



**Department of
Veterans Affairs**

Office of Inspector General

SPECIAL INQUIRY

**ALLEGED IMPROPER CONDUCT
BY A SENIOR OFFICIAL
VA MEDICAL CENTER FAYETTEVILLE, NC**

**Report No. 7PR-G02-007
Date: November 8, 1996**

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Washington, DC 20420

TO: Veterans Health Administration, Network Director (10N6)

SUBJECT: Special Inquiry, Alleged Improper Conduct by a Senior Official, VA Medical Center, Fayetteville, NC, Report No. 7PR-G02-007

1. The Department of Veterans Affairs (VA), Office of Inspector General (OIG) reviewed allegations that Mr. Jerome Calhoun, Director, VA Medical Center, Fayetteville, North Carolina, sexually harassed three women. Two of these allegations surfaced during a review of a Hotline complaint sent to our office. The third sexual harassment complaint was referred to us by your office. We also received allegations from Senator Lauch Faircloth concerning misconduct and unprofessional behavior by Mr. Calhoun. These allegations were referred to your office for appropriate action. Based on your review, you concluded Mr. Calhoun was not effective as a Medical Center Director.

2. Our review determined that Mr. Calhoun sexually harassed one of the three female employees. While we could not conclusively determine whether he sexually harassed the other two employees, we did conclude that Mr. Calhoun's behavior toward them was abusive, threatening, and inappropriate. We also concluded that Mr. Calhoun was less than truthful about certain matters in responding to the allegations, which raised some doubt concerning his credibility.

3. Regarding the first complainant, Mr. Calhoun made inappropriate comments of a sexual nature. Some of the comments Mr. Calhoun made to her were witnessed by others, and Mr. Calhoun himself, at least partially, acknowledged having made the comments. However, given the speech and behavior of the first complainant, we are concerned that a sexual harassment charge would be difficult to uphold because it could be found that such comments were neither uninvited nor offensive. We did conclude that Mr. Calhoun's treatment of the first complainant was inappropriate and abusive. Mr. Calhoun admitted to being loud, emotional, and profane. Due to stress that resulted from the overall abuse by Mr. Calhoun the complainant removed herself from the workplace. Eventually, she filed a claim with the Office of Workers' Compensation due to her stress, and that claim was approved.

4. The second complainant testified that Mr. Calhoun made unwelcome sexual advances toward her and retaliated against her when she rejected his suggestions that they have a personal relationship. Our review substantiated quid pro quo sexual harassment and sexual harassment for creating a hostile work environment. The quid pro quo sexual harassment was a result of Mr. Calhoun's retaliation against the complainant by

reassigning her to a position that she was not qualified for, because she rejected his proposals. The creation of a hostile and offensive work environment resulted because Mr. Calhoun continued to make unwelcome and inappropriate comments of a sexual nature to the complainant after she had clearly indicated her discomfort with such comments. We found the testimony of the complainant to be credible in that it was corroborated over and over again by the views of other medical center employees and the complainant's psychologist. Due to the sexual harassment, this complainant transferred to another medical center.

5. The third complainant testified that Mr. Calhoun made unsolicited verbal comments of a sexual nature to her on more than one occasion. The complainant told us there were no witnesses to the remarks on either occasion. Mr. Calhoun denied making comments of a sexual nature to the complainant. He suggested that the complainant was angry at him because he transferred her out of her previous position, and that she had falsely made the accusation of sexual harassment out of revenge. While we could not determine if the allegations of sexual harassment were substantiated because it was essentially her word against his, we did conclude that Mr. Calhoun's treatment of the third complainant continued to demonstrate a pattern of inappropriate and abusive behavior.

6. We recommended that you take appropriate administrative action against Mr. Calhoun for sexually harassing at least one female employee and for his pattern of abusive and inappropriate behavior toward all three complainants. You concurred with our findings and recommendation, and informed us you were finalizing a plan of action to implement the recommendation. We will review that plan to ensure it is responsive to our recommendation, and will follow up on its implementation until the issue is resolved.

/s- Jon A. Wooditch for/
JACK H. KROLL
Assistant Inspector General for
Departmental Reviews and Management Support

Enclosure

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INTRODUCTION

Purpose

The Department of Veterans Affairs (VA), Office of Inspector General (OIG) reviewed allegations that Mr. Jerome Calhoun, Director, VA Medical Center, Fayetteville, North Carolina, sexually harassed three women. At the time of the alleged harassment, the three women were employed at the Fayetteville VA Medical Center. Two of the allegations surfaced during a review of a Hotline complaint sent to the OIG's Hotline and Special Inquiries Division. The OIG initiated a review of the third allegation in response to a request for assistance from the Director, Veterans Integrated Service Network in Durham, North Carolina (VISN 6). We also agreed to conduct this review because the allegations were serious in nature and involved possible misconduct by a high ranking VA official, and the statute of limitations for filing Equal Employment Opportunity (EEO) complaints, based on charges of sexual harassment, had expired.

We also received allegations from Senator Lauch Faircloth regarding misconduct and unprofessional behavior by Mr. Calhoun. These allegations were referred to VISN 6 for appropriate action. The Director, VISN 6, initiated a review to determine the validity of the allegations. Based on that review, he concluded that Mr. Calhoun was not effective as a medical center director. We have responded to Senator Faircloth regarding the results of that review.

Background

Mr. Calhoun became the Director of the Fayetteville Medical Center in April 1994. His previous assignment was as Associate Director at the VA Medical Center in Buffalo, New York.

Sexual harassment is recognized in the law as a type of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964. According to 29 C.F.R. Section 1604.11, sexual harassment is defined as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or,
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment that occurs when a supervisor bases an employment decision about an individual on that individual's submission to or rejection of the supervisor's unwelcome sexual conduct is known as "quid pro quo" sexual harassment. The other major type of sexual harassment involves inappropriate behavior or speech which creates a hostile work environment.

