Office of Accountability and Whistleblower Protection: Promoting an Accountable VA

Department of Veterans Affairs

Report

to

The Senate Committee on Veterans' Affairs

and

The House Committee on Veterans' Affairs

on the

Activities of the

Office of Accountability and Whistleblower Protection

For the Period

October 1, 2018 – May 31, 2020

This report is required under section 323(f) of title 38 of the United States Code

Preface

A note about the reporting period: The use of a non-standard reporting period (October 1, 2018 – May 31, 2020) reflects the current state of the Department of Veterans Affairs (VA), Office of Accountability and Whistleblower Protection (OAWP), and highlights substantial progress made since the last report covering Fiscal Year (FY) 2018.

Dr. Tamara Bonzanto was appointed by the President, and confirmed by the U.S. Senate, as the first Assistant Secretary for Accountability and Whistleblower Protection in January 2019. Since her confirmation, OAWP has corrected several deficiencies identified by the U.S. Government Accountability Office and VA's Office of Inspector General. This report outlines that progress and illustrates how OAWP continues to fulfill its mission to promote and improve accountability in VA.

A note about data: When comparing data in this report to other submissions of VA personnel data to Congress, there may be apparent differences in data for similar time frames and actions. These differences are the result of variances in the data source and the point in time when the data is pulled. For example, VA's Human Resources Information System (HRSMART) only codes disciplinary actions affecting pay. Thus, other types of disciplinary actions such as reprimands do not appear in that system. Data discrepancies may also result from OAWP's implementation of a new information management system. As with all data, the numbers in this report represent a snapshot of activity at the time the data is requested. Reported data may fluctuate due to adjustments as work is categorized or data input corrected.

Table of Contents

Message from the Assistant Secretary

I am honored to submit this report on the activities and accomplishments of the Department of Veterans Affairs (VA), Office of Accountability and Whistleblower Protection (OAWP), from October 1, 2018 through May 31, 2020. This report was prepared during the coronavirus (COVID-19) pandemic and reminds us why accountability in VA matters.

Since my appointment in January 2019, OAWP has undergone a radical transformation to reflect the organization that was established by the President and Congress in 2017. Over the last year and a half, we have:

- Established policies and processes to implement our statutory functions;
- Substantially improved the quality of our investigations by, among other things, establishing an investigative framework with quality standards that are based on industry best-practices;
- Improved communication with individuals about the status of their matters and cases;
- Mandated customer service as a critical element for employee performance standards;
- Developed whistleblower rights and protections training, a training required for all VA employees and supervisors;
- Instituted an initiative to improve employee engagement within OAWP;
- Improved internal management controls within OAWP; and
- Improved our office's transparency by revamping our Freedom of Information Act process and issuing our System of Records Notice.

These accomplishments, and others, are due to the hard work and dedication of our employees and the input that I received from our stakeholders. Since my appointment, I have engaged with Veterans, VA employees, Members of Congress, Government officials and Veterans Service Organizations, and one theme is constant: accountability in VA matters.

I know the impact an accountable VA has on the delivery of services to our Nation's Veterans. As a Registered Nurse, Veteran and spouse of a combat Veteran, I recognize the substantial impact that deficiencies in VA have on Veterans, their families, caregivers and survivors. OAWP was established to improve and promote accountability in VA. We continue to work towards this goal, recognizing the significance of our mission and its impact on those who have served our Nation.

Dr. Tamara Bonzanto, DNP, RN

OAWP at a Glance

MISSION

Promote and improve accountability in VA.

VISION

An accountable VA.

FOUNDATION

OAWP was established by the President of the United States on April 27, 2017, under Executive Order 13793. OAWP was statutorily established by the VA Accountability and Whistleblower Protection Act of 2017, P.L. 115-41, and its functions are codified at 38 U.S.C. § 323.

OVERVIEW OF FUNCTIONS (SEE CHART BELOW)

Investigations

OAWP investigates allegations from any individual alleging the following:

- VA senior leader misconduct or poor performance; or
- Whistleblower retaliation by a VA supervisory employee.

Investigations Conducted by OAWP

OAWP receives whistleblower disclosures from VA employees and applicants for VA employment alleging the following:

- A violation of law, rule or regulation;
- Gross mismanagement;
- Gross waste of funds;
- Abuse of authority; or
- Substantial and specific danger to public health or safety.

OAWP investigates the above disclosures if they involve allegations of whistleblower retaliation or allegations of senior leader misconduct or poor performance. As required by law, other whistleblower disclosures are referred for investigation to another VA office (e.g., VA's Office of the Medical Inspector (OMI), the Veterans Health Administration (VHA), the Veterans Benefits Administration). When referring a case for investigation, OAWP identifies the allegations to be investigated and the witnesses to be interviewed. If a whistleblower does not want their identity disclosed as part of the referral, OAWP will work with the whistleblower to ensure that the disclosure is referred anonymously. After a referral is made, VA offices prepare a report of investigation (ROI). OAWP accepts the ROI if the VA office interviewed the witnesses identified and addressed the allegations identified by OAWP (see chart below).

Investigations Referred by OAWP

What matters are outside OAWP's investigative scope?

