HARASSMENT, SEXUAL ASSAULTS AND OTHER DEFINED PUBLIC SAFETY INCIDENTS IN VHA

1. REASON FOR ISSUE: This Veterans Health Administration (VHA) directive replaces VHA Directive 2012-026, Sexual Assaults and Other Defined Public Safety Incidents in Veterans Health Administration, dated September 27, 2012. This directive implements the provisions of P. L. 116–315, Title V, § 5303 (codified at 38 U.S.C. § 533), by ensuring VHA has a comprehensive policy, along with processes and procedures, to end sexual assault and harassment, including sexual harassment and gender-based harassment. This directive also implements provisions under P.L. 112-154 § 106 (codified at 38 U.S.C § 1709), by ensuring that sexual assaults are appropriately reported, investigated, addressed and monitored.

2. SUMMARY OF CONTENT:

Amendment dated, October 13, 2022: updates the definition of Substantiated or Founded Incident (see paragraph 3.i.).

As published September 12, 2022, this directive expanded upon the content from VHA Directive 2012-026 by addressing the reporting and management of sexual assault and harassment, including gender-based and sexual harassment, in Department of Veterans Affairs (VA) medical facilities, as described under 38 U.S.C. § 533 and VA Handbook 5979, Harassment Prevention Program (HPP) Procedures, dated March 21, 2022. This directive also addressed prevention and management of reports of harassment, including gender-based harassment and sexual harassment, and sexual assault from non-Department individuals.

3. RELATED ISSUES: VA Directive 0321, Serious Incident Reports, dated June 6, 2012; VA Directive 5979, Harassment Prevention Policy, dated December 8, 2020; VA Handbook 5019, Occupational Health Services, dated January 23, 2015; VA Handbook 5979, Harassment Prevention Program (HPP) Procedures, dated March 21, 2022; VHA Directive 1124, Equal Employment Opportunity, dated August 12, 2021; VHA Directive 5019.01, VHA Workplace Violence Prevention Program, dated August 23, 2021; VHA Handbook 1050.01, VHA National Patient Safety Improvement Handbook, dated March 4, 2011.

4. RESPONSIBLE OFFICE: The Assault and Harassment Prevention Office (10ADEI2) is responsible for the content of this directive. Questions may be addressed to VHA_AHPO@va.gov.

5. RESCISSIONS: VHA Directive 2012-026, Sexual Assaults and Other Defined Public Safety Incidents in Veterans Health Administration, dated September 27, 2012, is rescinded.

6. RECERTIFICATION: This VHA directive is scheduled for recertification on or before the last working day of September 2027. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

BY DIRECTION OF THE OFFICE OF THE UNDER SECRETARY FOR HEALTH:

/s/ Miguel H. LaPuz, MD
Acting Deputy Under Secretary for Health

NOTE: *All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.*

DISTRIBUTION: Emailed to the VHA Publications Distribution List on September 14, 2022.

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HARASSMENT, SEXUAL ASSAULT AND OTHER DEFINED PUBLIC SAFETY INCIDENTS IN VETERANS HEALTH ADMINISTRATION

1. PURPOSE

This Veterans Health Administration (VHA) directive establishes a comprehensive policy addressing the prevention and management of harassment and sexual assault, including sexual harassment and gender-based harassment, in VHA facilities. It implements the provisions of P.L. 112-154, § 106, and P.L. 116-315 Title V, subtitle C, § 5303 (codified at 38 U.S.C. §§ 1709 and 533, respectively), by ensuring that sexual assaults and harassments are appropriately reported, tracked and addressed.
AUTHORITY: 38 U.S.C. §§ 533, 1709, 7301(b).

2. BACKGROUND

a. VHA is committed to ensuring all VHA facilities are safe, welcoming and respectful for all employees, Veterans, their caregivers, volunteers and visitors. This directive is consistent with VHA's longstanding commitment to public safety, achieved through evidence-informed approaches addressing employee-generated behavior(s), patient-generated behavior(s), employee education, incident reporting (see Appendix A) and tracking and environmental design. All acts that could be experienced as gender-based harassment, sexual harassment or sexual assaults are well-recognized concerns of Veterans, families, employees and others.

b. Sexual misconduct on Department of Veterans Affairs (VA) property is prohibited. Individuals who demonstrate disruptive or criminal behavior, including engaging in harassment or sexual assault, may be subject to arrest, removal from the premises, or both. Whomever shall be found guilty of violating these rules and regulations while on any property under the charge and control of VA is subject to arrest and removal in accordance with 38 C.F.R. § 1.218.

c. 38 U.S.C. § 533 directs VA to develop a comprehensive policy to end sexual assault and harassment, including sexual harassment and gender-based harassment, throughout VA. It directs VA to establish standardized processes, reporting and accountability for employees and non-Department individuals related to harassment and sexual assault in VHA facilities. Section 533 builds on 38 U.S.C. § 1709, which required VA to develop a policy regarding reporting on sexual assault incidents and other safety incidents reported by each VHA facility.

3. DEFINITIONS

a. **Experiencer.** Experiencer is the person who experiences or reports being subjected to harassment, including sexual harassment and gender-based harassment or sexual assault. Experiencer is also referred to as victim. An experiencer of harassment or sexual assault can be of any gender identity.

b. **Gender-Based Harassment.** Gender-based harassment is unwelcome conduct based on an individual's actual or perceived sex or gender. It includes gender or gender

identity/expression taunts, stereotypes or comments relating to someone's physical characteristics or mannerism associated with gender or gender identity/expression.

c. **Harassment.** Harassment is unlawful, unwelcome conduct based on race, color, sex (including gender identity or expression, transgender status, sexual orientation and pregnancy), religion, national origin, disability or age (over 40) and can include:

(1) The offensive conduct is a condition of the individual's employment.

(2) Employment decisions are based on whether the employee accepts or rejects such conduct.