While a single isolated incident, such as a threat to take a negative personnel action, may be sufficient to establish quid pro quo harassment, hostile environment claims can be more complicated. Generally, there must be a series or pattern of events which are sufficiently offensive that the work environment has been altered to the extent that a reasonable person would be uncomfortable or that person's productivity would be negatively affected. However, even one instance of egregious misconduct, e.g., indecent touching, may be sufficient to create a hostile environment.

Equal Employment Opportunity Commission guidelines hold supervisory personnel to a higher standard than co-workers. The employer can be held liable for the improper acts of a management official even if the official's superiors were not aware of the misconduct. A Director of a VA medical center, given that person's overall supervisory and leadership responsibilities, and that person's position in the EEO process, would be expected to establish a standard of proper behavior and intolerance of sexual harassment.

VA policy (MP-7, Part I, Change 1) also prohibits sexual harassment. According to that policy, "sexual harassment is unacceptable conduct in the workplace and will not be condoned." The policy defines sexual harassment as "deliberate or repeated unsolicited verbal comments, gestures, or physical contacts of a sexual nature which are unwelcomed. It is a form of employee misconduct which may create an unproductive or an offensive working atmosphere and which undermines the integrity of the employment relationship."

Scope

To evaluate whether Mr. Calhoun sexually harassed three Medical Center employees, we interviewed the three women, witnesses who heard or were told of the alleged harassment, and Mr. Calhoun. All interviews conducted in person, including those with the three complainants and Mr. Calhoun, were tape recorded and the interviewees were placed under

oath. We also reviewed the personnel records of the three women and obtained available documentation of the alleged harassment.

RESULTS AND RECOMMENDATION

Issue: Did Mr. Jerome Calhoun, Director of the Fayetteville, NC Medical Center, sexually harass three Medical Center employees?

We substantiated the allegations of sexual harassment with respect to one of the three employees. We found that Mr. Calhoun sexually harassed Complainant No. 2.

Regarding Complainant No. 1, we determined that Mr. Calhoun did make inappropriate comments of a sexual nature to her, but we are concerned that a sexual harassment charge might be difficult to uphold. Given the speech and behavior of Complainant No. 1, it could be found that such comments were not uninvited or offensive to her. With regard to Complainant No. 3, it was her word against Mr. Calhoun's with regard to the sexual harassment allegation. Therefore, we could not substantiate that allegation, given that management would have the burden of proof on the issue.

While we could not conclusively determine that he sexually harassed Complainants No. 1 and No. 3, we did conclude that Mr. Calhoun's behavior toward them was abusive, threatening, and inappropriate. We also concluded that Mr. Calhoun was less than truthful about certain matters in responding to the allegations, which raised some doubt concerning his credibility.

Complainant No. 1

The complainant, (b)(6)....., alleged that on three occasions Mr. Calhoun made an unsolicited, offensive verbal comment of a sexual nature to her, or threatened to repeat the comment in the presence of others. The complainant (hereafter referred to as Complainant No. 1, or Ms. A) testified that in February or March 1996, she came into Mr. Calhoun's office to (b)(6)..... and, as she was leaving, he told her he had just talked on the telephone to a friend of his and told the friend that (b)(6)..... does "the strangest thing." He then asked her, "Did you know that every time you get upset your nipples get hard?" Ms. A told us that her first thought was to slap Mr. Calhoun on the face, but that she just stared at him and then responded, "No." She said Mr. Calhoun then told her, "Well, they really do. It's not bad to see you get upset." She testified that she then left Mr. Calhoun's office without further comment. She said there were no witnesses to this remark.

Ms. A testified that, on a second occasion when she was in Mr. Calhoun's office, he remarked to another person present in the room, "Do you know what happens when [the complainant] gets excited?" The complainant told us she did not recall if Mr. Calhoun followed up that remark with a comment about her nipples. However, the third person in the room (Complainant No. 3, Ms. C) testified that, while Ms. C was talking to Mr. Calhoun, Ms. A walked in and, after a brief conversation, Mr. Calhoun remarked that there was something very interesting about Ms. A. According to Ms. C, Mr. Calhoun then remarked that Ms. A's nipples got hard when she was anxious. [Ms. C could not recall if Mr. Calhoun used the

word anxious, nervous, or excited.] Ms. C told us this occurred around March 1996. According to Ms. C, Ms. A reacted to the remark with a shocked look on her face, and crossed her arms in front of her.

Ms. A's actions indicate that she was offended and embarrassed by the Director's statements. Her facial expression, in response to the offensive statements, was described by Ms. C as "shocked." The crossing of her arms in front of her was clearly an attempt to cover the part of the body the Director was inappropriately bringing attention to through his remarks.

Ms. A testified that, several weeks after the first incident, Mr. Calhoun threatened to repeat the comment about her nipples in the presence of the Associate Director and the Chief of Staff. Ms. A told us that after her official duty hours on a Friday afternoon, (b)(6)....., who was in his conference room with the Associate Director and Chief of Staff. Upon entering the conference room, Ms. A testified that (b)(6)..... Director, Associate Director, and Chief of Staff that (b)(6) was working late again, was "drowning" in work and urgently needed additional (b)(6)..... help to accomplish what needed to be done. According to Ms. A, Mr. Calhoun responded to her, "You know what happens to you when you get upset. Do you want me to tell [the Chief of Staff and the Associate Director] what happens to you when you get upset?" Ms. A testified that she crossed her arms in front of her, trying to hide her breasts, and responded, "No sir, I don't." She said she then walked out of the conference room, (b)(6)....., and went home. Ms. A's actions and words again indicate that she found the Director's statements embarrassing and uncomfortable.

Ms. A testified that she told no one about the above remarks for several months. She said she did not file a sexual harassment charge against Mr. Calhoun because she was afraid of him and afraid of what her husband would do when he found out. She also testified that she did not think anyone would believe her allegations.

