a complaint, and in one case this practice was supported by documentary evidence.

At six centers, concerns were expressed by employees and, in some cases, by EEO counselors that the Office of Personnel played an inappropriate role in the complaint process. These concerns included requiring EEO counselors to send write-ups to the personnel office about informal contacts alleging sexual harassment incidents when such informal complaints are to provide confidentiality to complainants; storage of EEO informal and formal complaint files in the personnel office, which could also compromise confidentiality; and perceived inappropriate influence of senior personnel officials in the selection of EEO counselors.

VA regulations require that 1 EEO counselor be appointed for each 500 employees at a center, with a minimum of 2 at a work site. We found that most centers had appointed the required number of counselors, although at least two centers did not have the full complement of counselors available. The process for appointing counselors varied among the centers, with some centers using a competitive merit selection process with formal applications and selection criteria, while others simply asked for volunteers and final selections were made by the center director.

We also observed that most EEO counselors were employees who worked the day shift at the center. At least five centers had one or more work shifts during which no EEO counselor was routinely available. As a result, employees from those shifts would have to come to the center during off-duty hours to meet with a counselor. Some employees expressed concern that lack of availability of a counselor during their shift was a disincentive to reporting a sexual harassment problem because their confidentiality would be compromised by being seen at the center during off-duty hours.

Current VA regulations provide that an investigator of a formal complaint of sexual harassment should be appointed from a VA facility other than the medical center where the complaint is raised, and the complainant's medical center is to reimburse the investigator's organization for half of the cost of the investigation. Directors at two medical centers reported to us that this requirement was a disincentive to having the complaint investigated and was one of the reasons alternative complaint processing procedures were used.

Secretary's Mandate for Sexual Harassment Training Has Not Been Fully Understood and May Create Logistical Problems

On March 9, 1993, the Secretary issued a policy directive that, among other things, established a requirement that all VA employees would receive at least 4 hours of training in sexual harassment issues by December 31, 1993.

Several center directors expressed concern about the logistical problem of releasing employees from their duties for 4 hours to attend the training. This was viewed as a particular problem during night shifts, where staffing was already considered to be very thin. One center director clearly communicated this concern to us but had already begun planning for implementing the mandatory training. The director planned to bring night shift employees in outside their regular duty periods, with overtime.

In our discussions with VA headquarters officials about these concerns, we were told that further guidance would be issued shortly about the management of the training requirement and that the 4 hours of training were being designed to be delivered in 2-hour segments to minimize the impact on thinly staffed shifts.

Communications With Employees May Be Unreliable

To carry out our objective of determining whether allegations of sexual harassment would be reported to us that were not being reported to VA, we prepared a letter to all VA employees at the 12 centers we visited to announce our visit and identify a location and telephone number outside the facility where we could be reached. (See app. II for the letter.) A senior official at VA headquarters transmitted that letter to each medical center director with instructions to distribute it to all employees.

At one of the first centers we visited, we discovered that many employees had not received our letter. We discovered that the letters, along with a cover letter from the medical center director, had been distributed to supervisors, but the supervisors did not always ensure that employees

received it. At that center, as well as at centers visited subsequently, VA officials cooperated with us to inform all employees of our visits. In cases where we knew that the letter had not been delivered and we were already on site, notices of our visits, and the off-site locations and telephone numbers, were posted prominently in locations where employees would be likely to see them or were communicated via local electronic mail systems.

In later visits, we alerted medical center directors in advance of the problems we had experienced at other centers and specifically asked them to take steps to ensure that employees received our letter. While they all readily cooperated, we continued to find centers where certain employees did not receive our letter or received it only by referral from other employees. In all, this problem occurred at seven of the centers we visited.

Since distribution of our letter was usually made through the routine channels VA uses to distribute letters to its employees, we are concerned that employees may not reliably receive information that the Secretary issues to them. This may include, for example, the letters that the Secretary had issued to all employees stating his policies about zero tolerance for discrimination, sexual harassment, and reprisals. When an agency head attempts to deal with significant agencywide issues, it is important that the policies are communicated to all employees.

Senior VA Officials Have Taken Action

The Secretary began to address concerns about sexual harassment from the early days of his administration. Between January 26 and early February 1993, he reviewed the sexual harassment problems that had been reported in Atlanta and sent representatives to investigate them further. On February 16, he issued a letter to all employees that declared sexual harassment to be unacceptable conduct and expressed his personal commitment to eliminating it. In the following days, he reversed policies issued before he took office to completely decentralize complaint processing and established a requirement for oversight of the sexual harassment complaint process by higher level officials outside the medical centers.