(3) The conduct can unreasonably interfere with an individual's work performance or create an intimidating, hostile, abusive or offensive work environment.

d. **Non-Department Individual.** A non-Department individual is any individual present at a VHA facility who is not a VA employee or contractor; this directive also identifies them as Veteran, caregiver, volunteer or visitor.

e. **Public Safety Incidents.** Public safety incidents are:

(1) Criminal and purposefully unsafe acts.

(2) Any kind of event involving reporting or suspected abuse of a patient or other individual in a VHA facility.

(3) Acts related to alcohol or substance abuse by an individual in a VHA facility. These acts pertain to sexual assaults or sexual assault incidents, and the concurrent use of alcohol or substances.

f. **Sexual Assault.** Sexual assault is any type of sexual contact or attempted sexual contact that occurs without the explicit consent of the recipient of the unwanted sexual activity. Sexual assaults may involve psychological coercion, physical force or experiencers who cannot consent due to mental illness or other factors. Sexual assault includes sexual activities such as: forced sexual intercourse; sodomy; oral penetration, or penetration using an object; molestation, fondling and attempted rape. An experiencer of sexual assault can be any gender identity.

g. **Sexual Harassment.** Sexual harassment is any unsolicited verbal or physical contact of a sexual nature which is threatening in character, unwelcome sexual advances and requests for sexual favors. It also includes other verbal or physical conduct of a sexual nature when: the submission to advances is an expressed or implied condition for receiving job benefits; the refusal of advances results in a tangible employment action; or a reasonable person would find the conduct frequent or severe enough to create an intimidating, hostile or offensive working environment. Sexual harassment is not limited to explicit demands for sexual favors. It also may include actions such as:

(1) Sexually oriented verbal kidding, teasing or jokes.

(2) Repeated sexual flirtations, advances or propositions.

(3) Continued or repeated verbal abuse of a sexual nature.

(4) Graphic or degrading comments about an individual or the individual's appearance.

(5) The display or audio of sexually suggestive objects, videos or pictures.

(6) Stalking, repeated pressure for dates and subtle pressure for sexual activity.

(7) Physical contact such as hugging, pinching, brushing against another's body or unwelcome patting.

(8) The alleged harasser may be a direct or indirect supervisor, co-worker or non-employee.

***NOTE**: The alleged harasser may be a direct or indirect supervisor, co-worker or non-department individual (defined in this directive). Management officials who participate in, condone or become aware of sexual harassment and do not take immediate action to address the situation are subject to disciplinary action.*

h. **Sexual Misconduct.** This category includes consensual sexual activity occurring or suspected to have occurred on property under VA's jurisdiction and control, and in violation of VA regulations.

i. **Substantiated or Founded Incident.** Substantiated incidents or founded incidents are those for which the investigation reveals sufficient evidence that a crime has taken place or probable cause exist to make an arrest. Although probable cause may exist, whether an arrest will occur depends on the suspect's mental capacity (e.g., dementia or other severe/terminal illness, to be determined by the prosecutorial officials), if the suspect's identity is unknown, or the experiencer declines to prosecute the crime. Substantiated is synonymous with founded.

j. **Unsubstantiated or Unfounded Incident.** Unsubstantiated incidents or unfounded incidents are those for which the investigation does not reveal sufficient evidence and probable cause to determine that a crime or incident has occurred. This could be due to lack of corroborating evidence, the experiencer declining to cooperate prior to finding probable cause or evidence that reveals the crime did not occur. Unfounded is synonymous with unsubstantiated.

k. **VHA Facility.** For the purposes of this directive, a VHA facility includes VHA Central Office (VHACO), Veterans Integrated Services Networks (VISNs), Vet Centers, as well as any location that hosts VHA-sponsored programs that provide care, including VA medical facilities, outpatient clinics, contracted sites, residential treatment programs, Community Living Centers and mental health residential rehabilitation treatment programs including domiciliaries. For purposes of reporting (see Appendix A), tracking and trending, a VHA facility includes any location where a VHA employee is performing

official duties.

l. **VSignals Survey.** VSignals survey is a platform that provides Veterans the option to provide feedback in real time. The VSignals platform gathers feedback from Veterans, eligible dependents, caregivers and survivors. VSignals surveys help to identify and inform opportunities for immediate and short-term service.

4. POLICY

It is VHA policy that incidents of harassment, including gender-based harassment and sexual harassment, and sexual assault at all VHA facilities are investigated, tracked and appropriately addressed in order to maintain a health care system and work environment that are safe for employees, contractors and non-Department individuals.

5. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for:

(1) Ensuring overall VHA compliance with this directive.

(2) Approving the annual report to Congress prepared by the Deputy Under Secretary for Health on the implementation and effectiveness of this directive.

b. **Deputy Under Secretary for Health.** The Deputy Under Secretary for Health is responsible for:

(1) Supporting the Assault and Harassment Prevention Office (AHPO) with implementation and oversight of this directive.

(2) Ensuring that AHPO is appropriately resourced and funded to implement this directive.

(3) Ensuring the collaboration of VHA facilities and VA's Office of Security and Law Enforcement in the implementation of this directive.

(4) Ensuring VHA's Employee Education System (EES), in collaboration with subject matter experts, develops course content and curriculum for implementing the prevention of harassment and sexual assault (see paragraph 6).

(5) Providing seamless, secure and compassionate processes and tools for reporting harassment without fear of retaliation.

(6) Ensuring that each VHA facility implements the Designated Point of Contact (POC) to receive reports of harassment and sexual assault from or by non-Department individuals. ***NOTE:*** *In addition to the Designated POCs, local law enforcement authorities may receive reports of harassment and sexual assault to conduct an investigation.*

(7) Submitting to the Under Secretary for Health for approval an annual report to Congress on the implementation and effectiveness of this directive.

c. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for:

(1) Communicating the contents of this directive to each of the VISNs.