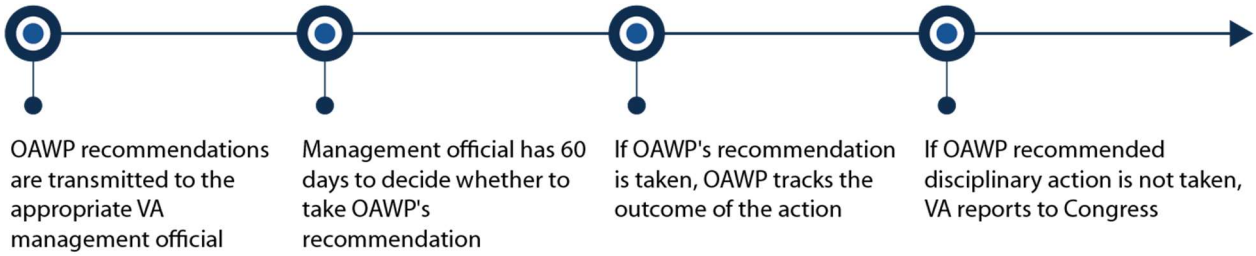
Examples of matters outside of OAWP's investigative scope include the following:

- Allegations involving crimes (38 C.F.R. § 1.204): closed-out by OAWP and transmitted to VA's Office of Inspector General (OIG); or
- Allegations involving discrimination, reprisal for equal employment opportunity (EEO) activity, sexual harassment, and hostile work environment (VA Directive 5977, *EEO Discrimination Complaints Process*): OAWP notifies the complainant that he/she may contact VA's Office of Resolution Management (ORM).

Confirm VA Compliance with Investigative Recommendations

OAWP has started to record and track recommendations from audits and investigations carried out by OIG, OMI, Government Accountability Office (GAO) and the Office of Special Counsel (OSC). We are also developing a confirmation process for the implementation of those recommendations. OAWP records, tracks and confirms VA's implementation of recommendations, including disciplinary recommendations, made by OAWP (see chart below).

Tracking and Confirming Implementation of OAWP Recommendations



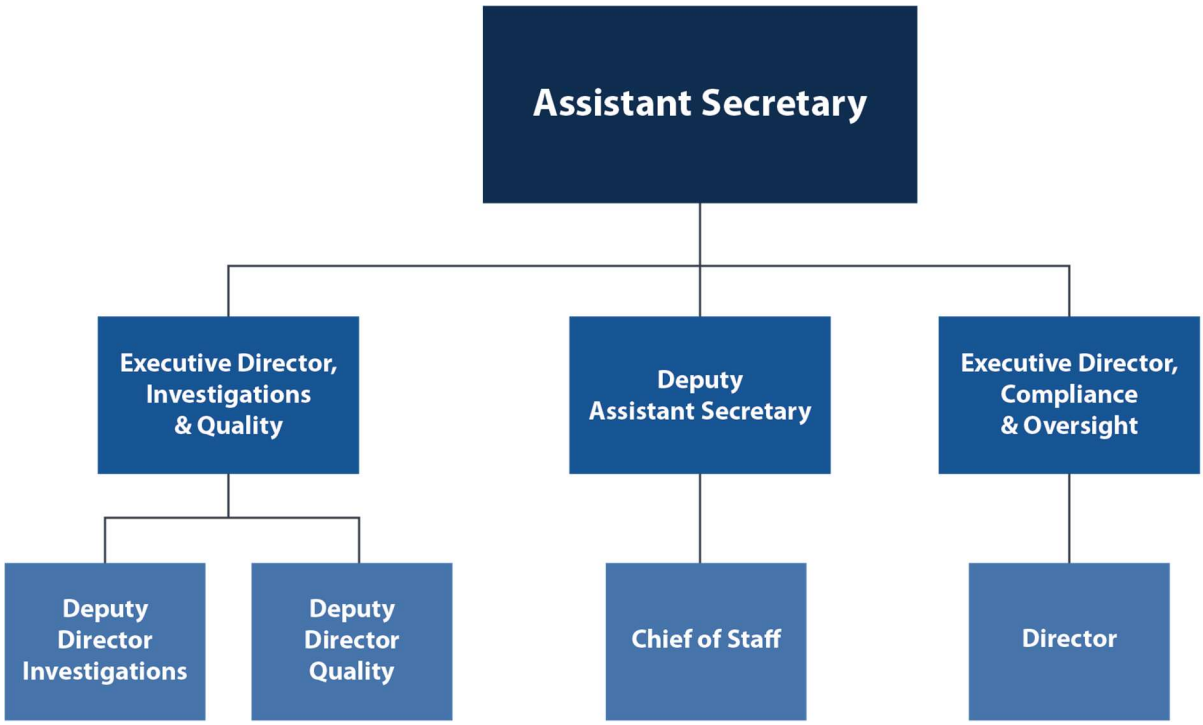
Identify Trends

OAWP has started to analyze information from audits and investigations to identify trends so that VA can proactively address areas of concern. OAWP's trends analysis will allow VA to make informed decisions and improve operations. A data driven approach to informing decisions and policy reduces organizational risk and helps to promote a more accountable VA.

Whistleblower Rights and Protections Training

OAWP develops and implements training for all VA employees on whistleblower rights and protection as required under 38 U.S.C. § 733. It also coordinates VA's implementation of OSC's 5 U.S.C. § 2302(c) certification program.

STRUCTURE (see chart below)



OAWP Structure

OAWP by the Numbers

REPORTING PERIOD OF OCTOBER 1, 2018 – MAY 31, 2020

3,463 matters were received during the reporting period.

692 cases were received and referred for investigation to VA offices by OAWP during the reporting period.

389 cases were received for investigation by OAWP during the reporting period.

Approximately **39,818 VA supervisors** fall under OAWP's investigative scope for whistleblower retaliation. (HRSMART data)

Over **1,000 VA senior leaders** fall under OAWP's investigation scope for senior leader misconduct and poor performance. (HRSMART data)

96,323 VA employees have completed whistleblower rights and protections training required under 38 U.S.C. § 733.