In some respects, the Associate Director corroborated Ms. A's testimony with regard to the third incident. She told us that, while she did not think that Ms. A was shocked, Ms. A did have "some kind of reaction" to Mr. Calhoun's remark. She testified that after the complainant left the conference room, Mr. Calhoun told her [the Associate Director], "You'd have to be a man to appreciate this, so we're not going to even talk about it." The Associate Director told us that, although Mr. Calhoun did not explain his comment, she believed she knew what he meant by it. She said that Mr. Calhoun had told her, some time prior to the above incident, that Ms. A (b)(6)..... and that Ms. A voluntarily told him that, (b)(6)....., her nipples got hard when she was upset.

When we asked Mr. Calhoun if he had ever made a remark to Ms. A about her breasts, he knew what we were referring to without us having to tell him the specific comment. He repeatedly denied that he ever made a remark to or about the complainant in which he used the word "nipples" or "breasts." He testified that, to the contrary, Ms. A had told him she (b)(6)..... and that, (b)(6)....., her nipples got hard when she was upset. Mr. Calhoun admitted that, on more than one occasion, he reminded Ms. A, without

specifically saying the word “nipples,” about what happens to her when she is upset or excited. He testified that, on the occasion he was meeting with the Chief of Staff and Associate Director, he made the comment as a way of telling the complainant to “get out of here.”

Mr. Calhoun initially testified that he did not recall threatening to tell the Associate Director and Chief of Staff about what happened to the complainant when she got “upset,” nor did he recall telling the Associate Director, “You’d have to be a man to appreciate this” However, when we confronted him with the Associate Director's testimony that she recalled that he did in fact make those remarks, he stated that he would not argue otherwise. In short, he did not challenge or in any way rebut the Associate Director's testimony.

The Director's statements to the Associate Director essentially admit that he was well aware that his statements were offensive and unwelcome to the average woman. The fact that he would not discuss the subject with the Associate Director, a woman, demonstrates that he knew the subject was inappropriate and, perhaps inherently, offensive. His statement that the comment was the equivalent of telling Ms. A to "get out of here" is conclusive evidence that he was aware that the comments were sufficiently embarrassing to Ms. A that they would result in her being so uncomfortable that she would leave the room.

Mr. Calhoun, however, also testified that Ms. A made frequent comments about her own body to the effect that she had a good body for a woman her age and that she was still attractive and desirable. He testified that Ms. A discussed, in fairly explicit terms, her sexual activities with her husband. According to Mr. Calhoun, Ms. A frequently wore "inappropriate" clothing of a sexy, provocative nature and would turn every conversation around to a sexual connotation.

Two other witnesses, including the female Associate Director, each of whom had direct knowledge about Ms. A, corroborated the Director's testimony with regard to Ms. A's clothing and speech. The Associate Director testified that Mr. Calhoun told her that Ms. A said, with regard to (b)(6)....., my husband "likes (b)(6)· better this way." The Associate Director, in discussing Ms. A's inappropriate clothing, stated that she believed Ms. A wanted attention. She told us that prior to Ms. A being hired as the (b)(6)....., a staff person who worked with her previously discussed her inappropriate clothing and behavior. However, the Associate Director stated that Ms. A had never made an inappropriate remark in her presence.

Ms. A told us that she did tell Mr. Calhoun about (b)(6)..... because he had asked her what prompted her active participation in the (b)(6)..... She stated that, although she did not have (b)(6)....., she did have (b)(6)..... She indicated that she has spoken to many groups about (b)(6)..... and she is not embarrassed by it or ashamed to discuss it. However, she denied that she ever told Mr. Calhoun that her nipples got hard when she was upset or excited.

In analyzing the allegations of sexual harassment, we note that there was no corroborating witness for the first alleged instance. The corroborating witness for the second alleged instance is Ms. C, who is the third complainant alleging sexual harassment against Mr. Calhoun. As we will discuss in more detail in the Complainant No. 3 section of this report, Ms. C, like Ms. A, is a victim of abusive behavior by Mr. Calhoun. Ms. C is not an unbiased witness. In addition to her allegations, which would be enhanced if sexual harassment by Mr. Calhoun against Ms. A was substantiated, she is bitter toward Mr. Calhoun. Given her bitterness toward Mr. Calhoun, she may not be a particularly independent and objective witness.

Finally, as to the third alleged instance, while the basic facts were confirmed and corroborated by the Associate Director, Ms. A's testimony was not corroborated with respect to the offense Ms. A took to the remark. The Associate Director's testimony was that Ms. A was upset and fluttery before the Director made the remark and that the remark itself did not have a major noticeable negative effect on Ms. A. Although, it could be argued that it did have the effect intended by Mr. Calhoun, which was to get Ms. A to leave the room.

We determined that Mr. Calhoun did make inappropriate statements of a sexual nature to Ms. A about her body. While we consider his statements to and about Ms. A's body improper and evidence of misconduct, especially for the Director of a VA Medical Center, we cannot conclude that these remarks constitute a provable case of sexual harassment. While we do not in any way wish to minimize or condone Mr. Calhoun's remarks, we believe that his remarks may not have created a hostile and offensive work environment in terms of sexual harassment.

Given the reportedly sexually oriented speech of Ms. A, i.e., her comments about her husband's reaction to her (b)(6)....., her comments about her own attractiveness, and her open comments about her sexual activity with her husband, it is possible that Ms. A would not prevail in a claim that the Director's comments were offensive or that they created a hostile work environment, in the context of a sexual harassment case. In fact, it could be argued that Ms. A, through her own clothing and conversation, inadvertently created an environment where sexually oriented speech was openly discussed and tolerated. Irrespective of whether the remarks constitute sexual harassment in a legal sense, such remarks are nonetheless indecent and totally inappropriate.

In her testimony regarding the allegations of sexual harassment, Ms. A also alleged that Mr. Calhoun's behavior toward her was inappropriate in a variety of other ways. For example, she alleged that Mr. Calhoun shouted at her, used profane language toward her, refused to speak to her on certain business-related matters, falsely accused her of stealing from him, and constantly and frequently threatened to fire her (while at the same time refusing to reassign her). Ms. A testified that the Director's constant and prolonged abusive behavior, which persisted for the better part of a year, had been degrading and diminished her self esteem. She stated that the stress caused by Mr. Calhoun had such a significant negative effect on her physical and mental health she began routine visits to her family physician.