(2) Assisting VISN Directors to resolve implementation and compliance challenges in all VA medical facilities within that VISN.

(3) Providing oversight of VISNs to ensure compliance with this directive and its effectiveness.

d. **Director, Assault and Harassment Prevention Office.** The Director, AHPO is responsible for:

(1) Serving as the VHACO Designated POC and is responsible for:

(a) Tracking reports of harassment and sexual assault across VHA disaggregated by VHA facility. ***NOTE:*** *These reports are tracked through various systems: VA Police Records Management Report Exec System, the Harassment Prevention Program database and the Disruptive Behavior Reporting System (DBRS).*

(b) Providing training materials and technical assistance to VA medical facility and VISN Designated POCs.

(c) Collaborating with VA Office of Security and Law Enforcement and the VHA Office of the Senior Security Officer to track, trend, analyze and compile reports of harassment and sexual assault collected at VHA facilities.

(2) Leading implementation of 38 U.S.C. § 533 within VHA.

(3) Collaborating with VISNs, VA medical facilities, Readjustment Counseling Service and national program offices (e.g., Workplace Violence Prevention, LGBTQ+ Health, Intimate Partner Violence Assistance Program), to address gaps in, or to strengthen, anti-harassment and anti-sexual assault policy and reporting within VHA.

(4) Maintaining national oversight of the results of the VSignals Outpatient survey, which assesses Veterans' feeling of safety at VA medical facilities, as mandated by statute.

(5) Maintaining a national reporting repository to track, trend and address reported incidents of harassment and sexual assault within VHA based on data from VA systems of record (e.g., Database for Sexual Assault and Incident Reporting) and other available VA tracking systems.

(6) Notifying VISN and VA medical facility leadership when VA medical facilities experience five or more substantiated or founded incidents of sexual harassment or sexual assault or combination thereof within a fiscal year.

(7) Providing technical assistance to VHA facilities in developing remediation plans and strategies to address reports of sexual harassment and sexual assaults within their facilities.

(8) Ensuring VA anti-harassment and anti-sexual assault policy and educational materials are distributed annually to Veterans eligible for VA health care.

(9) Maintaining the list of VISN Designated POCs.

(10) Collaborating with the Chief Readjustment Counseling Officer to address gaps in, or strengthen, anti- harassment and anti-sexual assault policy and reporting within VHA.

e. **Chief Readjustment Counseling Officer.** The Chief Readjustment Counseling Officer is responsible for:

(1) Collaborating with the Director, AHPO to address gaps in, or strengthen, anti-harassment and anti-sexual assault policy and reporting within VHA.

(2) Ensuring Vet Center employees complete their annual training requirements related to harassment and sexual assault prevention as outlined in paragraph 6.

(3) Ensuring that Vet Centers implement, use and regularly test appropriate physical security precautions and equipment to include, as appropriate, security surveillance television (SSTV), computer-based panic alarm systems, stationary panic alarms, electronic personal panic alarms and other equipment as determined by local risk assessment.

(4) Designating the Vet Center Director to serve as the POC to receive reports of harassment and sexual assault from or by non-Department individuals.

(5) Ensuring designated Vet Center Directors have access to job aids or training located in the VA Talent Management System (TMS) (see paragraph 6.b.) to support them in performing their roles and responsibilities as the Designated POC (see paragraph 5.g.).

(6) Prominently and permanently displaying anti-harassment and anti-sexual assault signage at the respective Vet Center for outlining how and to whom non-Department individuals can report harassment or sexual assault incidents. Signage must be visible in the entrance way. Other prominent area recommended to display the signage includes lobby, hallways, elevators, atriums and patient waiting areas.

f. **Vet Center District Officer.** The Vet Center District Officer is responsible for:

(1) Ensuring harassment and sexual assault incidents are addressed in accordance with current VA policy. ***NOTE:*** *Vet Center leadership must have procedures in place to receive reports of harassment and sexual assaults from non-Department individuals.*

(2) Receiving notifications of incidents from Vet Center Directors.

(3) Ensuring harassment incidents are addressed in accordance with current VA and VHA policy, to include addressing the incident within 5 business days, as prescribed under VA Handbook 5979, Harassment Prevention Program (HPP) Procedures, dated March 21, 2022. ***NOTE:*** *Incidents of sexual harassment must have safety intervention actioned within one business day (e.g., separate the alleged perpetrator of sexual harassment from the employee alleging harassment).*

(4) Notifying the Chief Readjustment Counseling Officer of all allegations of sexual assault that meet the description in Notification of Serious/Emergent Incidents must be reported within 2 hours, as prescribed under VA Directive 0321, Serious Incident Reports, dated June 6, 2012.

(5) Ensuring Vet Center Directors comply with requirements outlined in this directive.

g. **Vet Center Director.** The Vet Center Director, serving as the Vet Center Designated POC, is responsible for:

(1) Receiving reports of harassment and sexual assault from non-Department individuals at Vet Center facilities (see Appendix B).

(2) Providing acknowledgement of the incident to the experiencer and documenting important details of the event to include date, time, individuals involved, experiencer's status (e.g., employee, Veteran or other) and a description of the circumstances of the incident (see Appendix B).

(3) Ascertaining whether the experiencer requires immediate medical or mental health attention; if requested, directly transferring the experiencer to the appropriate service.

(4) Notifying VA Police or local law enforcement and the respective District Officer of the incident. ***NOTE:*** *The Vet Center District Officer will notify the Chief Readjustment Counseling Officer of the incident.*

(5) Providing the experiencer with a brief overview of VA's process for handling harassment and sexual assault incidents and other information about VA health care services for service recovery.

(6) Following Readjustment Counseling Service protocol to ensure all allegations of sexual assault that meet the description in Notification of Serious/Emergent Incidents must be reported within 2 hours, as prescribed under VA Directive 0321.

h. **VHA Central Office Program Office Director.** Each VHACO program office Director, or equivalent, is responsible for:

(1) Ensuring an environment which supports the reporting of harassment and sexual assault incidents as defined by this directive (see Appendix A).