Accountability Through Discipline

We are committed to holding wrongdoers accountable

OAWP makes recommendations for disciplinary action after investigating and substantiating allegations of whistleblower retaliation or senior leader misconduct or poor performance. As of May 31, 2020, the Assistant Secretary or her designee recommended disciplinary action against seven senior leaders and VA supervisors: six senior leaders based on misconduct and one VA supervisor based on a finding of whistleblower retaliation.

Why are whistleblower retaliation investigations complex?

"Whistleblower retaliation investigations usually involve more than one protected disclosure and more than one covered personnel action. Investigators produce a conclusive report examining the reason for the personnel action, the timing of the action, motivation to retaliate, and whether the whistleblower was treated differently than similarly situated employees."

Supervisory Investigator

Examples of recommended disciplinary actions include the following:

- **Lack of oversight**: After reviewing a finding by VA's Office of Employment Discrimination Complaint Adjudication (OEDCA), OAWP recommended a demotion for a VA medical center (VAMC) Chief of Staff to a non-supervisory position because the Chief of Staff failed to separate an employee from an alleged sexual harasser. The VAMC implemented OAWP's recommended disciplinary action.
- **Neglect of duty**: Based on an underlying OMI report, OAWP found neglect of duty on the part of a VAMC Chief of Staff who closed a VAMC surgery program without complying with VHA and VAMC policy and without ensuring that a community referral process was in-place before closing the surgery program. The Chief of Staff's neglect of duty potentially endangered Veterans' care. OAWP recommended a suspension for the Chief of Staff. The VAMC Director did not implement OAWP's recommended disciplinary action. VA is in the process of notifying the relevant Congressional committees about the VAMC Director's decision not to implement OAWP's disciplinary recommendation, as required under 38 U.S.C. § 323(f)(2).

- **Discrimination**: After reviewing an OEDCA finding of discrimination against two senior executive service (SES) employees, OAWP recommended the removal of both SES employees. The employing VA offices implemented OAWP's recommended disciplinary actions.
- **Whistleblower retaliation**: OAWP found that a VAMC supervisory physician engaged in whistleblower retaliation after proposing the removal of an employee. OAWP recommended discipline against the supervisory physician in the range prescribed under 38 U.S.C. § 731: suspension up to removal. OAWP also recommended corrective action for the whistleblower. The VAMC could not implement OAWP's recommended disciplinary action as the supervisory physician is no longer a VA employee; however, the VAMC implemented OAWP's recommendation for corrective action for the whistleblower.

Accountability Through Efficiency

We are Committed to Strong Internal Management Controls

- OAWP takes the need for accountability and internal management controls seriously.
- Management actively participates in the identification of risks and works collaboratively to address issues raised.

ESTABLISHING INTERNAL CONTROLS

To mitigate risks of violating agency law, rule, or regulation, OAWP centralized key administrative functions; implemented automated systems and controls, where possible; and performs ongoing monitoring of key business activities. Management conducts internal reviews focused on the sustainability of operations and administrative and resourcing requirements. Additionally, the internal management controls team developed Administrative Guidance to make all OAWP employees aware of administrative regulations and policies and routinely reviews a range of systems and processes for compliance, including the following: time and attendance, telework, equipment and asset management, acquisitions (including the Government Purchase Card program), conference attendance and travel, employee awards and recognitions, and performance metrics. Employees with responsibility for the obligation of Federal appropriations are required to take and remain current in Federal and agency training and certification requirements.

How are internal management controls reflected across the organization?

"Our dedication to strong internal management controls is driving a culture in which we hold ourselves and each other accountable. Quite simply, we value doing what is right."

Chief, Resource Management

IMPROVING WORKFORCE AND SUCCESSION PLANNING

OAWP has invested in leadership recruitment and talent acquisition across the organization. OAWP prioritized the recruitment of key positions to help ensure continuity of statutory functions and oversight of high-risk areas. Management also developed, and continues to develop, resources to facilitate succession planning efforts at all levels, including the development of business continuity and standard operating procedures, specialized and career ladder positions.

ENGAGING FOR SUCCESS

OAWP's workforce is primarily virtual, with 74% of our employees located across 21 states. We are engaging employees in our effort to build a highly accountable and reliable organization. They are central to implementing a framework of standardized processes, a shared attentiveness to opportunities for improved efficiency and effectiveness, and the creation of best practices across the organization. We are promoting employee resiliency. Across the board, our employees are addressing complex problems with engaged and effective responses, a sign of their commitment to the OAWP mission and a culture of excellence. Building a reliable organization calls for multi-layered, cross-organizational action. We have started to link organizational objectives with employee performance measures. An employee engagement initiative is underway to further this process. Shared learning opportunities, the dissemination of organizational information and operational guidance, employee feedback, and organizational connectedness made possible through this initiative will play a critical role in furthering, expanding, and institutionalizing the transformation that is underway. Standardized on-boarding, lunch-and-learn brown bags, divisional technical trainings, on-going supervisor check-ins with staff, and the promotion of career development opportunities are all helping to keep us connected and engaged.

How are we leveraging the diverse professional backgrounds of our investigators?

"OAWP investigators have diverse professional backgrounds, including expertise in human resources, law enforcement, and legal services. This allows us to collaborate and develop ideas that improve the quality of investigations."

Supervisory Investigator

We Are Improving OAWP Investigations

- OAWP has significantly improved the quality of its investigations. We continually assess the quality of our investigations and the investigative process.
- OAWP is improving the timeliness of our investigations with a goal of conducting investigations within 120-days.