In another letter to all employees issued March 9, he established a mandatory program for training all employees in sexual harassment, directed that EEO counselors be certified as fully trained before undertaking their duties, and provided information on the new complaint processing procedures. Shortly thereafter, a dedicated 800 number

telephone line was established to provide information and advice on filing of complaints, and the Secretary established a task force to address sexual harassment and other gender-related issues. During this same period, the Secretary also met with us to discuss our ongoing work on sexual harassment at VA and expressed his full support and cooperation in our review.

Conclusions

At the conclusion of our visits to medical centers, we briefed senior VA officials on the matters discussed in this report. At that time, and in response to their specific request for ideas about how to address our concerns, we said that we believed that VA should

- comprehensively assess the environment and procedures for dealing with sexual harassment at each medical center, devise some means to obtain the views of employees, and develop a strategy for changing the situation where problems are found;
- determine the appropriate use of administrative processes other than the EEO process for handling sexual harassment complaints, ensure that complaints handled outside the EEO process are fully reported to VA headquarters, and ensure that the use of alternative processes does not compromise employee rights under EEO laws;
- ensure that employees and managers understand that reprisals for bringing forward information about sexual harassment and other forms of abuse or discrimination will not be tolerated;
- clarify the role of the Office of Personnel in the EEO complaint process;
- ensure that sufficient numbers of fully trained EEO counselors are appointed and appropriately utilized and assess whether EEO counselors should be available during all work shifts;
- ensure that the mandatory sexual harassment training required by the Secretary is actually provided to all employees; and
- examine the distribution process and other means of communicating with employees to better ensure that VA management can communicate important information to all employees in a timely manner.

On June 1, 1993, the Secretary issued a circular³ summarizing our observations about the management environment at some VA centers, the underreporting of sexual harassment, incomplete communication to employees, and variations in plans for sexual harassment training. He

³Within VA, the circular issuance system is the official channel of communication of agency directives to work unit managers.

asked unit managers, including medical center directors, to assess their units and report to him plans to address any deficiencies noted.

We have also been told that consideration is being given to conducting an agencywide survey of employees concerning these issues. We believe such a survey, if properly conducted with due attention to statistical reliability and validity, confidentiality of responses, and if responded to by employees at all levels, would be a useful tool to help VA management focus on areas and organizations that need immediate and continuing attention.

Recommendations to the Secretary of Veterans Affairs

We recommend that the Secretary assess the adequacy of the actions taken by VA's medical centers to address the suggestions for improvement noted in this report and implement corrective action to address any shortcomings. We also recommend that the Secretary approve implementation of the agencywide survey of sexual harassment issues currently under consideration.

Agency Comments and Our Evaluation

On June 25, 1993, we met with VA officials to obtain their comments on a draft of this report. Overall, there was full agreement with our conclusions and recommendations. As the principal indicator of their support, the officials pointed to the Secretary's May 27, 1993, testimony before the Senate Appropriations Subcommittee on Veterans Affairs, Housing and Urban Development, and Independent Agencies. At that time, the Secretary discussed most of our findings and reiterated that he was committed to resolving sexual harassment and discrimination problems in his department. To that end, he subsequently sent the June 1 circular, which required facility directors throughout VA to assess the situation at each of their facilities in terms of the observations reported in our review and to report their plans to address identified problems.

In addition, the officials stated that the Secretary had approved our recommendation that an agencywide survey be conducted to assess employee concerns about sexual harassment, discrimination, and the handling of complaints. They would consider including groups outside the scope of our work, such as volunteers who serve in VA hospitals and medical students who rotate through VA hospital service. The officials said that the specific plans for the survey were still evolving but that they would keep us and interested congressional committees informed. We stressed the importance of a survey design that would (1) identify facilities

that may warrant further attention and (2) be sufficiently independent so that concerns about fear of reprisal for participating could be reduced or eliminated.

The officials also said that they fully agreed with our observations about the use of alternative complaint processing procedures. They stated, and we agreed, that alternative processes, such as union grievance procedures, are not, per se, inappropriate to address sexual harassment complaints; however, alternative processes must be carefully planned and executed to avoid interference with the employee's right to have a complaint processed through the EEO procedure.

Agency officials said that a January memorandum from the Assistant Secretary for Human Resources and Administration gave some recommendations on dealing with the complainant when issuing an administrative review. The memorandum warned management officials that it is important to avoid actions that could inadvertently confuse or cast doubt on management's intentions or the employee's right to pursue his/her concerns throughout the discrimination complaints process. Therefore, when an administrative review is planned for the purpose of looking into allegations of sexual harassment, management officials have been advised to issue the employee or applicant who raised the allegations a written notification of the opportunity to see an EEO counselor and initiate a discrimination complaint. VA officials said that new guidance would be issued on this subject in a new management directive on equal opportunity and complaints processing and that this new directive would emphasize that employees should be fully informed about the role of any alternative officials or process as well as the EEO process.