(2) Ensuring harassment incidents are addressed in accordance with VA Handbook 5979 to include addressing the incident within 5 business days. Incidents of sexual harassment must have safety intervention actioned within 1 business day, i.e., separate the alleged perpetrator of sexual harassment from the employee alleging harassment. Use VA Form 10221a to record and report incidents of sexual harassment.

(3) Ensuring sexual assaults incidents are reported to their next-level senior leader in the reporting chain that meet the description in Notification of Serious/Emergent Incidents, which must be reported within 2 hours, as prescribed under VA Directive 0321. ***NOTE:*** *See Appendix A for more information.*

(4) Ensuring all VHA program office employees are:

(a) Informed about the requirement to immediately report instances or reports of sexual harassment, including gender-based harassment and sexual assault incidents, to VA Police, their supervisor or management official immediately. ***NOTE:*** *Supervisory personnel are required to report sexual harassment or sexual assault incidents to the Under Secretary for Health, Deputy Under Secretary for Health, Chief of Staff, Assistant Under Secretary for Health, Deputy Associate Under Secretary for Health, Executive Director or Chief Officer in their chain of command.*

(b) Informed that knowledge or information about actual or possible violations of criminal law related to sexual assault issues within VA programs, operations, facilities, contracts or information technology systems must be immediately reported to their supervisor, any management official, the local Harassment Prevention Coordinator (HPC), the VA Harassment Prevention Program (HPP) or directly to the Office of Inspector General (OIG) as directed by 38 C.F.R. § 1.201 (see Appendix A).

(5) Acknowledging the experiencer in writing regarding their report of sexual assault, harassment and sexual harassment, including gender-based harassment incidents (see Appendix A).

i. **VHA Senior Security Officer, VHA Office of Security.** The VHA Senior Security Officer is responsible for:

(1) Overseeing reports of criminal harassment and sexual assault through the VA Police Records Management Report Exec System.

(2) Providing national oversight of VA Police responding to and investigating reports of harassment or sexual assault reported or observed by the VA Police.

(3) Collaborating with the VA Office of Security and Law Enforcement and AHPO Director to:

(a) Record reports of criminal sexually based incidents occurring at VHA facilities.

(b) Track, trend, analyze and compile reported data of criminal sexually based incidents recorded in the VA Police Records Management Report Exec System. ***NOTE:*** *The data provided to the AHPO Director must not include personally identifiable information.*

j. **Veterans Integrated Services Network Director.** The VISN Director is responsible for:

(1) Ensuring that all VA medical facilities within the VISN comply with this directive and informing leadership when barriers to compliance are identified.

(2) Ensuring harassment incidents are addressed in accordance with current VA and VHA policy, to include addressing the incident within 5 business days. Incidents of sexual harassment must have safety intervention actioned within 1 business day, i.e., separate the alleged perpetrator of sexual harassment from the VHA employee alleging harassment.

(3) Ensuring that VA medical facility designated officials within the respective VISN reports sexual assault incidents within 2 hours, that meet the description in Notification of Serious/Emergent Incidents, as prescribed under VA Directive 0321.

(4) Ensuring that harassment and sexual assault data are tracked and trended on a regular basis through a secure tracking system, which must include systematic information sharing of reported harassment and sexual assault incidents to VHA officials who have programmatic responsibility.

(5) Ensuring that each VA medical facility within the VISN with five or more substantiated or founded incidents of harassment or sexual assault or combination thereof during any single fiscal year develop a remediation plan to mitigate subject reports and ensure appropriate protocols and safeguards are put into place.

(6) Reviewing and approving VA medical facility remediation plans and ensuring a copy of the approved remediation plan is submitted to the VA Office of Resolution Management, Diversity, and Inclusion within 5 business days after VISN Director approval.

(7) Ensuring that appropriate physical security precautions and equipment are implemented, used and tested at each VA medical facility within the VISN. ***NOTE:*** *For further information see VA Handbook 0730, Security and Law Enforcement, dated August 11, 2000.*

(8) Ensuring an environment which supports the reporting of public safety incidents as defined by this directive.

(9) Ensuring each VA medical facility in the VISN uses appropriate evidence-based structured professional judgment tools (e.g., Violence Risk Assessment Instrument) to conduct behavioral threat assessments by the Disruptive Behavior Committee (DBC) and the Employee Threat Assessment Team (ETAT) in keeping with requirements and guidance in VHA Directive 1160.08(1), VHA Workplace Violence Prevention Program, dated August 23, 2021.

(10) Ensuring VHA employees complete mandatory training on harassment and sexual assault prevention (see paragraph 6).

(11) Acknowledging the experiencer in writing regarding their report of sexual assault, harassment, sexual harassment, including gender-based harassment incidents (see Appendix A).

(12) Designating the VISN Designated POC (see paragraph 5.k.). ***NOTE:*** *The AHPO Director maintains the list of VISN Designated POCs.*

k. **Veterans Integrated Services Network Designated Point of Contact.** The VISN Designated POC is responsible for:

(1) Receiving reports of harassment and sexual assaults from non-Department individuals at the VISN office.

(2) Providing written acknowledgement of the incident to the experiencer and documenting important details of the event. ***NOTE:*** *See Appendix A for more information and template for the letter.*

(3) Notifying the VISN Security Officer about an incident of sexual assault who notifies the closest VA medical facility Director. The VISN Security Officer subsequently notifies VA Police or local law enforcement about this incident.

(4) Documenting reports of harassment by non-Department individuals and ensuring the report is documented in the Disruptive Behavior Reporting System to ensure appropriate clinical interventions are provided. Refer to VHA Directive1160.08(1).