ESTABLISHING AN INVESTIGATIVE FRAMEWORK

OAWP issued VA Directive 0500, *Investigation of Whistleblower Disclosures and Allegations Involving Senior Leaders or Whistleblower Retaliation*, in September 2019. This directive identifies matters that fall within OAWP's investigative scope. In December 2019, OAWP issued Standard Operating Procedures (SOP) for its Intake, Investigations, Quality, and Compliance divisions. These SOPs describe the processes

for: the intake of new matters into OAWP; the investigation of cases by OAWP; the referral of cases by OAWP for investigation; ensuring consistency in the application of OAWP's SOPs; and confirming compliance with OAWP recommendations. OAWP has trained its staff on these SOPs and conducts brown bag events to reinforce employee learning.

What are we doing to train investigators?

"In January 2020, OAWP trained its investigators on the Investigations Division SOP. Mock exercises were built into training so that staff could practice skills. OAWP is also developing continuing education courses that will ensure investigators continue to receive comprehensive training."

Supervisory Investigator

IMPROVING THE QUALITY OF OAWP INVESTIGATIONS

OAWP has significantly improved the quality of its investigations. We have implemented quality standards for investigations in the Investigation Division SOP. While it increased the overall number of investigators, OAWP reduced the size of each investigative team, to ensure that staff can raise questions and receive answers from their supervisors on an expeditious basis. Supervisors work with investigators throughout the investigative process to ensure that deficiencies are addressed before an investigation is complete. If deficiencies are identified, we address these through training, brown-bag learning events, mentoring, and performance-management.

How are we improving the quality of our reports?

"OAWP has implemented quality standards for investigations. We now utilize a standardized format for ROIs and have established supervisory checks at various points during the investigation process to ensure accurate reports of investigation."

Supervisory Investigator

ENSURING QUALITY ASSURANCE IN THE INVESTIGATIVE PROCESS

The Quality Division was established in 2019 to ensure investigations are conducted in a thorough and unbiased manner consistent with OAWP policy and SOPs. The Quality Division conducts quality assurance reviews of OAWP cases to identify systemic deficiencies in the way OAWP receives, reviews, refers, and investigates cases. If systemic deficiencies are identified at these important case phases, the Quality Division recommends ways to correct those deficiencies to OAWP leadership.

Why does quality assurance matter?

"Quality assurance promotes the integrity of OAWP's investigative process. The Quality Division ensures that OAWP is producing consistently high-quality investigative reports by identifying gaps in the investigative process or training. We make recommendations to address those gaps through revisions to the process, through training, or through other corrective activities."

Acting Deputy Director for Quality

IMPROVING THE TIMELINESS OF INVESTIGATIONS

VA Directive 0500, *Investigation of Whistleblower Disclosures and Allegations Involving Senior Leaders or Whistleblower Retaliation*, establishes a 120-day completion goal for OAWP investigations. The organization is working toward that goal through the application of a "rolling" ROI, which allows investigators to commence an ROI once an investigation begins and continue working on the ROI as they conduct witness interviews and gather evidence. Investigators have monthly one-on-one meetings with their supervisors to ensure that cases are investigated to OAWP quality standards for investigations. Our SOPs now require investigators to conduct a clarification interview with complainants before beginning an investigation into allegations of whistleblower retaliation or senior leader misconduct or poor performance. This interview allows the complainant to discuss the allegations to be investigated and potential witnesses to be interviewed. We are also working on ways to improve our intake of new complaints, including the development of an intake form for submission of disclosures and allegations to OAWP.

How are we improving the timeliness of our reports?

"Supervisory investigators conduct monthly one-on-one case reviews with investigators to ensure they are on the right track. A standard ROI template ensures consistency. Investigators now clearly understand what is expected when conducting an investigation and what goes into a good ROI. These actions have decreased the time necessary to draft, review and approve an ROI."

Acting Supervisory Investigator

ELIMINATING BACKLOGGED CASES

In late 2019, OAWP identified 572 cases pending for over 120 days. These 572 cases are considered "backlogged cases." Many of these backlogged cases date back to 2017 and 2018. OAWP has implemented a plan to aggressively resolve backlogged cases, while continuing to work towards a 120-day goal for its new and ongoing

investigations. The plan involves several phases, including initial confirmation that cases currently under investigation by OAWP fall within its investigative scope. Actions taken to eliminate backlogged cases include increasing the number of investigators from 30 to 46; conducting case reviews with investigators on all assigned cases; and establishing a tiger team of seasoned investigators to expeditiously work through the most complicated and high-profile cases. By conducting a thorough review of each backlogged case, OAWP reduced its backlogged cases by over 60%, from 572 cases to 205 cases. Most of these backlogged cases did not fall within OAWP's investigative scope. For example, several cases involved allegations of discrimination, which are covered by the EEO process and excluded from OAWP's investigative scope pursuant to VA Directive 0500, *Investigation of Whistleblower Disclosures and Allegations Involving Senior Leaders or Whistleblower Retaliation*. In those cases, we informed the complainants that we are closing their cases with OAWP, but they could file an EEO complaint with ORM, which has jurisdiction over the allegations under VA Directive 5977, *EEO Discrimination Complaints Process*.

CORRECTING PRIOR DEFICIENCIES

OAWP is committed to earning the trust of VA employees and stakeholders. To that end, we have taken several steps to ensure that investigations are conducted according to OAWP's quality standards for investigation. As part of our commitment to restore stakeholder confidence in OAWP, we are undertaking a comprehensive review of cases filed between June 2017 and June 2019 that alleged whistleblower retaliation but were closed without recommendation for disciplinary action. If investigative deficiencies are identified, OAWP will resolve those deficiencies and, if appropriate, recommend disciplinary action against the individuals who engaged in retaliation and corrective action for the whistleblower.

How do we learn from investigative deficiencies?

"Investigative deficiencies are akin to symptoms of an illness. A chronic investigative deficiency may require additional training, investigational process changes, and/or operational guidance. An acute deficiency may require individual mentoring, clarification or guidance, to identify the root cause of the deficiency."

