



(December 24, 2015)

In order to further improve the lines of communication and to respond to the concerns between the National VA Council and you our members, I have established a National VA Council Briefing. This NVAC Briefing will bring you the latest news and developments within DVA and provide you with the current status of issues this Council is currently addressing. I believe that this NVAC Briefing will greatly enhance the way in which we communicate and the way in which we share new information, keeping you better informed.

Alma L. Lee
National VA Council, President

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## **In This Briefing: VA Decides No Discipline Necessary For 'Hit List' Managers**

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The Veterans Affairs Department does not plan to discipline any of the managers accused of egregious behavior by union officials in a **controversial July report**, according to a VA spokesperson.

The department “found no outstanding allegation of wrongdoing warranting discipline against any of the identified managers,” the spokesperson said in response to questions about the report compiled by the American Federation of Government Employees Local 17, allegedly at VA Secretary Bob McDonald’s request. The 40-page “hit list,” so-called by advocates for senior executives and federal managers, detailed alleged incidents of harassment, discrimination, bullying and incompetence by “disruptive and ineffective” managers who work in VA’s Central Office.

The VA Office of Accountability Review investigated the allegations in the report and found that several of them “had already been raised and resolved through the Equal Employment Opportunity complaint process, and/or the labor management grievance or unfair labor practice complaint processes,” the spokesperson said. Other allegations

were more general criticisms of managers' leadership abilities, communication skills and personality traits "rather than unlawful activity that might be actionable," the spokesperson added. VA leadership created the Office of Accountability Review earlier this year to look into any alleged management or patient-related improprieties, whistleblower retaliation, and "**related matters that impact public trust in VA**," according to a March fact sheet.

The two OAR investigators, who produced a summary report of their findings in early December, are "both experienced labor relations/employee relations specialists," the VA spokesperson said. They interviewed current and former employees, and reviewed relevant documents and complaints. While the accountability review concluded the allegations did not warrant discipline, investigators recommended more training for managers.

The July report compiled by AFGE Local 17 identified managers, but did not provide a list of witnesses or other information that could substantiate or refute the allegations. One senior executive, according to the list, allegedly directed subordinates to sign documents indicating that mid-year performance reviews had taken place even though they had not; another manager played favorites with employees who share his religious beliefs, according to the report. Another supervisor, who is described as a "disgrace" with a "disordered personality," harasses female employees, the report claimed, while others have allegedly made disparaging remarks about a subordinate's sexual orientation, forced employees to ask for permission to use the bathroom, yelled and cursed at subordinates, and ignored requests for reasonable accommodations and advance sick leave – some from disabled veterans.

Government Executive obtained a **redacted version of the report** in October through a Freedom of Information Act request. The House Veterans' Affairs Committee requested the unredacted report in July. VA Deputy Secretary Sloan Gibson told VA Committee Chairman Jeff Miller, R-Fla., during a Dec. 9 hearing that the department would provide the panel with the report including the names of the accused managers. To date, the committee has not received the unredacted report.

"This is more proof that no matter what type of investigation -- including those done by VA itself, the inspector general, Congress or unions representing VA workers -- finds misconduct on the part of VA employees, the end result is almost always the same: the department fails to institute meaningful discipline against those found to have done wrong," Miller said in a statement.

Gibson has been emphatic about the importance of following due process and evidence in disciplinary actions against employees. During the Dec. 9 hearing before the House VA Committee, he **defended his decision to demote and reassign** rather than fire two senior executives whom the department's watchdog concluded used their positions of authority for personal gain. The evidence against Diana Rubens and Kimberly Graves

did not warrant firing, or the IG's criminal referral to the Justice Department, Gibson argued.

"I'm not going to recommend, I'm not going to propose a disciplinary action that is based upon media coverage, or an opinion that is expressed in the IG report, if it is not supported by the evidence," he said, adding that he knew his decision not to fire Rubens and Graves wasn't going to "sit well, with virtually everybody."

Human resources management, including the disciplinary and appeals process for employees, can be incredibly complex within VA, in part because it operates under different appointment authorities and regulations within two legal categories (Title 5 and Title 38).

The Senior Executives Association and Federal Managers Association sent a letter to McDonald in November [asking what he planned to do with the AFGE Local 17 report](#). The groups said they had been contacted by several managers named in the report.

"While they corroborated the fact that complaints have been filed against them, complaints were often found to be unsubstantiated. Because these managers and supervisors had repeated, yet groundless, accusations against them, FMA and SEA worry that instead of thoughtfully examining constructive means to improve VA, Local 17 is personally targeting managers and supervisors and perpetuating labor-management hostility," the letter stated.

The groups also said that since the report surfaced, they had heard from "several VA managers and supervisors who have been verbally threatened and harassed by union representatives and members."

SEA Interim President Tim Dirks on Tuesday said the group was "pleased with the final outcomes of the agency investigation, and hopes that VA managers will now receive the supervisor training needed to improve their administrative skills and understanding of the VA's complex and multi-faceted personnel system so that they may more productively conduct the public business." Dirks urged the union (in this case, AFGE Local 17) to use "proper channels and seek fair and constructive solutions" instead of "simply slandering managers without sufficient evidence to bolster their accusations."

Miller said VA leaders have not proven they "are committed to holding corrupt and incompetent employees accountable" and that the department so far "has offered little more than rote talking points on the importance of accountability while the department's rampant lack of discipline remains on perpetual display."