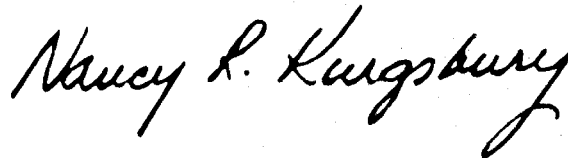
In response to our observation about concerns raised about the facilities' Offices of Personnel playing an inappropriate role in the EEO complaint process, VA officials said that they had clarified through their General Counsel that EEOC guidance mandated the separation of the EEO complaint process from the personnel function. Accordingly, they were drafting a circular to direct any installations that still permitted the involvement of personnel officials in the process to separate the two functions.

While much remains to be done in the implementation of these initiatives, we believe that the Secretary and the headquarters officials we met with have taken a comprehensive approach in responding to the issues discussed in this report.

As requested, we plan no further distribution of this report until 30 days after its issuance, unless you publicly announce its contents earlier. At that time, we will send copies to the Chairmen of the House Committee on Veterans Affairs and its Subcommittee on Oversight and Investigations, the Secretary of Veterans Affairs, and other interested parties. Copies will also be made available to others upon request.

The major contributors to this report are listed in appendix III. Because of the tight time frame for this review, we called on a large number of staff from our regional offices, who were critical to our ability to carry out this work in time for the May 27 appropriations hearing.

Please contact me on (202) 512-5074 if you have any questions concerning this report.



Nancy R. Kingsbury
Director, Federal Human Resource
Management Issues

Locations of the VA Medical Centers Visited by GAO

Birmingham, Alabama

Boston, Massachusetts

Chicago, Illinois (Hines Medical Center)

Cincinnati, Ohio

Denver, Colorado

Long Beach, California

Lyons, New Jersey

Perryville, Maryland

Philadelphia, Pennsylvania

Salem, Virginia

Salisbury, North Carolina

St. Louis, Missouri (John J. Cochran Medical Center)

GAO Letter to VA Employees at Medical Centers Visited

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

April 20, 1993

TO ALL VA EMPLOYEES

The General Accounting Office has been asked by the chairpersons of the House of Representatives and Senate committees responsible for oversight and funding of the Department of Veterans Affairs to evaluate the extent to which sexual harassment is a problem at the Department. As a first step, we reviewed the files of formal complaints which were closed prior to fiscal year 1993. That review produced a number of observations about how to improve the complaint processing system which we reported in testimony to the House Committee on Veterans' Affairs last month.

We have recently begun reviewing information on recent informal sexual harassment complaints in VA. However, we have heard from several sources that the true extent of the problem is not reflected in the complaint process, because employees fear that reporting sexual harassment will result in reprisals against them.

As a result of these concerns, we are visiting several medical centers to directly assess whether sexual harassment is a serious problem, and to provide an opportunity for VA employees to contact GAO directly to provide information on the extent of sexual harassment at their workplace. Reports of sexual harassment made to GAO will be kept confidential but, in the aggregate, would provide an indicator of whether a "hidden" problem exists. We have discussed this approach with the Secretary of Veterans Affairs, and he has fully supported our efforts.


GAO representatives will be at the Medical Center from April 26, 1993 through April 30, 1993. The GAO audit team is available to meet with or talk to any employee who wishes to discuss sexual harassment problems. We are interested in learning about specific instances of harassment which affected you, or those you know about, or your views about the work environment. We also want to hear from you if you believe that the management climate at this Medical Center discourages improper behaviors like sexual harassment. We would also be interested in obtaining the perspectives of VA's managers and supervisors on these matters.

Appendix II
GAO Letter to VA Employees at Medical
Centers Visited

The GAO team can be reached at _____ until 9 P.M., Tuesday
through Thursday during the week of the visit. The team includes

We, our Congressional requestors, and the Secretary of Veterans
Affairs have agreed that the information obtained from employees
during these visits to the Medical Center will be confidential,
and will not be released to VA officials in any form which
permits identification of individual complainants, without the
explicit consent of the complainants.

We are visiting a number of Medical Centers during the next few
weeks. It will not be possible for us to investigate specific
complaints raised during this review. However, our report to our
Congressional requestors and to VA should provide further
pressure for aggressive action within VA to more effectively
address any sexual harassment problems which might exist. Your
information will contribute to that effort.


Nancy Kingsbury
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Issues

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