Deputy Director for Investigations

COORDINATING WHISTLEBLOWER PROTECTION UNDER 38 U.S.C. § 714

38 U.S.C. § 714(e) prohibits VA from removing, demoting, or suspending an employee under 38 U.S.C. § 714: (1) while the employee is seeking corrective action from OSC

regarding an alleged prohibited personnel practice, unless OSC agrees to allow the action to proceed; or (2) if the employee has made a whistleblower disclosure to OAWP, until a final determination is made regarding the disclosure.

OAWP plays an important role in ensuring employees are protected from whistleblower retaliation. When we are notified by VA administrations and staff offices about a pending 38 U.S.C. § 714 proposal, we determine whether the employee has an open whistleblower disclosure with OAWP or complaint for corrective action with OSC. If the employee:

- has either an open whistleblower disclosure with OAWP or complaint for corrective action with OSC (unless OSC agrees to allow the action to proceed), we notify the VA administration or staff office that it cannot proceed with effecting a decision on the pending 38 U.S.C. § 714 action.
- does not have either an open whistleblower disclosure with OAWP or complaint for corrective action with OSC (or OSC agrees to allow the action to proceed), we notify the VA administration or staff office that it can proceed with effecting a decision on the pending 38 U.S.C. § 714 action.

For the period covered in this report, OAWP assessed and coordinated 366 instances when whistleblower protection was raised under 38 U.S.C. § 714(e).

How does OAWP respond to the needs of complainants?

"Intake Division is the first line of contact for case status when a matter is pending in OAWP and has not been assigned to an Investigator in OAWP. Our goal is to initiate contact with the complainants within 5 business days of the submission; send acknowledgement emails to the complainant within 2 business days; and coordinate 714 Holds within one business day."

Deputy Director for Intake

Accountability Through Education

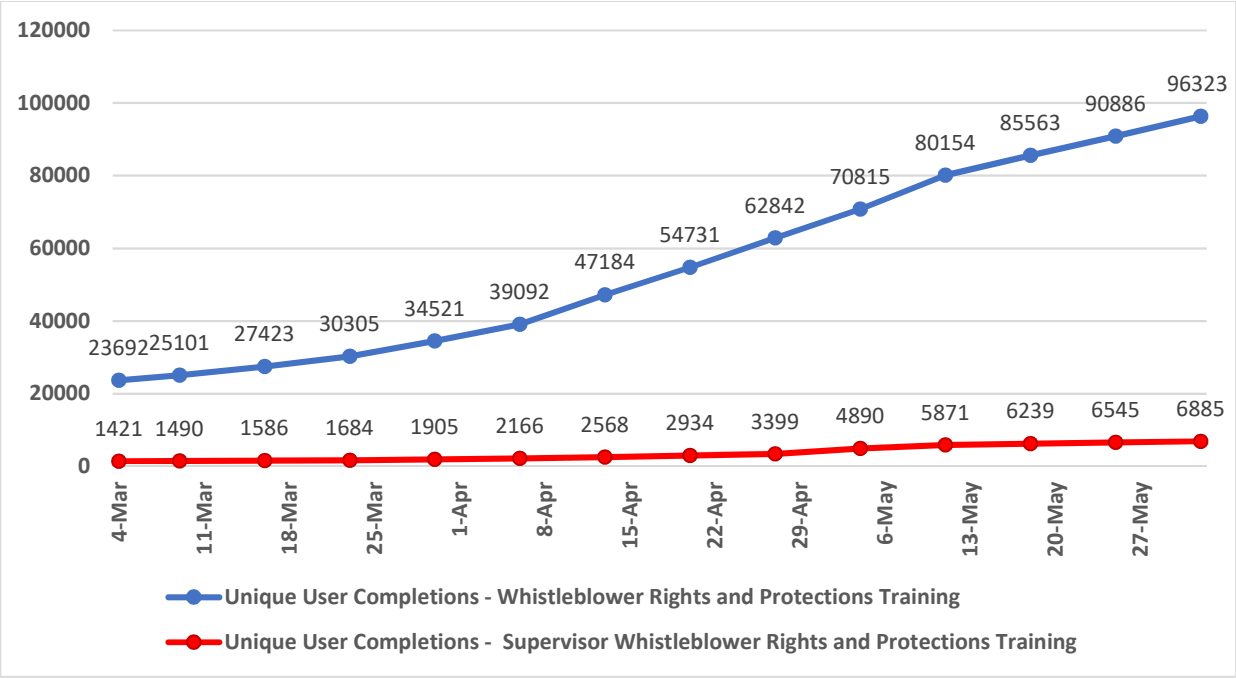
Training Improves Understanding of the Law and its Requirements

OAWP developed and provides VA employees with whistleblower rights and protection training required by 38 U.S.C. § 733. We also developed and provide supervisors with training on fostering an environment where employees feel comfortable disclosing wrongdoing. Our training for VA employees addresses several critical areas of the disclosure process, including how and where to make a protected disclosure and consequences of whistleblower retaliation.

OAWP collaborated with OSC and OIG to develop version 1.0 of this training, which is currently provided electronically to all VA employees in VA's Talent Management System (TMS). The Secretary mandated that VA employees complete the training no later than July 4, 2020. As of the issuance of this report, approximately 25% of VA employees have completed this training. In some administrations, COVID-19 driven priorities have postponed the due date until the resumption of normal operations. We are also developing a 2.0 version with scenario-based, multi-media features.

OAWP has provided in-person training to VA executives and other staff. We are working to expand our capacity to offer in-person training on a wider basis (see chart below).

