The Honorable Eric Shinseki,
Secretary, Department of Veterans Affairs
810 Vermont Avenue NW
Washington DC 20420

February 12, 2013

Re: Conduct of Senior Leadership at Carl T. Hayden VA Medical Center, Phoenix, AZ.

Dear Secretary Shinseki,

In April of 2011, you were sent a letter asking you to send an Administrative Investigative Board to the Carl T. Hayden VA Medical Center in Phoenix, AZ. You promptly did so, which resulted in findings of senior leadership misconduct by mismanagement of funds, abuse of authority and discrimination, and a hostile work environment. The facility environment was hostile, not Patient focused. In addition, staff was demoralized and angry, turnover high, productivity low with a low Patient satisfaction rate.

Your sincere effort resulted in both the Director and Associate Director abruptly leaving federal service and in resolving several complaints prior to costly and embarrassing litigation. More importantly, thanks to your intervention, the abuse of employees stopped and the misused medical funds were restored for Patient Care purposes. Your efforts improved satisfaction with patients, staff and the Phoenix community and you are to be commended for your prompt review and swift actions.

Thus, it is disheartening to report that the appointment of new senior leadership, Sharon Helman, Director, and Lance Robinson, Associate Director, the progress gained in restoring quality patient care, maintaining and building employee morale and bolstering community support are once again declining. The decline is due to several factors including the inexperience of the Director and other senior leaders, a strong reliance on counsel from poor advisors in administrative areas, such as Human Resources and Financial Management and across the board cuts in performance ratings--that were never set or bargained through appropriate personnel standards. Rather than contemplating the advice provided, or checking with a network of mentors, or reviewing VA standards, both the Director and the Associate Director take part in knee-jerk responses which culminates in costly litigation, verified abuse, prohibited personnel practices and legal and regulatory violations. As physicians, specialists, nurses and administrative staff leave, turnover increases and patient care suffers extensively to the point where Phoenix is once again at the bottom of the barrel in meeting access and many other measures. The more dissatisfaction staff and patients experience, the more community support declines.

Ms. Sharon Helman, Director, came on board in the spring of 2012. Lance Robinson, Associate Director, had served as acting associate director for 90 days and due to his in-depth knowledge garnered during this time was later appointed permanently also in the spring of 2012.
In the short nine months the two have been onboard the following actions have occurred:

a. Ms. Helman quickly appointed her husband to the Medical Center payroll despite nepotism and prohibited personnel practice laws and regulations outlawing such activities. She did so with the full knowledge and consent of the Human Resources Director in violation of both OPM and OSC regulations set forth in 5 USC 2302 (b) (7) and 5 USC 3110. This action can be construed as being taken for personal gain.

b. Ms. Helman decided to raise the productivity of the VA Medical Center by raising the productivity of facility employees. A noble and important endeavor in today's economy. However, with substandard advice she systematically rated many employees on new standards for which they had no opportunity to know about or serve under in violation of

5 CFR 430.201-208, 5 USC 4301 and TITLE 38. Employees were not afforded a minimum of 90 days under the new standards prior to rating, and in many instances were not notified in writing of any changes in expectations by Ms. Helman. Rather they were informed at director's staff meetings, through HR educational materials and other venues that no employee would receive an outstanding rating unless it was personally reviewed and approved by her, despite the recommendations of service chiefs, department heads and section chiefs. The result has been hundreds of angry employees, increased EEO filings, IG, and OSC complaints, not to mention the loss of excellent performers and a general breakdown in any camaraderie that was starting to gain momentum. If Ms. Helman sought advice with this measure, she failed to get appropriate advice and the result has been a "forced distribution" of ratings contrary to OPM policy which is unrelated to the actual performance of the employees. Had she received proper advice she would have rated the staff on their existing appraisals and proficiencies, communicated new expectations and standards to staff during the new rating cycle, than held them accountable for their subsequent performance. These actions were not for personal gain, rather, I believe she received poor advice or sought out no advice. As a result the majority of employees who remain believe she is malicious, power hungry and vindictive because her supervisor rated her as fully successful. Whatever the motivation, the negative result is the same.

c. Another instance of Ms. Helman's short sightedness or inexperience is her failure to recognize that the disciplinary and adverse action programs that she administers, as well as the EEO program, must have credibility by affording employees basic due process requirements and some modicum of respect, dignity, impartiality and privacy. Instead employees are not given "specifics" of the charges levied against them in order to prepare a response to the disciplinary/ adverse action procedures which is in violation of 5 CFR Chapter 752 and 5 USC Chapter 75. Additionally, Ms. Helman has a collateral responsibility as the facility EEO Officer over the EEO program which states employees are **not** to be reprised against for reporting EEO matters to EEO counselors. However, repeatedly at the Phoenix VA, employees reporting EEO matters become subject to sudden disciplinary/adverse actions, as well as, other retaliatory actions just for exercising their rights.

d. In another instance when an employee informed Ms. Helman that the Associate Director Robinson was physically intimidating her and that she was afraid that he would hit her, Ms. Helman's response was to have a second meeting with the female employee and Mr. Robinson. The meeting was conducted to provide assurances to the employee that Associate Director would not hit her. Mr. Robinson then retaliated against the employee, lowering the complainant's rating from outstanding to fully successful, and chastising the complainant based on the fact that she went directly to Ms. Helman (the EEO Officer). The actions by both Mr. Robinson and Ms. Helman make them vulnerable to allegations of reprisal and also make Mr. Robinson vulnerable to allegation of gender discrimination. The above actions are unacceptable and punishable under 29 CFR 1614.103 and 5 USC 2302.