Ms. A testified that she initially spent 3 hours talking to her physician about the effects of Mr. Calhoun's inappropriate behavior towards her. Her physician diagnosed her as suffering from situational depression, gave her medication and recommended that she stay away from the workplace. Ms. A eventually filed a claim with the Office of Workers' Compensation due to her stress and that claim was approved.

We believe that the evidence clearly demonstrates that the Director's overall behavior toward Ms. A created a work environment that was stressful, threatening, and uncomfortable for Ms. A. She was subjected to terrible stress due the Director's repeated threats that she would be fired and lose her job. The fact that the Director threatened to embarrass Ms. A in front of two other people by commenting on her body is indicative of his abusive treatment toward her. The Director's assertion that he never used the words "breast" or "nipples" completely misses the point. The point is that he essentially admitted that his threatened comment, of a sexual nature, was intended to result in Ms. A leaving the room. If he wanted Ms. A to leave the room, he should have just asked her to do so. Intentionally abusive comments made by a supervisor to a subordinate are inappropriate, offensive, indefensible, and an abuse of power. Mr. Calhoun's behavior toward Ms. A created an atmosphere that was uncomfortable, stressful, tense, abusive, and non-productive.

The pattern of behavior exhibited does not seem out of character for Mr. Calhoun. Other medical center employees interviewed also testified that they found the Director to be abusive, profane, and threatening. Additional examples of this behavior are discussed in the following sections.

Complainant No. 2

The complainant (hereafter referred to as Complainant No. 2 or Ms. B), (b)(6).....
..... at the time the alleged harassment occurred, alleged that Mr. Calhoun transferred her from her position because she refused his suggestion that the two of them have a personal relationship.

Ms. B alleged that quid pro quo sexual harassment occurred because Mr. Calhoun retaliated against her by implementing an employment decision negatively affecting the complainant without sufficient justification for the personnel action. Specifically, she alleged that the Director's actions concerning her reassignment from her position as (b)(6)..... to a position she was not qualified for, was caused by her rejection of the Director's unwelcome sexual advances toward her.

In addition to the unjustified personnel action taken against her, Ms. B also alleged that the Director's behavior toward her involved threatening behavior and additional unwelcome and inappropriate comments of a sexual nature, which created a hostile and offensive work environment.

The evolution of the Director's treatment of Ms. B changed dramatically over time. To fully appreciate the change, it is necessary to present the full context of their interactions. Both Mr. Calhoun and Ms. B testified that during the first few months after Mr. Calhoun arrived at the Fayetteville Medical Center, the two of them met frequently to discuss (b)(6) matters. They testified that Mr. Calhoun had a high interest in (b)(6) and communicated directly with Ms. B to keep abreast of the program's status. Ms. B testified that during their many meetings, they often had conversations on (b)(6) topics and joked with one another. She testified that she felt comfortable enough with Mr. Calhoun that on one occasion shortly after he arrived in Fayetteville she invited him to have dinner with her and a co-worker, and he accepted the invitation.

Ms. B testified that around September 1994, while she was in Mr. Calhoun's office discussing (b)(6), he told her that now that she was divorced [Ms. B's divorce was final in August 1994], he had something to say to her. Ms. B testified that Mr. Calhoun asked her who her best friend was and told her that she could not tell her best friend what he was about to say. Ms. B testified that Mr. Calhoun then told her that he was "interested" in her. She said she took that comment to mean he had an interest in her that was personal, not work related. Ms. B said she was surprised by the comment and told Mr. Calhoun that she was already in a relationship with someone and did not want to jeopardize it. According to Ms. B, Mr. Calhoun persisted by asking her to "think about it."

A friend of Complainant No. 2 corroborated her testimony about this incident when she testified that Ms. B told her that Mr. Calhoun had expressed an interest in having a personal relationship with Complainant No. 2 and that she rejected his proposal. The friend could not remember exactly when the incident occurred, but said Ms. B told her about it immediately after it occurred. Ms. B also discussed the incident with (b)(6) shortly after the incident occurred. (b)(6) also corroborated Ms. B's testimony.

In the weeks that followed the incident, Mr. Calhoun and Ms. B continued to have meetings to discuss (b)(6). Ms. B testified that at one of these meetings Mr. Calhoun told her that he "got sick when he was rejected." Ms. B said that this remark upset her. At this point, she said that she decided that if Mr. Calhoun made any further unwelcome remarks to her, she would tell him that she did not appreciate them. She said that she knew, based on her sexual harassment training, that this was what she was supposed to do. (b)(6) again corroborated Ms. B's statement concerning how the Director reacted to rejection, based on Ms. B's contemporaneous reporting of this event to (b)(6).

According to Ms. B, during a meeting with Mr. Calhoun in his office in mid-October 1994, Mr. Calhoun brought up his interest in having a relationship with her once again. Ms. B testified that Mr. Calhoun said, "You haven't given me an answer yet." She stated that she asked Mr. Calhoun what he was talking about, and he said, "About my being interested in you." Ms. B testified she told Mr. Calhoun that she thought she had given him an answer, and again told him she was not interested because she was already in a relationship that she

did not want to jeopardize. She also said that she told Mr. Calhoun, "Please don't do this to me." After Ms. B left Mr. Calhoun's office, she remembers feeling intimidated. She testified that she thought about charging Mr. Calhoun with sexual harassment, but did not have the nerve to do it.

At this point in time, i.e., after the second incident, Ms. B clearly let the Director know that she was not interested in a personal relationship with him. By saying, "Please don't do this to me," she communicated that his advances were unwelcome and made her uncomfortable. Ms. B's testimony about this incident was once again corroborated by (b)(6)....., to whom she made a contemporaneous report of these events. Ms. B's contemporaneous reporting of these events were detailed in a written statement that was prepared by (b)(6)..... After Ms. B provided the written statement to us, we confirmed with (b)(6)..... that he had, in fact, written it.