Employee Whistleblower Training Completion (2020)



Accountability Through Innovation

We are Innovating for Greater Operational Value

- OAWP introduced innovations in technology and analytics to increase productivity, drive and validate strategic thinking, and support employee performance.

IMPLEMENTING TECHNOLOGIES TO STREAMLINE PROCESSES

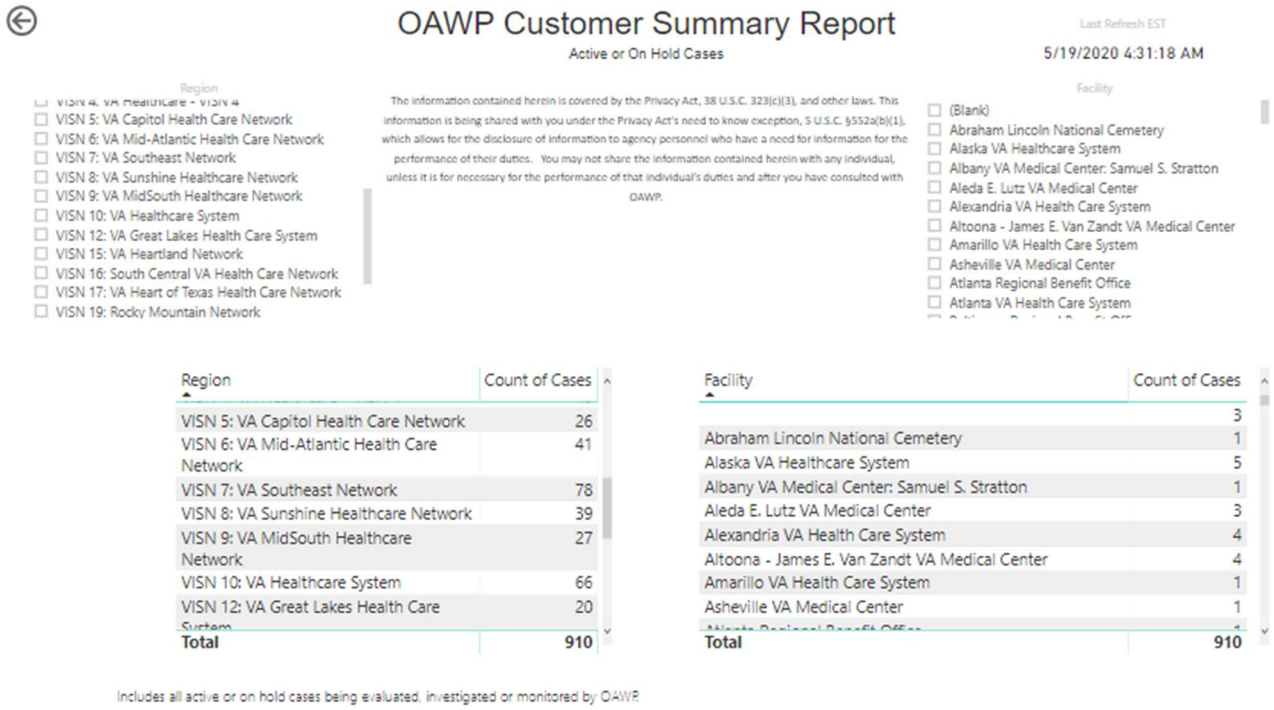
OAWP replaced disparate tracking tools with new technologies for OAWP to manage all intake, investigations, compliance, and other procedural processes to ensure continuity of operations, to enable end-to-end case management, and to allow for the effective management of anonymity of individuals.

REDESIGNING THE INTAKE FORM

OAWP is redesigning our intake form. The design of OAWP's new intake form is purposefully built to expand user accessibility, simplify the complaint process, and improve accuracy in the data collected. Also, the form is designed for the complainant to receive a unique hyperlink to track their case.

CREATING ADMINISTRATION DASHBOARDS

VA administrations have visibility into the number of OAWP cases that involve their organization through the use of dashboards. These dashboards (see charts on the next page) do not disclose the identity of complainant.



VHA Dashboard allows for the administration to drill down to track cases by VISN and facility.

Accountability Through Transparency

Communication Builds Transparency and Accountability

- OAWP has significantly improved the way it communicates with whistleblowers and other stakeholders.
- Customer service-oriented philosophy encourages proactive engagement.
- An overhaul of our Freedom of information Act (FOIA) processes has substantially improved transparency.

IMPROVING ENGAGEMENT WITH OUR STAKEHOLDERS

OAWP adopted customer service as a mandatory critical element in all OAWP employee performance standards. In support of this performance standard, our employees have been provided customer service training by the Veterans Experience Office. Investigators now communicate with complainants on a routine basis providing regular case updates and formal notification when major actions are taken regarding their submission. Proactive communication with those making submissions to OAWP increases transparency and contributes to the mission: promoting and improving accountability at VA.

IMPROVING RECORDS MANAGEMENT AND FOIA SERVICE

OAWP is overhauling its FOIA, Privacy Act, and Records Management processes. We hired a highly experienced senior Government Information Specialist to review and restructure FOIA operations, ensure that OAWP's FOIA operations comply with the law, improve efficiency, and establish trust and confidence with FOIA customers. We are establishing processes and guidance, as well as increasing training on FOIA and other records management procedures. Additionally, in furtherance of transparency associated with the management of our data and data management systems, OAWP's System of Records Notice, required by the Privacy Act to protect data, was published in the Federal Register in May 2020.

Why is it critical to get the FOIA process right?

"We must consider the core purpose of the FOIA, which is to provide government transparency through public access. Government transparency is essential to building public trust. Getting the FOIA process right builds public trust."