(5) Providing a brief overview of VA's process for handling harassment and sexual assault incidents and providing information about VA health care services for service recovery within the letter to the experiencer.

(6) Notifying designated management officials.

(7) Providing an update to the experiencer on the steps taken or will be taken, including making notifications and ensuring the experiencer has been offered supportive services.

l. **VA Medical Facility Director.** The VA medical facility Director is responsible for:

(1) Ensuring overall VA medical facility compliance with this directive and appropriate corrective action is taken if non-compliance is identified.

(2) Ensuring harassment incidents are addressed in accordance with current VA and VHA policy, to include addressing the incident within 5 business days. Incidents of sexual harassment must have safety intervention actioned within 1 business day, i.e., separate the alleged perpetrator of sexual harassment from the employee alleging harassment.

(3) Ensuring reports sexual assault incidents are reported to its VISN leadership and to the VA Integrated Operations Center within 2 hours in accordance with current VHA policy and VA Directive 0321. ***NOTE:*** *VHA Emergency Departments and Urgent Care locations must have plans in place to evaluate, support and treat patients of reported sexual assault. For guidance, see VHA Directive 1101.05(2), Emergency Medicine, dated September 2, 2016. Incidents must be handled in accordance with appropriate clinical standards of care, including ensuring that all informed consent procedures are followed as outlined in VHA Handbook 1004.01(5), Informed Consent for Clinical Treatments and Procedures, dated August 14, 2009.*

(4) Ensuring VA medical facility employees are offered a referral to Occupational Health, Employee Assistance Program, their own provider or other appropriate treatment when an incident is reported by an employee.

(5) Ensuring incidents involving Veterans as the alleged offender are referred to the VA medical facility DBC for proper clinical intervention as required in VHA Directive 1160.08. ***NOTE:*** *Use of the DBRS for harassment reporting is a best practice, sexual assault reporting should be reported to VA Police.*

(6) Ensuring incidents involving employees as alleged offenders are referred to the VA medical facility ETAT for appropriate assessment and recommendations, as outlined in VHA Directive 1160.08. ***NOTE:*** *Use of the DBRS for harassment reporting is a best practice, sexual assault reporting should be reported to VA Police.*

(7) Ensuring an environment which supports employee and contractors reporting of harassment and sexual assault incidents as defined by this directive. ***NOTE:*** *For information on how to report incidents, see Appendix A.*

(8) Designating the VA medical facility Patient Advocate to serve as the VA medical facility Designated POC to receive reports of harassment and sexual assault by non-Department individuals (see Appendix B).

(9) Ensuring the VA medical facility Patient Advocate has access to the job aid and training modules, both located in TMS, to support them in their designated role (see paragraph 6).

(10) Reviewing and ensuring that data required by this directive are collected, tracked, trended and analyzed with actions taken on findings, as appropriate. ***NOTE:*** *Data is collected, tracked and analyzed through DBRS, VA Police Records*

Management Report Exec System and the VA Harassment Prevention Program tracking system.

(11) Ensuring that the VA medical facility implements, uses and regularly tests appropriate physical security precautions and equipment to include, as appropriate, SSTV, computer-based panic alarm systems, stationary panic alarms, electronic personal panic alarms, and other equipment as determined by local risk assessment.

(12) Ensuring that all VA medical facility employees are:

(a) Informed about the requirement to report instances or reports of sexual assault and sexual harassment, including gender-based harassment and sexual harassment, to their supervisor, any management official, the local HPC, VA HPP or directly to OIG (see Appendix A).

(b) Informed that their knowledge or information about actual or possible violations of criminal law related to sexual assault issues within VA programs, operations, facilities, contracts or information technology systems must be immediately reported through their supervisor, any management official, the local HPC, the VA HPP or directly to OIG (see Appendix A).

(13) Ensuring each VA medical facility employee completes required training including harassment, sexual assault prevention and security issues including awareness, preparedness, precautions and police assistance (see paragraph 6).

(14) Acknowledging the experiencer in writing regarding their report of sexual assault, harassment, sexual harassment, including gender-based harassment incidents (see Appendix A).

(15) Prominently and permanently displaying anti-harassment and anti-sexual assault signage at the respective VA medical facility outlining how and to whom employees, contractors and non-Department individuals can report harassment or sexual assault incidents. Signage must be visible in the entrance way. Other prominent area recommended to display the signage includes lobby, hallways, elevators, atriums and patient waiting areas.

(16) Ensuring assigned VA medical facility staff are appropriately and timely managing the results of the VSignals Outpatient Safety Survey that assesses Veterans' feeling of safety at the VA medical facility and whether any events occurred at the VA medical facility that affect such feeling, as mandated by 38 U.S.C. § 533.

(17) Developing a comprehensive remediation plan and submitting it to the VISN Director upon reaching five or more substantiated or founded incidents of sexual harassment, sexual assault or combination thereof during any single fiscal year. The remediation plan requires the VA medical facility to address and respond to sexual harassment and sexual assault incidents in order to prevent or diminish future occurrences. The plan of action will include remedial actions that the VA medical facility will undertake to ensure the safety and well-being of Veterans, employees and visitors.

NOTE: *For more information on the remediation plan see https://vaww.stop-harassment.med.va.gov/frp/default.aspx. This is an internal VA website that is not available to the public.*

(18) Ensuring VA Police stationed at the VA medical facility support the implementation of this directive.

m. **VHA Facility Employees.** VHA facility employees at VHACO program offices, VA medical facilities, Vet Centers and VISNs are responsible for reporting incidents of harassment or sexual assault at a minimum to one of the following: their supervisor, management official or to facility law enforcement, the local HPC, VA HPP or directly to the OIG as required by 38 C.F.R. § 1.201.

n. **VA Medical Facility Patient Advocate.** The VA medical facility Patient Advocate, serving as the VA medical facility Designated POC, is responsible for:

(1) Receiving reports of harassment and sexual assaults from non-Department individuals (see Appendix B).