The relationship between Mr. Calhoun and Ms. B began to deteriorate during the next several weeks. According to Ms. B, by December 1994, Mr. Calhoun's interactions with her changed. She said their meetings to discuss (b)(6)..... became less frequent, and he would often not talk to her when he saw her. (b)(6)..... stated that she told him in January 1995 that "she sensed that rapport had broken down between herself and Mr. Calhoun." (b)(6)..... stated that, according to Ms. B, Mr. Calhoun seemed to be withdrawing from her, and that on passing in halls and on other occasions he appeared to be glaring at her and unresponsive to her greetings. Ms. B said she believes that the change in their working relationship occurred because she rejected his offer to have a personal relationship.

We talked to four current and former Medical Center employees who had knowledge of the relationship between Mr. Calhoun and Ms. B. All four told us that they were aware of a change in that relationship. For example, one employee noted that "all of a sudden . . . nothing [Ms. B] did was right." Another employee told us that Mr. Calhoun seemed to "turn" on Ms. B. These witnesses corroborated Ms. B's testimony that her working relationship with Mr. Calhoun noticeably changed for the worse.

Mr. Calhoun denied that he ever had anything except a strictly professional relationship with the complainant. He testified that they discussed only (b)(6)..... business during their frequent meetings. He did acknowledge that he once went out for drinks with Ms. B. He testified that the reason he began to meet less frequently with Ms. B to discuss (b)(6)..... was that he was not pleased with her performance and "just backed off."

By January 1995, Ms. B sensed that the rapport between herself and Mr. Calhoun had broken down completely. She described an incident in which Mr. Calhoun became furious with her and shouted and cursed at her in front of other employees. Mr. Calhoun admitted to us that he does have a problem in that he does curse too much at work in front of staff. He testified that in recent months he tried to improve in this area by being less emotional and cursing less.

Ms. B said that she felt threatened by Mr. Calhoun's belligerence toward her and feared that he might actually strike her. She stated that Mr. Calhoun later apologized to her for his outburst, and then said to her, "I really miss the days when if a woman was out of line you could just slap her around."

In his written statement, (b)(6)..... corroborated that Ms. B related to him a pattern of inappropriate behavior towards her on the part of Mr. Calhoun, to include verbal abuse, physical intimidation, and sexual harassment. (b)(6)..... stated that Ms. B told him the Director's behavior created a work environment that made her feel frustrated and intimidated.

Ms. B said the situation became more than she could tolerate when, in February 1995, while discussing her work with Mr. Calhoun in his office, Mr. Calhoun made a sexual remark, "You have beautiful tits." She stated that she responded, "That's not what we are here to talk about." She said they completed their discussion and she left. Ms. B reported this sexual abuse to (b)(6)..... immediately after it occurred. (b)(6)..... written statement to us confirmed that Ms. B contemporaneously reported the unwelcome, offensive sexual comment. Mr. Calhoun denied making the statement.

Ms. B testified that at about the time the above incident occurred, she heard from others that Mr. Calhoun was spreading rumors that she had made advances toward him. Ms. B stated, "This is clearly untrue and is nothing more than an unlawful power move on his part to humiliate and embarrass me."

Ms. B stated to (b)(6)..... that these accumulated events were increasingly distressing to her and were placing her in a quandary. She stated that she was disillusioned by Mr. Calhoun's behavior in that he was the Director who, rather than harassing her, should have been protecting her from harassment. She stated that her concentration, attention and feelings of being imposed on, and feelings of helplessness in this situation, were impacting on her mood. She noted sleep problems, bad dreams, and flashbacks to the occasions discussed above.

Ms. B stated that sometime in early 1995, Mr. Calhoun referred to a report of a recent inspection of (b)(6)..... as a "piece of shit," even though the inspection report found no problems with the Section. She said that he described the team that inspected (b)(6)..... as "useless."

In early May 1995, Mr. Calhoun directed that Ms. B be removed as (b)(6)..... and be reassigned to another position. The reassignment was effective June 11, 1995. The complainant said that she was assigned to a (b)(6)..... position even though she had no experience or training for that position. Ms. B testified that she believed Mr. Calhoun directed that she be put in this position because he was "setting her up" to fail. The former Acting Chief of Human Resources corroborated the complainant's testimony by advising us that, in his opinion, she probably lacked the necessary skills to be a (b)(6)..... In

fairness, however, according to Ms. B, the former (b)(6) Chief told her that he thought she could handle the (b)(6) position.

Mr. Calhoun's explanation for reassigning the complainant to a new position was her poor performance.

Mr. Calhoun testified that he wanted to reassign Ms. B from her (b)(6) position because, under her direction, the program was not generating as much (b)(6) as it could, because Ms. B was not being effective as a supervisor, and because she was not trying to improve her performance.

We found no evidence that Ms. B's performance, or the performance of (b)(6), was unsatisfactory. In fact, the evidence is to the contrary. For example, on her performance appraisals covering the periods April 1993 to March 1994 and April 1994 to March 1995, Ms. B received an "exceptional" rating in the critical element of (b)(6) operations." This critical element includes the standard, "insures that all phases of the (b)(6) Unit capture all (b)(6) cases to attain maximum (b)(6)." In addition, on performance appraisals for the two rating periods, Ms. B was rated "fully successful" in the critical element of "personnel management/supervision." Overall, for both rating periods, the complainant received a "fully successful" evaluation.

Furthermore, for fiscal years 1994 and 1995, the (b)(6) exceeded its maximum (b)(6) goal established by VA Central Office. In fact, in her April 1995 management briefing on the (b)(6), Ms. B noted that the Fayetteville VA Medical Center was one of 15 Medical Centers nationwide that was recognized at the national (b)(6) conference for obtaining 10-percent or more growth in (b)(6) for three consecutive years. Having met or exceeded the (b)(6) goals for the (b)(6) program, the Director's complaints about her performance appear without merit and pretextual.