Supervisory Government Information Specialist

ENGAGING KEY STAKEHOLDERS

Our stakeholder engagement strategy is built around shared interest in accountability and respect for the statutory requirements of our organization. As we outline throughout this report, we have been combining a reasoned and logical organizational redevelopment, retooling, and retraining with a pledge to build credibility through uncompromising integrity and operational reliability. Assistant Secretary Bonzanto regularly meets with key Members of Congress as well as staff from the Veterans Affairs' oversight committees. OAWP leadership has also conducted informational briefings with Veteran Service Organizations and VA administrations and staff offices. OAWP has also reached out to Whistleblower Advocacy groups to better understand their issues and work at breaking down barriers.

Why is it important that OAWP communicate to its stakeholders?

"Communication builds transparency, transparency fosters accountability—an accountable VA delivers on President Lincoln's promise to the nation and the core values that define our department."

Chief, Stakeholder Engagement

Accountability Through Data

We Are Using Data Strategically

OCTOBER 1, 2018—MAY 31, 2020 ACTIVITIES

Identifying trends: OAWP recently started analyzing trends, beginning with recommendations based on audits and investigations issued by OIG starting from the first quarter of FY 2020. We are exploring ways to use our website as a way of enhancing transparency and accountability at the VA by enabling the search and dissemination of these trends publicly.

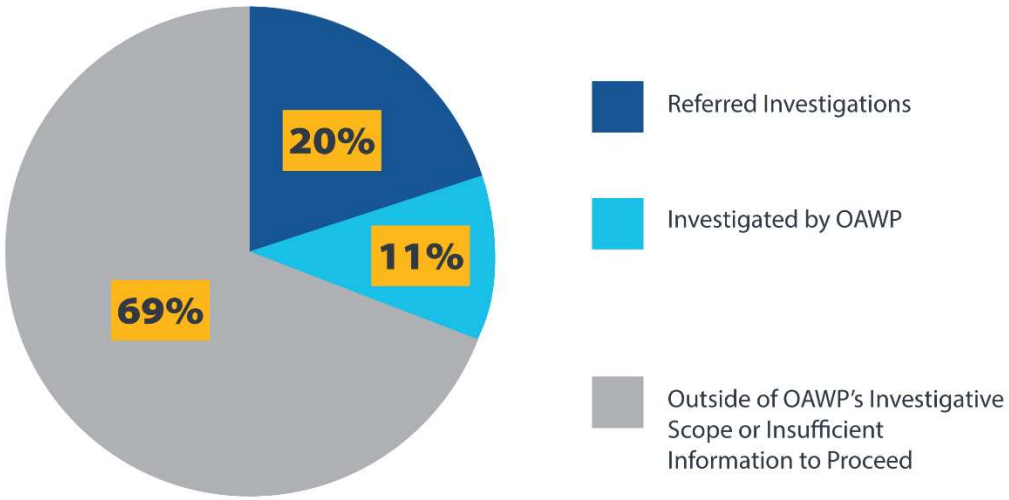
Matters received by OAWP: 3,463 matters (see chart below) were received by OAWP from October 1, 2018 through May 31, 2020 (reporting period).

(1) 692 cases received during this reporting period were categorized as whistleblower disclosures and referred for investigation to VA administrations and staff offices.

(2) 389 cases received during this reporting period were categorized as allegations of whistleblower retaliation or allegations of senior leader misconduct or poor performance for investigation by OAWP.

(3) 2,382 matters received during this reporting period were deemed out of OAWP's investigative scope, transmitted to VA administrations and staff offices (previously termed unmonitored referrals), or had insufficient information to proceed.

Breakdown of 3,463 Matters

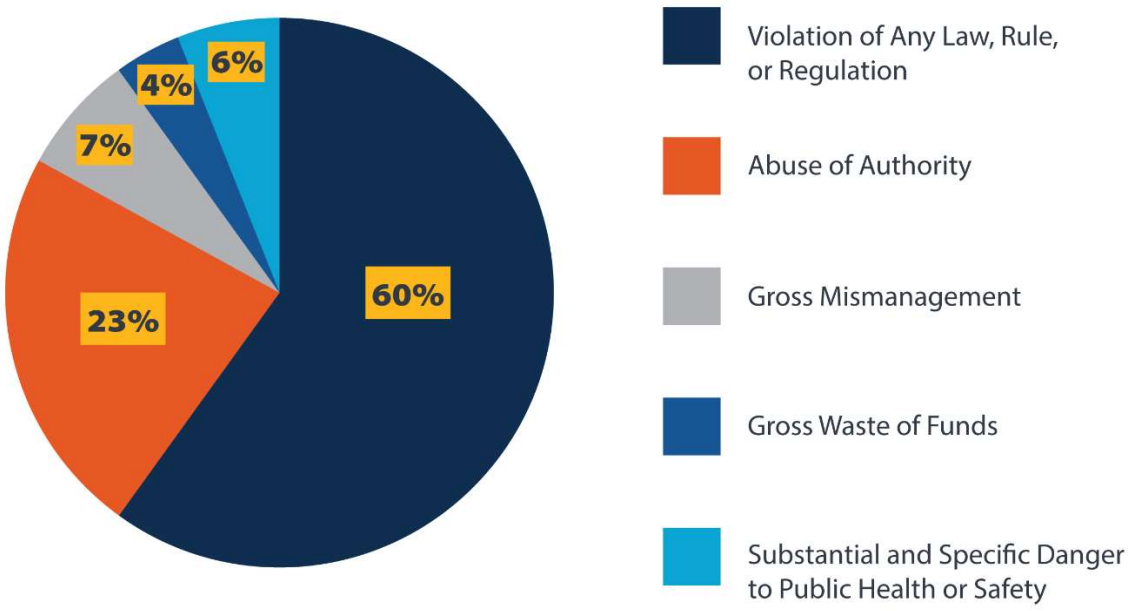


Whistleblower disclosure cases: 692 cases (see chart below) received during this reporting period were categorized as whistleblower disclosures and referred by OAWP for investigation to VA administrations and staff offices. Out of these 692 cases:[1]

- 60% involved a violation of any law, rule or regulation;
- 23% involved abuse of authority;
- 7% involved gross mismanagement;
- 4% involved gross waste of funds; and
- 6% involved substantial and specific danger to public health or safety.