(2) Providing acknowledgement of the incident and documenting applicable details of the event in the Patient Advocate Tracking System-Replacement (PATS-R).

(3) Ascertaining if the experiencer requires immediate medical or mental health attention; if requested, directly transferring the experiencer to the appropriate service.

(4) Providing a brief overview of the VA process for handling the incident and providing information about VA health care services for service recovery.

(5) Notifying designated VHA facility management officials of the incident.

(6) Reporting the incident to the VA medical facility DBC or ETAT via DBRS. ***NOTE:*** *For more information on the DBC, see VHA Directive 1160.08(1).*

6. TRAINING

a. The following training is ***required*** for all VHA employees. ***NOTE:*** *For trainees and transient clinical staff, please refer to VHA Directive 1052, Appropriate and Effective Use of VHA Employee Mandatory and Required Training, dated June 29, 2018, and VHA Directive 1400, Office of Academic Affiliations, dated November 9, 2018*:

(1) No FEAR (VA TMS 45316), within 90 days of their initial hire and every 2 years thereafter.

(2) Harassment Prevention and Accountability Training (VA TMS 45224) within 90 days of their initial hire and annually thereafter.

(3) Whistleblower Rights and Protections (VA TMS 39953), within 90 days of their initial hire and biennially thereafter, or annually thereafter if they are a supervisor.

b. The following training is ***recommended*** for all Designated POCs: Designated Points of Contact Training (VA TMS 45698) on an annual basis.

7. RECORDS MANAGEMENT

All records regardless of format (e.g., paper, electronic, electronic systems) created by this directive must be managed per the National Archives and Records Administration (NARA) approved records schedules found in VA Records Control Schedule 10-1. Questions regarding any aspect of records management should be addressed to the appropriate Records Officer.

8. REFERENCES

a. 38 U.S.C. §§ 533, 1709.

b. 38 C.F.R. §§ 1.201,1.203, 1.218; 17.38, 17.107.

c. VA Directive 0321, Serious Incident Reports, dated June 6, 2012.

d. VA Directive 5979, Harassment Prevention Policy, dated December 8, 2020.

e. VA Handbook 0730, Security and Law Enforcement, dated August 11, 2000.

f. VA Handbook 5979, Harassment Prevention Program (HPP) Procedures, dated March 21, 2022.

g. VHA Directive 1101.05(2), Emergency Medicine, dated September 2, 2016.

h. VHA Directive 1160.08(1), VHA Workplace Violence Prevention Program, dated August 23, 2021.

i. VHA Handbook 1004.01(5), Informed Consent for Clinical Treatments and Procedures, dated August 14, 2009.

j. VHA Handbook 1050.01, VHA National Patient Safety Improvement Handbook, dated March 4, 2011.

INCIDENT REPORTING REQUIREMENTS

1. Supervisors and employees bear responsibility in maintaining a work environment free from harassment and sexual assault. All Department of Veterans Affairs (VA) employees and contractors are required to report incidents of harassment, including gender-based harassment and sexual harassment, sexual assault and public safety incidents to supervisory personnel, the local Harassment Prevention Coordinator (HPC), the VA Harassment Prevention Program (HPP), Office of Inspector General (OIG), VA Police, Veterans Health Administration (VHA) facility law enforcement or to the appropriate facility behavioral threat assessment team (Disruptive Behavior Committee (DBC)) or Employee Threat Assessment Team (ETAT). ***NOTE:*** *Use of the Disruptive Behavior Reporting System (DBRS) for reporting to DBC is a best practice*.

2. Reporting is conducted regardless of whether the reported harasser or the target of the harassment is a VHA facility employee, VA contractor, Veteran or visitor. Such incidents must be reported immediately. Supervisory personnel must then directly inform VA Police, VHA facility law enforcement or the respective VHA Central Office (VHACO) program office Director, VA medical facility, Veterans Integrated Services Network (VISN) or Vet Center. ***NOTE:*** *For further information regarding harassment reporting requirements see VA Directive 5979, Harassment Prevention Policy, dated December 8, 2020*, *and VA Handbook 5979, Harassment Prevention Program Procedures, dated March 21, 2022.*

3. All employees of VHA are required to report sexual assaults and public safety incidents to supervisory personnel. Supervisory personnel must inform law enforcement officials and VHA facility leadership. VHA facility leadership must in turn notify the VISN and VA, to include the VA Integrated Operations Center in accordance with national policy (i.e., VHA Handbook 1050.01, National Patient Safety Improvement Handbook, dated March 4, 2011, and VA Directive 0321, Serious Incident Reports, dated June 6, 2012). All allegations of sexual assault that meet the description in Notification of Serious/Emergent Incidents must be reported within 2 hours to the VA Integrated Operations Center (IOC). ***NOTE:*** *For further information, see VA Directive 0321.*

a. All VA employees with knowledge of or information about actual or possible violations of criminal law related to VA programs, operations, facilities, contracts or information technology systems must immediately report such knowledge or information to their supervisor, any management official, or directly to the Office of Inspector General (OIG) as directed by 38 C.F.R. § 1.201. VHACO Program Office Directors must in turn notify the VA IOC, in accordance with VA and VHA policy (e.g., VA Directive 0321 and VHA Handbook 1050.01). The VHA facility reporting the incident must also contact the VA Police with jurisdiction for that VHA facility to ensure appropriate reporting and tracking of the incident.

b. All sexual assault allegations are required to be reported to the supervisory personnel, the local Harassment Prevention Coordinator (HPC), Harassment Prevention

Program (HPP), OIG, VA Police or VHA facility law enforcement. For additional guidance please refer to https://www.va.gov/oig/hotline/complainant-release-preference.asp.