With regard to the Director's allegations about Ms. B's problems as a supervisor, we talked to the employee who was executive vice president of the union at the Fayetteville VA Medical Center when Ms. B was reassigned. He told us two employees supervised by Ms. B discussed with him that they were dissatisfied with Ms. B's management style. The union official told us the two employees did not file a formal grievance against Ms. B. Despite our three requests to the union official to provide us documentation he testified he had regarding the employees' complaints, we never received it. According to the current Chief, Human Resources Management Service, no grievances were ever filed by any employee against Ms. B. While Mr. Calhoun personally met with Ms. B's two disgruntled subordinate employees, his testimony that there were "near riots down there" in Ms. B's section seems an exaggeration given that no formal grievance was ever filed. In addition, it appears that Ms. B was pressing her employees to produce more, just as Mr. Calhoun was pressing her.

Mr. Calhoun did not carefully consider a new position for the complainant.

According to the former (b)(6)....., who was in that position and was Ms. B's immediate supervisor at the time of her reassignment, Mr. Calhoun directed him to transfer Ms. B from her (b)(6) position. The former (b)(6)..... told us that Mr. Calhoun was adamant that Ms. B be transferred and told him she could be reassigned to any other position either in (b)(6) Service or elsewhere in the Medical Center. The former (b)(6)..... said he was in need of a (b)(6)..... so he offered her that position.

Ms. B testified that she did not believe she was qualified for the (b)(6)..... position. As stated, she said she believed Mr. Calhoun was "setting her up" to fail in that position. The former Acting Chief of Human Resources Management Service, who was in that position at the time Ms. B was reassigned to the (b)(6)..... position, told us he believed Ms. B probably did not have the skills necessary for that position. He also said, however, that, as a "company man," he offered no objection to the reassignment.

Our assessment of Ms. B's work experience indicates that she was not qualified for the (b)(6)..... position. Her work experience beginning in 1972 was primarily in the (b)(6)..... and (b)(6)..... Prior to being selected as the (b)(6)..... in 1993, she participated in the Medical Center's "upward mobility" program and (b)(6)..... the release of information (b)(6)..... and (b)(6)..... clerks. We do not believe this experience provided her the knowledge required for the (b)(6)..... position. As described in the position description, the (b)(6)..... incumbent requires a comprehensive and detailed knowledge of (b)(6)..... policy, pertinent legislation and regulations, principles and concepts of (b)(6)..... for (b)(6)..... and (b)(6)....., knowledge of (b)(6)..... and (b)(6)..... programs, and knowledge of the Medical Center's multiple and complex programs to plan, analyze, and forecast aspects of the (b)(6)..... Ms. B had no experience whatsoever related to these (b)(6)..... matters.

Mr. Calhoun testified that he had directed many reassignments in the medical center when those occupying the positions were not performing satisfactorily. Here, however, it appears that his actions revealed no consideration for Ms. B as an employee or for the medical center's need to have qualified employees in all positions. At best, assuming the reassignment of Ms. B out of the (b)(6)..... was valid (and we are not persuaded it was), solving one personnel problem while simultaneously creating a new personnel problem demonstrates a lack of managerial judgment and insight.

Mr. Calhoun continued to display behavior indicating he wanted to retaliate against the complainant.

Ms. B testified that her reassignment involved a move from the main Medical Center building, where Mr. Calhoun's office was located, to another building on the grounds of the facility. She testified that one morning, several weeks after her reassignment, she encountered Mr. Calhoun as she was coming up the front steps to the main building. Ms. B said she was on her way to the canteen, which is located in that building. She testified that when she

returned to her office, the former (b)(6)..... told her that Mr. Calhoun had called him to ask why she was in the building and instructed him to tell her she was no longer allowed to be there. As a result, Ms. B said her work duties were changed because she was required to go to the main building on a daily basis to the (b)(6)..... office. About 2 weeks later, according to Ms. B, Mr. Calhoun retracted his directive. The former (b)(6)..... corroborated this incident. Mr. Calhoun, however, in yet another instance where his credibility is called into question, denied that he ever restricted Ms. B from the main building.

Mr. Calhoun's asserted problems with Ms. B's (b)(6) performance do not explain or justify the order to keep Ms. B out of the building. On the other hand, Ms. B's rejection of the Director's advances could serve as an explanation, although not a justification, of his order barring Ms. B from the building.

In October 1995, Ms. B accepted a position as a (b)(6)..... at another VA facility. (b)(6)..... said she moved her family and household "at much time, expense, emotional and physical stress. Following this move she reported increased feelings of frustration, disillusionment, and victimization at the events which precipitated her move." (b)(6)..... noted that Ms. B meets the criteria for (b)(6)..... "directly related to reported sexual and other harassment received on her job." At the time we interviewed Ms. B, she planned to file a lawsuit against Mr. Calhoun for sexual harassment.

We believe Ms. B's allegations of sexual harassment are substantiated, both for the quid pro quo sexual harassment and for creating a hostile work environment. The quid pro quo sexual harassment was as a result of Mr. Calhoun's retaliation against Ms. B by reassigning her to a position that she was not qualified for because she rejected his suggestions for a personal relationship. Creating a hostile and offensive work environment resulted because, in addition to his unwelcomed advances to have a personal relationship, Mr. Calhoun continued to make unwelcome and inappropriate comments of a sexual nature to Ms. B after she had clearly indicated her discomfort with such comments. We found the testimony of Ms. B to be credible in that her testimony was corroborated over and over again by the testimony of other medical center employees and (b)(6).....

The actions of the Director are also troubling in that they continue to reveal a pattern of a profane, intimidating, and threatening manager. The incident with Ms. B, for which Ms. B said that Mr. Calhoun apologized, involved both profanity and anger to the point that Ms. B was concerned for her physical well being. This incident provides further support that Mr. Calhoun was inexcusably abusive toward medical center employees.