[1] *Whistleblower disclosures may involve more than one category.*

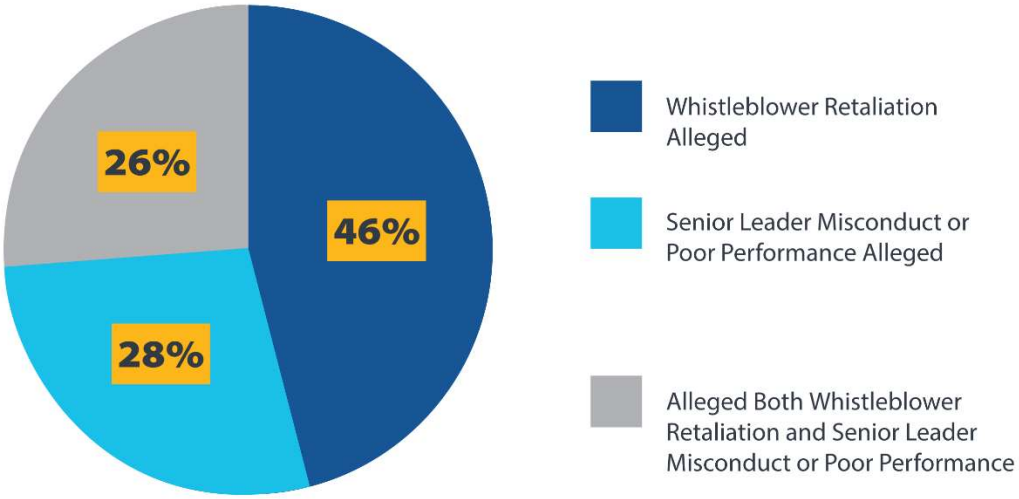
Categorization of 692 whistleblower disclosure cases



Cases investigated by OAWP: 389 cases (see following chart) received during this reporting period were categorized as allegations of whistleblower retaliation and allegations of senior leader misconduct or poor performance. These cases are directly investigated by OAWP. Out of these 389 cases:

- 46% alleged whistleblower retaliation;
- 28% alleged senior leader misconduct or poor performance; and
- 26% alleged both whistleblower retaliation and senior leader misconduct or poor performance.

Categorization of 389 cases investigated by OAWP



Annex A: Abbreviations and Definitions

Case: Whistleblower disclosures, allegations of whistleblower retaliation by a VA supervisor, or allegations of senior leader misconduct or poor performance, accepted for investigation by OAWP.

EEO: Equal Employment Opportunity

FOIA: Freedom of Information Act

GAO: U.S. Government Accountability Office

Matter: Information received by OAWP, from any source, that may consist of possible whistleblower disclosures or allegations, which may or may not be within OAWP's investigative scope.

OAWP: VA Office of Accountability and Whistleblower Protection

OIG: VA Office of the Inspector General

OMI: VA Office of the Medical Inspector

ORM: VA Office of Resolution Management

OSC: U.S. Office of Special Counsel

ROI: Report of Investigation

SES: Senior Executive Service

Senior Leader: Defined in VA Directive 0500, *Investigation of Whistleblower Disclosures and Allegations Involving Senior Leaders or Whistleblower Retaliation*, as a VA employee who is the following:

(1) Appointed to the SES (including noncareer, probationary, and limited term appointees), apart from those employed by the OIG;
(2) Appointed to an administrative or executive position under 38 U.S.C. §§ 7306(a), 7401(1), or 7401(4) as the following:
    (a) A Title 38 SES-equivalent employee (e.g., Deputy Under Secretary for Health);
    (b) A Veterans Integrated Service Network (VISN) or VAMC director or deputy director;
    (c) A VISN or VAMC chief of staff or equivalent position (e.g., chief medical officers); or
    (d) A VISN or VAMC associate director for patient care services or equivalent position (e.g., nurse equivalents);

(3) A political appointee;
(4) A senior-level or scientific and professional employee (i.e., those described in section 319.102 and 319.103 of title 5 of the Code of Federal Regulations);
(5) A Veterans law judge, including chief veterans law judge;
(6) A VHA or Veterans Benefits Administration facility (e.g., a VAMC or regional office, but not a program office) director, associate director, or assistant director at GS-14 level or above (e.g., an associate or assistant director at a VAMC); or
(7) A National Cemetery Administration cemetery director or district chief at the GS-14 level or above.

Stakeholder: Includes, but is not limited to: Veterans, VA leadership, Members of Congress, Veterans' Service Organizations, Advocacy Organizations, VA Employees and the American People

SOP: Standard operating procedures

U.S.C.: United States Code

VA: U.S. Department of Veterans Affairs

VAMC: VHA Medical Center

VHA: VA Veterans Health Administration

Whistleblower: a VA employee or applicant for employment at VA who makes a whistleblower disclosure.

Whistleblower disclosure: a disclosure of information by a whistleblower to OAWP, which the whistleblower reasonably believes evidences a violation of law, rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or substantial and specific danger to public health or safety.

Whistleblower retaliation: a supervisor or senior leader taking or failing to take, or threatening to take or not to take, a personnel action because of a whistleblower disclosure.

Department of Veterans Affairs

Office of Accountability and Whistleblower Protection