

**STATEMENT OF  
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DEPUTY SECRETARY  
DEPARTMENT OF VETERANS AFFAIRS  
BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES SENATE  
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Mr. Chairman and members of the Committee, I appear before you today to testify about VA's policies and practices regarding sexual harassment and other forms of discrimination in the workplace. I will also bring you up-to-date on the Fayetteville case.

Combating sexual harassment has always been extremely important to Secretary Brown and me. I was sworn in as Deputy Secretary on February 4, 1993. One week later, I was at the Atlanta VA Medical Center dealing with a terrible sexual harassment case that we had inherited. While I was there, I promised our employees that this Administration would not tolerate anything that would keep them from devoting their full attention to serving veterans. Secretary Brown and I have worked very hard ever since to fulfill that promise.

Early in his Administration, Secretary Brown established a policy of "zero tolerance" of sexual harassment and other forms of discrimination within the Department of Veterans Affairs. I strongly support this policy. Any and every allegation of sexual harassment or discrimination is thoroughly investigated, and when the evidence supports the allegation, VA takes appropriate action.

In saying this, however, it is relevant to clarify that “zero tolerance” does not mean that all offenders will, in every instance, be removed from federal service. Sexual harassment and discrimination can encompass such a broad range of conduct that removal from federal service may not always be the most appropriate or legal remedy.

Secretary Brown and I have taken substantial, aggressive action in support of a “zero tolerance” policy regarding sexual harassment. Secretary Brown has issued letters to all VA employees expressing his strong commitment to diversity, equal employment opportunity, and the prevention of sexual harassment. The Secretary has asked everyone to join him in making the effort needed to uphold this commitment, especially our senior managers. Our senior managers are expected to enforce “zero tolerance,” and they should be, and are, held to the highest standard of performance.

In countless speeches to VA employees, Secretary Brown and I have emphasized and reemphasized this policy. Consistent with these efforts, the Department has developed a program designed to prevent sexual harassment and discrimination by all employees, not just by senior managers. The program takes a three-pronged approach: communication, training, and policy development.

The Secretary issued his first all-VA employee letter on sexual harassment in 1993. That letter has been followed by four others dealing with EEO and sexual harassment issues. In each, there has been an articulation of VA’s policy, along with specific guidance on how to implement that policy. On May 9, 1997, Secretary Brown issued another all-employee letter, which I would like to be entered in the record, and a strongly worded message on each employee’s pay stub on April 22. These messages are designed to reach every one of VA’s more than 200,000 employees.

VA has developed -- and continually updates -- an extensive employee training program on prevention of sexual harassment and discrimination. We believe this is one of the most comprehensive programs of its type in the federal government -- or in any large organization in the public and private sectors.

In 1993, Secretary Brown established a requirement that all employees receive four hours of training about the prevention of sexual harassment and discrimination, followed by refresher training every two years. Every employee in VA was directed to receive four hours of training in 1993 and early 1994, and every employee was directed to receive two hours of refresher training in 1995 and 1996, for a total of six hours. By the end of 1996, every VA employee was also required to have received training in valuing diversity. Both Secretary Brown and I participated as trainees in these sessions.

Additionally, VA has an on-going training program for managers and supervisors concerning VA's equal employment opportunity programs and their responsibilities under those programs. VA has also significantly improved its training for EEO professionals, to include counselors, investigators, and program managers.

In the area of policy development, in VA Circular 00-94-2, dated February 25, 1993, VA established a requirement that all allegations of sexual harassment be elevated above the field facility level, to the Veterans Health Administration Network or Veterans Benefits Administration area directors. This ensures a higher level review to determine whether intervention is necessary to protect an employee or VA from harm, pending a full investigation and resolution of the allegations. These requirements are being permanently incorporated in VA Directives. In order to encourage employees to bring forward their allegations, and protect them when they do so, on May 26, 1993, VA established a requirement for a higher level review of all complaints of reprisal and retaliation.

For those employees who wish to remain anonymous, VA has established a sexual harassment and discrimination hotline, where employees can report misconduct and find out what to do about it. The hotline number is 1-800-767-0184.

Other relevant policy developments include:

In 1994, in VA Circular 00-94-2 and VHA Directive 10-04-093, dated August 1, 1994, and VHA Directive 10-94-097, dated September 29, 1994, formal EEO complaint processing procedures were improved to speed up the investigation of complaints.

VA has developed performance standards for senior executives to improve workforce diversity and meet timeliness requirements for processing complaints.

In October 1994, VA clarified its table of penalties for misconduct, so there could be no question that sexual harassment and discrimination were actionable offenses (offense # 37), punishable by anything from reprimand to removal for a first offense.

Also, to become better informed about the effectiveness of our policy and communication efforts, VA recently conducted a Department-wide survey to determine employee perceptions of how VA handles sexual harassment. To ensure the survey was conducted objectively and professionally, an outside contractor was chosen. The results of this survey will be available by the end of June.

Over the past four years, we have had nine cases involving senior management officials in which we have taken action based on allegations of sexual harassment or related matters. In seven cases, the executives resigned or retired. Several resigned after learning of potential investigations or disciplinary actions involving allegations of sexual harassment against them. In

the other two instances, the executives were taken out of the Senior Executive Service and placed in lower-graded positions.

In the case involving the former Director of the Fayetteville VA Medical Center, who was alleged to have engaged in sexual harassment, VA management seriously considered proposing his removal from federal service, but there were concerns that the evidence might not sustain removal action on appeal to the Merit Systems Protection Board or the courts. As a result, rather than take the chance that this individual could be reinstated at the Fayetteville facility, a negotiated settlement was reached which insured his removal from that facility and from the Senior Executive Service. To date, the former Director steadfastly denies the allegations.