4. VHA facility supervisors and employees will be held accountable for failure to report incidents of harassment or sexual assault once they are made aware of such an incident or witness such conduct regardless of whether the reported harasser or the target of the harassment is a VHA facility employee, VA contractor, Veteran or visitor. VHA facility employees or VA contractors may be held accountable for failure to report the reported sexual harassing conduct, and such accountability may include VA taking disciplinary action against the supervisor or employee who fails to report the misconduct.

5. Information about actual or possible violations of criminal laws related to VA programs, operations, facilities or involving VHA facility employees, where the violation of criminal law occurs on VHA facility premises, must be reported by VHA management officials to the VA Police with responsibility for the VHA facility in question. If there is no VA Police component with jurisdiction over the offense, the information must be reported to Federal, State or local law enforcement officials, as appropriate, according to 38 C.F.R. § 1.203.

6. When a Veteran seeking treatment at a VHA facility is subjected to inappropriate conduct such as harassment or sexual assault, it creates an unsafe and unwelcoming environment for everyone. When inappropriate and illegal conduct is tolerated or not reported by others, that may embolden such conduct to continue. If it is determined that a Veteran's behavior has or could jeopardize the health or safety of others, VA will appropriately hold the person engaging in such conduct accountable for their actions. Further guidance is outlined in VHA Directive 1160.08(1), VHA Workplace Violence Prevention Program, dated August 23, 2021.

7. ACKNOWLEDGEMENT OF THE INCIDENT

VA medical facility Directors, VISN Directors, VHA Central Office (VHACO) program office Directors or equivalent and Vet Center Directors must acknowledge in writing the experiencer's report(s) of harassment, sexual harassment, including gender-based harassment and sexual assault incidents.

a. The letter to the person who reports harassment or sexual assault acknowledges the complainant's report of the experience.

b. The letter is not an acknowledgment or admission that the incident occurred. A fact-finding or investigation examines the evidence and facts of the report to determine if the incident is substantiated or founded or unsubstantiated or unfounded.

c. The letter to the experiencer must include available VA or known local community-based resources and services. Directors must, to the greatest extent feasible, provide

an update to the experiencer on the steps taken or will take, including making notifications and ensuring the experiencer has been offered supportive services.

d. The letter is available at https://vaww.stop-harassment.med.va.gov/phrwg/AddtnlGuide.aspx. This improves the employee or Veteran experience and provides them closure. ***NOTE:*** *See VA Directive 5979 for additional harassment reporting requirements.*

VA MEDICAL FACILITY AND VET CENTER DESIGNATED POINT OF CONTACT COMPLAINT PROCESS FOR NON-DEPARTMENT INDIVIDUAL HARRASSMENT OR SEXUAL ASSAULT

The below table outlines the process followed by the Department of Veterans Affairs (VA) medical facility Designated Point of Contact (POC) (i.e., Patient Advocate and Vet Center Designated POC (i.e., Vet Center Director)) after they receive a report of non-Department individual report of harassment or sexual assault. ***NOTE:*** *All VA employees are required to report incidents of unlawful harassment, including gender-based, sexual assault and public safety incidents to supervisory personnel, the local Harassment Prevention Coordinator, the VA Harassment Prevention Program (HPP), Office of Inspector General, VA Police or facility law enforcement.*

**Order of steps continue after page breaks and "Additional Details for Each Step" should be read with the applicable step.*

Order of Steps	Steps Taken by VA Medical Facility and Vet Center Designated Point of Contact After Receiving Report	Additional Details for Each Step
Step One	Provide non-judgmental acknowledgement of incident. Note important details of the incident.	Ask if the experiencer needs immediate medical/mental health attention. If requested, provide a direct transfer to approporate service. If physical assault (touching) or immediate safety concern is reported, immediately contact VA Police or local law enforcement, and provide a direct transfer to the appropriate service. ***NOTE:*** *VA Police or local law enforcement will initiate and conduct investigation and notify applicable parties of outcome.*

Order of Steps	Steps Taken by VA Medical Facility and Vet Center Designated Point of Contact After Receiving Report	Additional Details for Each Step
Step Two	Inform experiencer of process.	Provide a brief overview of the process to the experiencer; allegations of harassment/assault are taken seriously, will be investigated, and action taken as appropriate. Offer information about VA services available to the experiencer.
Step Three	VA medical facility: Create case in Patient Advocate Tracking System-Replacement (PATS-R). Vet Centers: Document all applicable information on the HPP form VA 10221a.	VA medical facility: Document all applicable information in PATS-R. To include date reported, date of incident, brief statement of incident highlighting persons involved and nature of incident, actions taken, and next steps. Vet Centers: Document all relevant information in Heads Up Message and subsequent Issue Brief.
Step Four	Notify designated management officials.	VA medical facility: VA Medical Facility Executive Leadership Team (ELT) will be notified via PATS-R. ***NOTE:*** *ELT or designee will take appropriate action which may include (1) Office of Inspector General notification, (2) completion of Issue Brief, Veterans Integrated Services Network/Veterans Health Administration Central Office notification, and (3) sending the Post-*

Order of Steps	Steps Taken by VA Medical Facility and Vet Center Designated Point of Contact After Receiving Report	Additional Details for Each Step
		Harassment and Assault letter to the experiencer signed by the VA medical facility Director. Vet Centers: Submit reports to appropriate chain of command within District Leadership and Readjustment Counseling Service (RCS) Operations Team. Communicate the Heads Up Message and Issue Brief through the District Leadership Team to RCS Operations within 2 hours to comply with VHA Serious Incident Reporting Guidelines. RCS Operations Team to communicate reported incident to the Chief Officer.
Step Five	VA medical facility: Report to Disruptive Behavior Committee (DBC) via Disruptive Behavior Reporting System (DBRS). Vet Centers: Report to VA Office of Resolution Management, Diversity & Inclusion (ORMDI), National HPP Team via HPP Tracker SharePoint via ormvbaeeoliaison@va.gov.	VA medical facility: ***NOTE:*** *DBC will convene and follow procedures as appropriate. DBC will initiate review of DBRS reports within 1 business day, and assess need for individualized treatment and safety plan recommendations. If the incident is patient-to-patient assault, it will be reported in Joint Patient Safety Reporting. VA Police may notify DBC of incident. For data alignment, verify the VA*