Complainant No. 3

The complainant (hereafter referred to as Complainant No. 3 or Ms. C), (b)(6)....., alleged that Mr. Calhoun made unsolicited verbal comments of a sexual nature to her. Ms. C testified that, in March or April 1996, she was in Mr. Calhoun’s office discussing a business related matter, when he told her he had a dream about her the previous night. According to Ms. C, Mr. Calhoun told her, “I dreamt that I went to bed with you.” Ms. C told us she tried to take the remark as a joke, but that after she laughed, Mr. Calhoun told her, “It could be worth your while.” Ms. C testified that she told Mr. Calhoun she was not at all interested and would never do that. However, according to the complainant, Mr. Calhoun brought up the subject of his “dream” again on a subsequent occasion. She said there were no witnesses to the remarks on either occasion.

Ms. C also testified that around the end of April 1996, just prior to a visit she made to see her boyfriend, Mr. Calhoun made a derogatory remark to her about the boyfriend and then told her that he [Mr. Calhoun] “could take care” of her. Ms. C said Mr. Calhoun again told her, “It could be worth your while.” She said that, again, there were no witnesses to this remark. Ms. C did not file sexual harassment charges against Mr. Calhoun at the time he made the remarks to her, but told us she was planning to file a sexual harassment lawsuit against him.

Mr. Calhoun denied that he made any of the above comments to Ms. C. He said he knew Ms. C for over (b)(6) years ((b)(6).....), and he would not have waited that long to make a sexual advance towards her. He suggested that Ms. C was angry at him because he transferred her out of her previous position, and that she had falsely made the accusations in revenge.

We were not able to substantiate the allegations of sexual harassment against Complainant No. 3 because, in this case, it was her word against his. Unlike Complainant No. 2, there was no independent corroboration. On the other hand, the allegations fit a pattern of behavior alleged against the Director by both of the other complainants. In addition, as discussed in the next section, Mr. Calhoun's credibility is lacking. Finally, it is worth noting that Mr. Calhoun's own statement indicates he does not consider sexual advances toward subordinate females inappropriate. He never said that such a sexual advance was in any way inappropriate; rather, he indicated that he would not have waited so long to make such an advance.

Like Ms. A and Ms. B, Ms. C alleged that Mr. Calhoun behaved inappropriately towards her in addition to allegedly making sexual remarks. Ms. C related to us instances in which Mr. Calhoun shouted and cursed at her, threatened her position and pay, and made unreasonable demands of her. For example, Ms. C stated that when Mr. Calhoun wanted to reassign her from her position as (b)(6) GS-8 (b)(6)..... to a GS-7 position, he told her that if she did not sign the statement voluntarily requesting the reassignment, she would be a GS-3 by the time he was finished with her. On another occasion, after her reassignment, Ms. C stated that Mr. Calhoun called her into his office and angrily accused her of being a bigot, lying to him, and

stabbing him in the back. She said he told her he never wanted her to speak to him again and then demanded that she leave his office. Ms. C told us that she feared he was going to hit her.

Ms. C said she believed that the root of most of her problems with Mr. Calhoun was that (b)(6)..... As a result, Ms. C and (b)(6)..... openly argued on a frequent basis, to the point of disrupting the office. The Associate Director said that the arguing, would at times, get loud and out of control. On one occasion, she said she closed her door and just let them fight it out.

Ms. C told us that Mr. Calhoun acknowledged to her that (b)(6)..... When we interviewed Mr. Calhoun, he denied (b)(6).....

Credibility Determination

As in virtually all cases involving sexual harassment, the testimony of the complainants and the alleged harasser are conflicting on most of the significant events. In this case, Mr. Calhoun denied making certain statements. Therefore, in order to make a determination about the truth or falsity of the statements made, we are sometimes required to make determinations about the credibility of the parties involved. For the reasons that follow, we gave credence to the testimony of Complainant No. 2 regarding events described, rather than to the Director's denials.

For example, several factors were critical in our determination that Ms. B's testimony was credible and the Director's was not. First, Ms. B's testimony and her allegations were consistently buttressed and supported by independent corroboration from numerous sources. On the other hand, the Director's credibility was severely damaged because his version of several events was contradicted by a variety of sources. Finally, our inquiry reveals that there is a pattern to the allegations of sexual harassment by the Director (as well as a pattern of abusive, hostile behavior toward employees at the VA Medical Center). The behavior patterns demonstrated by the Director provide considerable support for the complainant's assertions.

With regard to the corroborating testimony of other witnesses, we recognize that in some cases, such as the friend in whom Ms. B confided and (b)(6)..... to whom Ms. B relayed the events as they occurred, the corroborating witnesses do not have first hand knowledge of the events in question, but instead are repeating what Ms. B told them about the events. Nonetheless, the corroborating evidence is persuasive. Both the friend and (b)(6)..... advised us that Ms. B's statements to them about the Director's remarks and behavior were immediate, or contemporaneous, with the actual events. It strains credulity to believe that Ms. B falsified all of the information that she provided to other individuals with an eye toward eventually bringing wholly fabricated accusations against the Director.

Ms. B's credibility is especially enhanced by the testimony of the other witnesses with direct knowledge of events. For example, four witnesses testified that, after the Director's expressions of interest in Ms. B, the professional relationship between the two deteriorated, just as Ms. B said it did. Three of the four witnesses indicated that they personally observed a change in the behavior of the Director as compared to his prior behavior toward her. In addition, the former Acting Chief of Human Resources independently confirmed Ms. B's assertion that she did not have certain skills that were necessary for a (b)(6).....

The Director's credibility, on the other hand, is damaged by evidence supplied by witnesses with direct knowledge of events that completely contradicts his statements. For example, the former (b)(6)..... testified that the Director banned Ms. B from the building in which the Director worked. While the Director denied this, the resulting actions taken by the (b)(6)..... i.e., immediately telling Ms. B about the order and having her restructure her duties to comply with the Director's order shortly after it was made, all support the credibility of Ms. B at the expense of the credibility of the Director. As discussed previously in the section dealing with Complainant No. 1, the Director denied a particular statement when an independent witness testified that she heard the remark.