I am aware that some view VA's decision to reach that agreement as indicative of a lack of management's concern about sexual harassment, or a VA practice of protecting senior managers from the consequences of improper actions. I want to assure you in the strongest possible terms that it does not.

If the verifiable evidence at the time the decision was made had been such that management was reasonably confident that the Merit Systems Protection Board, or the courts, would have sustained removal from federal service, that action would have been pursued to its conclusion.

We believe it was extremely important -- from the standpoint of both the provision of health-care services to veterans and the work environment for our employees at Fayetteville -- that the Director be removed from his management position and relieved of all supervisory responsibilities. This occurred. He also resigned from the Senior Executive Service and was reduced in grade and rank to a non-supervisory, GS-14 position. By these actions, management achieved what were considered to be the most critical objectives at that point in time.

What concerns us most about this matter is that it has damaged VA's standing with some of our employees and women veterans, and has created a negative atmosphere at the Fayetteville VA Medical Center. That is most regrettable. As I have indicated, we have taken many serious actions over the past four years to try to ensure that all of our employees have a workplace where they feel secure and safe from discrimination and harassment of any kind. We believe this is very important not only for the well-being of our employees, but also to ensure our ability to provide veterans with the health care and other benefits and services they deserve. I would hope, therefore, that we are judged by the totality of our actions, rather than on one obviously distasteful situation.

I also want to take this opportunity to express my appreciation to the many dedicated men and women at the Fayetteville VAMC who have continued to carry out their duties, through this very trying time, in a totally professional manner. We are taking many steps to help stabilize the atmosphere there, and I am proud that, through all of this, the Fayetteville employees remain dedicated to serving veterans and ensuring that patient care does not suffer.

To strengthen our employees' protections further in light of the Fayetteville case, the Secretary has taken three additional recent actions:

To ensure a consistent approach in treating allegations of sexual harassment and other misconduct against senior VA executives, the Secretary has required that all such allegations, and recommendations for dealing with them, be brought to the attention of senior staff in the appropriate Administration, General Counsel, and the Office of Human Resources in VA Headquarters. Prior to any action being taken to resolve the matter, the case will be reviewed at the Secretary's level.

To ensure that the Department has a more comprehensive understanding of sexual harassment complaints in VA and that

effective oversight is conducted at the policy level, the Secretary also charged the Office of Equal Opportunity with developing aggregate information on all sexual harassment cases in VA, regardless of whether they are being handled through the formal EEO complaint process, Inspector General hotline or investigative reviews, union grievances procedures, or Administrative Boards of Investigations. To ensure the rights of our employees to fully avail themselves of the EEO complaint process, and to instill faith in the EEO process, the Secretary has ordered a review of the effectiveness of VA's current structure for handling discrimination complaints. A task force has been appointed to conduct a comprehensive review of VA's EEO process and how it compares with other processes used in the Federal Government. We also intend to seek advice from the Equal Employment Opportunity Commission and the Office of Special Counsel.

While cases such as the one at Fayetteville are infrequent, we must ensure that the system will work in those instances with absolute integrity. We will take any action necessary to ensure that result.

Because of clear indications that the EEO complaint process did not work properly at Fayetteville, we have taken several steps to correct the situation there:

On March 25, the VISN 6 Director appointed a Special Purpose Site Visit Team to assess the commitment of the Fayetteville VAMC in supporting the Department's Equal Opportunity Program, and to assess the climate of the VAMC and its impact on the staff's quality of life. The report from this team is currently being reviewed to determine what follow-up actions are needed.

Because VA employees at Fayetteville continue to experience the negative effects of this case, there is a need for management to begin the process of building trust with our employees there. Therefore, the VISN director arranged for three VA clinical chaplains to visit the VAMC to make themselves available to counsel any employee who requested this service. The chaplain's initial visit began on April 30, and a follow-up visit took place on May 5. These counseling sessions were completely confidential. The chaplains met with 29 employees. We believe this is a good, first step to healing the wounds of some the employees and the environment at Fayetteville.

The EEO claims filed by Ms. Doris Moore-Russell and Ms. Susan Caruana are in process. Ms. Cynthia Force has expressed an interest in speaking with an EEO Counselor. The Deputy Assistant Secretary for Equal Opportunity is working directly with Ms. Force.

On May 5, the VISN Director announced Mr. Michael Phaup, Director of the Durham VAMC, as Interim Director at Fayetteville for the next four months. Mr. Phaup is an experienced VAMC director, and we are confident in his ability to deal with the morale and other issues currently plaguing this facility. Once Mr. Phaup has had a chance to assess the situation first hand, we will detail additional personnel, as he requests them, to support him in this effort.

Mr. Chairman and members of this Committee, I want to take this opportunity to once again reassure all of our employees that VA continues to support its policy of "zero tolerance" of sexual harassment and discrimination. We want them to know that this is our policy, and, as I indicated previously, we would ask them to judge us on the strength of our entire record of actions in this area and our efforts to address this difficult problem.

We are optimistic that the measures I have described today, together with all of our efforts over the past four years, are serving to reduce -- and move toward the elimination of -- sexual harassment and discrimination in VA.

We will be doing all we can to get this message across to our employees and managers, and we would welcome any suggestions you may have to help us accomplish this.

I am available to answer your questions, as are the VA staff members who have accompanied me.