Order of Steps	Steps Taken by VA Medical Facility and Vet Center Designated Point of Contact After Receiving Report	Additional Details for Each Step
		Police Records Management Report Exec System number is entered into DBRS.
Step Six	Providing an update to the experiencer on the steps taken or will be taken, including making notifications and ensuring the experiencer has been offered supportive services.	***NOTE:*** *ELT or designee will verify the Post Harassment and Assault Letter is sent to the experiencer and uploaded in PATS-R. Verify resolution, code, and close the case in PATS-R.*

VHA REPORTING PROCEDURES FOR INDIVIDUALS EXPERIENCING HARASSMENT - VA HANDBOOK 5979

Note: Harassment can be reported to any of the points of contact in any order.	**Local Point of Contact (POC)**	**Local Point of Contact (POC)**	**Local Point of Contact (POC)**	**Agency Harassment Complaint (POC)**	**Agency Discrimination Complaint (POC)**	**Additional Reporting Option**
If you are a Department of Veterans Affairs (VA) employee and the harasser is a VA employee or contractor contact:	Immediate Supervisor	Another Management Official	Facility Harassment Prevention Coordinator (HPC)	VA Office of Resolution Management, Diversity & Inclusion (ORMDI)Harassment Prevention Program (HPP) Office – Call 1-888-566-3982 select option 3	ORMDI Equal Employment Opportunity (EEO) Counselor – Call 1-888-566-3982 select option 2	VA Office of Accountability and Whistleblower Protection (visit https://oawp.va.gov/intake/ for further guidance
If you are VA employee and the harasser is a Veteran or Non-Department Individual contact:	Immediate Supervisor	Another Management Official	Facility HPC	ORMDI HPP Office	ORMDI EEO Counselor	Submit Disruptive Behavior Reporting System (DBRS) entry to the Disruptive Behavior Committee (DBC)
If you are a Veteran Patient and the harasser is a VA employee	Patient Advocate	VA Management Official	VA Police	ORMDI HPP Office	N/A	Submit DBRS entry to the Employee Threat

or contractor contact:						Assessment Team (ETAT) via the Patient Advocate
If you are a Veteran Patient and the harasser is a Veteran Patient or Non-Department Individual contact:	Patient Advocate	VA Management Official	VA Police	N/A	N/A	Submit DBRS entry DBC via Patient Advocate
If you are a Student/Intern/ Trainee and the harasser is a VA employee or contractor contact:	Immediate Supervisor	Another Management Official	Facility HPC	ORMDI HPP Office	ORMDI EEO Counselor	Submit DBRS entry to ETAT
If you are a student/intern/ Trainee and the harasser is a Non-Department Individual Contact:	Immediate Supervisor	VA Management Official	VA Police	ORMDI HPP Office	N/A	Submit DBRS entry to DBC
If you are a contractor and the harasser is a VA Employee or contractor contact:	Immediate Supervisor	Another Management Official	Facility HPC	ORMDI HPP Office	ORMDI EEO Counselor	Contracting Office, DBRS to ETAT
If you are a contractor and the harasser is a Veteran or Non-Department Individual Contact:	Immediate Supervisor	Another Management Official	Patient Advocate	ORMDI HPP Office	N/A	Contracting Office, DBRS to ETAT

RESOURCES

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b. Dyer, K.E., Potter, S.J., Hamilton, A.B., Luger, T.M., Berman, A.A., Yano, E.M., Klap. R. (2019). Gender differences in Veterans' perceptions of harassment on Veterans Health Administration grounds. *Women's Health Issues,* Suppl 1: S83-S93. DOI: 10.1016/j.whi.2019.04.016.

c. Klap, R., Darling, J.E., Hamilton, A.B., Rose, D.E., Dyer, K., Canelo, I., Haskell, S., Yano, E.M. (2019). Prevalence of stranger harassment of women Veterans at Veterans Affairs medical centers and impacts on delayed and missed care. *Women's Health Issues*, 29(2), 107-115. DOI: 10.1016/j.whi.2018.12.002.

d. Fenwick, K.M., Potter, S.J., Klap, R., Dyer, K.E., Relyea, M.R., Yano, E.M., Luger, T.M., Bergman, A.A., Chrystal, J.G., Hamilton, A.B. (2021). Staff and patient perspectives on bystander intervention training to address patient-initiated sexual harassment in Veterans Affairs healthcare settings. *Women's Health Issues,* 2021 Aug 25:S1049-3867(21)00077-3. DOI: 10.1016/j.whi.2021.07.003.

e. Shipherd, J.C., Darling, J.E., Klap, R.S., Canelo, I, &Yano, E.M. (2018). Experiences in VHA and Impact on Healthcare Utilization: Comparisons between LGBT and non-LGBT Women Veteran. LGBT Health, 5(5), 303-311. https://doi.org/10.1089/lgbt.2017.0179.

f. Berke, D.S., Ruben, M.A., Liautaud, M.M., Meterko, M., Kauth, M.R., Shipherd, J.C. (in press). Discrimination exposure based on race, gender, and sexual orientation of Veterans Healthcare Administration patients. Journal of Health Care for the Poor and Underserved.

g. Workplace Violence Prevention Program SharePoint. https://dvagov.sharepoint.com/sites/VHAWVPP/sitepages/home.aspx. ***NOTE:*** *This is an internal Department of Veterans Affairs (VA) website that is not available to the public.*

h. VHA Assault and Harassment Prevention Post-Harassment and Resilience, https://vaww.stop-harassment.med.va.gov/phrwg/Default.aspx. ***NOTE:*** *This is an internal VA website that is not available to the public.*