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SEX DISCRIMINATION

Agencies' Handling of Sexual
Harassment and Related
Complaints

Statement by
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Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss the results of our review of the Drug Enforcement Administration's (DEA) investigation and resolution of equal employment opportunity (EEO) complaints, with specific emphasis on sexual harassment. Our report,¹ which is being released by you today, discusses a number of factors that impede the successful implementation of the EEO program at DEA, especially as related to sexual harassment.

I would like to briefly discuss our work at DEA and provide our general observations on how two law enforcement agencies have handled sexual harassment allegations. Our first review of this issue, completed in May 1993, involved the Department of the Treasury's Bureau of Alcohol, Tobacco and Firearms (BATF).

At DEA, both the EEO Office and the Office of Professional Responsibility (OPR) may be involved in the investigation and resolution of sexual harassment allegations. Accordingly, in addition to other agency files, we reviewed all 22 agency-identified sexual harassment complaints filed with these offices from January 1989 to May 1993. We also interviewed 63 current and former DEA employees at both the supervisory and nonsupervisory levels, other federal employees, and private attorneys.

At all 10 DEA offices we contacted, men and women related incidents of behavior that they believed constituted sexual discrimination, including harassment. Further, we found that a number of factors impede DEA's successful implementation of its EEO program, especially as it relates to sexual harassment.

In summary, we found that DEA employees are reluctant to use the EEO complaints process, they fear reprisal from managers, they lack confidence in the processes used at DEA, and they believe that many of the staff assigned to investigate and process allegations lack objectivity, sensitivity, and competency. Additionally, we found that OPR investigators sometimes do not obtain all corroborative evidence when investigating complaints, and that differences in rights and remedies afforded by EEO and OPR investigations are not communicated to the employees. Finally, although training on the agency's sexual-harassment-complaints process was made available to all employees, one-fourth of all interviewees told us that they had received no such specialized training.

Based on our work, a review of DEA policies and practices, an analysis of the records, and discussions with employees, we envision that DEA will continue to have problems with sexual

¹Sex Discrimination: DEA's Handling of Sexual Harassment and Other Complaints (GAO/OSI-94-10, March 4, 1994).

harassment unless it changes how it handles sexual harassment allegations.

DEA ACCESS RESTRICTION

Before discussing our observations at both DEA and BATF, I must tell you that we cannot attest to the completeness of our DEA review, because DEA restricted our access to EEO and OPR files, inspection reports, and certain statistical data. When we began our work in April 1993, we requested access to DEA's EEO and OPR records. Unlike our experience at BATF where we received open access to agency records, DEA, citing the documents' alleged sensitivity, provided us access only to redacted EEO and OPR files. More seriously, in lieu of providing a list of OPR cases from which we could independently select our sample, DEA provided a list of cases that it had identified as representing all sexual harassment-related cases. However, we later learned that the DEA-provided list did not include all sexual harassment cases.

OBSERVATIONS BASED ON INVESTIGATIONS AT DEA AND BATF

Our investigative findings at DEA and BATF demonstrate that employees at both agencies had similar concerns about how the agencies handle allegations of sexual harassment.

- At both agencies, instances of sexual harassment went unreported because employees feared reprisal by management or the alienation of coworkers for participating in the EEO process.
- Female employees had concerns about the lack of sensitivity shown by internal unit investigative staff and the internal units' use of predominately male investigators.
- Complainants and witnesses questioned the overall independence, objectivity, and thoroughness of investigations done by the agencies' internal investigation units--DEA's OPR and BATF's Office of Internal Affairs.
- The investigative approaches and focuses of internal units did not always reflect an understanding of evidence relevant to harassment cases or of the emotional and psychological factors involved with these types of allegations.
- Agency internal investigative processes at both agencies did not provide complainants--the alleged victims--the same rights and remedies. Under the EEO process, victims are entitled to have a representative of their choice present during any stage in the investigation and entitled to remedies for any discrimination. The internal investigative units (1) do not guarantee complainants the right to a representative and

(2) focus on determining if the alleged harasser violated agency standards of conduct or criminal law, not on whether an employee's rights had been violated.

- Finally, neither agency had adequately developed or communicated to employees general information on sanctions and penalties for engaging in sexual harassment.

We recognize that determining what constitutes sexual harassment is the subject of debate. However, agency management must assume a strong leadership role and, through their words and actions, demonstrate to employees that discriminatory behavior will not be tolerated. Also, agency managers need to make a total commitment to creating a hostile-free environment because sexual harassment affects the entire agency, not just the individuals involved. Both managers and employees need to acknowledge that sexual harassment exists, not only because it is a critical social issue but because it is illegal. Therefore, when information indicates that a hostile working environment exists, managers must take immediate and appropriate corrective action to stop the discrimination. Further, it is essential that employees have confidence in agency processes for handling such complaints. In this regard, we have observed that agencies and their employees could benefit if top agency management considered the following:

- Establish a cadre of trained EEO counselors whom employees can contact in confidence and from whom they can obtain competent, objective advice.
- Develop and implement clear procedures for investigating and resolving allegations of sexual harassment. Such procedures would address who investigates the complaint; what the conditions will be; and what remedies, if any, the employees can expect. If an agency permits its internal investigative unit or another office to investigate these allegations, it must advise alleged victims of their rights and remedies available through both the EEO process and the other procedures.
- Train those who investigate allegations to recognize and gather relevant evidence in sexual harassment cases and sensitize them to the accompanying emotional and psychological issues presented.
- Conduct agency training that focuses on advising managers of their responsibilities to take immediate and appropriate corrective action as soon as they receive or become aware of allegations of harassment.
- Hold management accountable for its failure to take appropriate actions to develop and foster hostile-free working environments.

- Ensure that employee training specifically focuses on what may constitute unwelcome behavior and on those circumstances which may create a hostile working environment. As such, the effectiveness of such training should be monitored and follow-up or refresher courses should be provided.
- Develop and communicate to employees the sanctions and penalties for engaging in sexual harassment and describe, in general terms and without naming individuals, prohibited behavior that has occurred and associated penalties/sanctions.
- Finally, ensure that confidential information is handled appropriately and that investigators are perceived as competent, objective, and independent from management. In this regard, an agency may want to consider the use of outside investigative entities possessing these qualities.

We should also note that since our May 26, 1993, testimony (GAO/T-OSI-93-1) on BATF's handling of sexual harassment complaints, BATF has taken action on a number of matters that we have just discussed. They include the training of all internal affairs investigators in conducting sexual harassment investigations, drafting of procedures that define the roles for agency personnel involved in the investigation and resolution of complaints, and establishing a sexual harassment hotline.

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This completes my prepared remarks. I would now welcome any comments or questions that you may have.

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