In addition, the Director's testimony about his reasons for reassigning the complainant, i.e., for her poor performance, are directly contradicted by substantial documentary evidence, including her performance appraisals, the external review of (b)(6)..... and, most notably, the recognition of the accomplishments of (b)(6)..... under her leadership.

With regard to Complainant No. 1, the Director initially told us he could not recall that he threatened to tell the Associate Director and Chief of Staff about what happened to the complainant when she got "upset." When told that the Associate Director corroborated Ms. A's statements, the Director did not challenge the Associate Director's recollection. While Mr. Calhoun acknowledged to making some sort of statement along the lines of the allegation, he denied ever using the words "breasts" or "nipple." He did, however, admit to making the threat with the intent of getting Ms. A to leave the room.

In short, the pattern of denials by the Director, in the face of credible, contrary testimony, makes the Director's credibility suspect. Just as important, Ms. B's credibility was enhanced and supported by both independent witnesses with direct knowledge of events as well as by her own contemporaneous statements to several witnesses over many months, all of which support her independent testimony. To believe the Director, one would have to conclude that there was widespread conspiracy of many individuals, all of whom were lying, under oath, in their testimony to us. There is evidence that tends to disprove the Director's denials with respect to the first and second complainants.

With respect to Complainant No. 3 and Mr. Calhoun, a credibility determination was more difficult. For example, Mr. Calhoun said that, when Ms. C worked (b)(6)....., he did not want to keep her (b)(6)..... because he considered her incompetent, but the Director would not agree to a change. Yet, Mr. Calhoun then hired Ms. C to be (b)(6).....

..... at the Fayetteville Medical Center and **(b)(6)**.....
Mr. Calhoun's actions and statements concerning Ms. C appear inconsistent.

Ms. C, on the other hand, was extremely bitter about **(b)(6)**.....
..... She said she felt betrayed and she was very upset toward Mr. Calhoun for the
favoritism that he had shown **(b)(6)**..... over her. **(b)(6)**.....
.....
.....

Conclusion

Mr. Calhoun's statements to Ms. A constitute inappropriate, abusive language on his part. Mr. Calhoun made deliberate, offensive comments of a sexual nature to Ms. A. However, because Ms. A may have opened the door to such language, we were unable to conclude that the remarks contributed to an intimidating, hostile, and offensive working environment. He was aware that Ms. A found the comments unwelcome. Due to the stress that resulted from the overall abuse by Mr. Calhoun, Ms. A removed herself from the workplace. Some of the comments Mr. Calhoun made to her were witnessed by others, and Mr. Calhoun acknowledged that he said some of the offensive remarks. He also admitted to being loud, emotional, and profane.

Regarding Complainant No. 2, Mr. Calhoun made an unwelcome sexual advance towards her, even after she refused his initial advance. After Ms. B refused his advances, Mr. Calhoun changed the conditions of their working relationship and reassigned her from her position. We found no persuasive work-related reason for Mr. Calhoun to have reassigned Ms. B. His explanation, that she was not performing well, is not supported by her annual appraisals or by statistical evidence of her program's performance. Mr. Calhoun's directive that Ms. B not enter the main Medical Center building, where his office was located, further suggests that his motive in reassigning her was personal, not professional. We concluded that Mr. Calhoun's actions constituted "quid pro quo" sexual harassment. We also concluded that Mr. Calhoun created a hostile work environment for Ms. B through continued intimidating, inappropriate and unwelcome comments of a sexual nature. We believe that Mr. Calhoun's harassment of Ms. B effectively ended her career at the Fayetteville Medical Center and resulted in her having to move at her own expense to another VA facility.

In addition to the sexual harassment, the Director's actions with respect to Ms. B evidence poor judgment, deficient management actions, and abuse of authority. It seems that Mr. Calhoun created an intimidating atmosphere and made decisions contrary to the best interests of Ms. B and the medical center.

While we were unable to substantiate the allegations of sexual harassment with regard to Mr. Calhoun and Ms. C, we cannot dismiss Ms. C's allegations as false. Given the Director's lack of credibility with regard to the other allegations of sexual harassment, we believe that there is a possibility that this complainant may have been sexually harassed, but we could not make a definitive determination based on the lack of independent, corroborative evidence. We did find that Mr. Calhoun was abusive in his treatment of Ms. C, and he often displayed loud, emotional, and intimidating behavior. Further, he allowed a tense and disruptive office environment involving Ms. C and (b)(6)..... that he allegedly favored, to continue unabated.

Recommendation:

The VISN 6 Network Director should take appropriate administrative action against Mr. Calhoun for the misconduct and abuse of authority, as detailed in this report.

VISN 6 Network Director's Comments

The Network Director concurred with our findings and recommendation. He told us he met with his Regional Counsel and with the Chief Network Officer, and was in the process of finalizing a plan of action to implement the recommendation. The Network Director's comments are in the appendix to this report.

Office of Inspector General Comments

We will review the Network Director's plan of action to ensure it is responsive to our recommendation and follow up on that plan until the issue is resolved.

VISN 6, NETWORK DIRECTOR COMMENTS

Department of
Veterans Affairs

Memorandum

Date: **October 18, 1996**

From: **Network Director, VISN 6**

Subj: **Special Inquiry, Alleged Sexual harassment by the Director, VA Medical Center,
Fayetteville, North Carolina, Draft Report (6HL-225)**

To: **Director, Hotline and Special Inquiries Division**

1. I have reviewed the above-entitled draft report and concur with the findings and recommendations. I have recently met with the Chief Network Officer and my Regional Counsel to review the document and formulate a plan of action. I have another meeting scheduled with Regional Counsel next week to finalize our plan and prepare documents for Headquarters. I will be better able, following that meeting, to provide you with my plan to implement the recommendations contained in this report.
2. I trust that my previous correspondence to you will allow you to adequately address the issues raised by Senator Lauch Faircloth. Please contact me or Ann Patterson, should you need additional information.
3. I hope to provide you with a plan of action by October 25 1996. Thank you and your staff for your review of this matter.

/s/

Leroy P. Gross, MD, MPH