e. In another instance, a disabled female Veteran employee with a distinguished military record and 23 years exemplary VA service has had her career trashed, first, by Mr. Gabriel Perez, former Medical Center Director, Mr. Christopher Bacorn, former Associate Medical Center Director at Phoenix, and now by Mr. Lance Robinson, current Associate Director. In spite of the stellar and beloved community and political support this employee has garnered for the medical center and for VA patients, the national awards she has earned both inside and outside government, the national, district and local presentations she has been asked to present to directors, network directors, colleagues and others this employee has been humiliated, demeaned, harassed, encouraged to retire, and has been ridiculed and discriminated against based on gender and her service connected disability. Due to her devotion to patients and to the VA she has **declined** two opportunities to pursue law suits against the VA. Only after she testified against Mr. Perez and Mr. Bacorn in a VACO convened AIB, authorized by you and the VISN 18 Director, to investigate a sexual harassment case regarding another employee, did the harassment cease. Even though it was requested numerous times, and provided each time in several different formats, the employee in question was **never** granted relief or restoration after requesting this through appropriate channels for two years.

f. Yet, now in the past six months, this employee is being harassed by Mr. Lance Robinson

with Ms. Helman's tacit approval. She has not had appropriate support staff to run a major, comprehensive, nationally recognized medical center program nor has she been accorded any staff assistance to accommodate her service- connected disability (blindness). Instead she has had to personally enlist and recruit unpaid volunteers to assist her with extremely detailed work, while her budget has been consistently and severely reduced disproportionately in relation to other services throughout the medical center. When she questioned Mr. Robison regarding the disparate reductions he became angry and upset and threw a temper tantrum. After his tantrum, he demanded to know her source for this information rather than the present concerns of doing more with less in a budget realm. After notifying her source of her supervisor's request, she reported back to the AD who again became hostile. This time the employee was very concerned for her safety and feared Mr. Robinson was going to physically assault her. This is not a good experience for a sighted female let alone a female employee with a service-connected disability for blindness. These actions are not supportable under 29 CFR 1614.103. Mr. Robinson has now began a systematic "witch hunt" to find issues with this employee's performance and conduct. He has temporarily involuntarily reassigned her from her job and sent her to a desk in the library. The desk that she is seated at has a placard letting other staff and patients know that she is blind so they can verbally ask her for assistance, which is embarrassing, demeaning and denigrating. If this is the best you senior leaders can do in a reassignment it calls into question their lack of dignity in dealing with employees during a worrisome time and highlights their maliciousness. To add insult to injury, Mr. Robinson has secured a poor performer, who was previously placed on a Performance Improvement Plan after receiving an unsuccessful rating in her job by the subject employee, to solicit allegations to use against the Veteran employee. He has also solicited his Assistant Director, John Scherpf to provide a statement against the Veteran employee. To date, 60 days later, the employee has not been told what she has allegedly done wrong, nor has she been charged with any wrong doing. VA handbook 0700 suggests prompt convening of AIB's. The employee has been temporarily reassigned since early December. The Assistant Personnel Officer, Joe Masniak, informed her in passing and unofficially that an AIB was being convened on or about January 9th, 2013, while the employee was out front waiting for a ride home. The VA handbook suggests any board convened should generally carryout its functions within 45 days. Remember, she has been told nothing other than that she is not to talk to anyone other than her representative; however, Mr. Robinson and the acting PAO have both released information to others within the medical center, the regional office of public affairs and VACO. What ever happened to keeping investigations confidential? Furthermore the employees name and position title have been eliminated from the VA online telephone directory and the awards she received for the medical center were removed from the medical center lobby display case. Where is due process in this instance, specifically, the right to know you are being investigated and when did responsible management officials notify the employee of her right to representation? Even temporary reassignments are not supportable under Office of Special Counsel regulations 5 USC 2302, nor are they supportable under 29 CFR 1614.103 where the action is not based on merit, retaliatory or based on gender discrimination. Nothing this employee has done, if anything warrants this type of malicious treatment at the hands of Mr. Robinson.

Mr. Secretary, I have donated my assistance to 40 employees in the VA system nationwide. However I find that in the past year, the bulk of my consultations have been with the employees at the VA Medical Center in Phoenix. I must tell you after 33 years as a VA Personnel Officer, which included conducting investigations for the Chief Network Officer on VISN Directors, Medical Center Directors, Associate Directors and Chiefs of Staff throughout the nation, I have never seen the hostility, cavalier violations of regulations and laws, the lack of dignity and respect for employees, nor have I seen the total lack of common sense in a single facility as I have observed at the VAMC Phoenix, AZ.

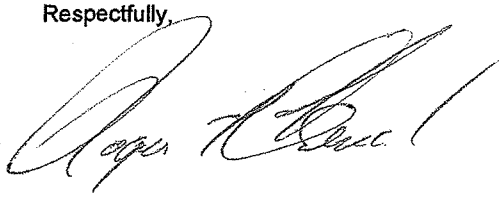
While representing the individuals in those 40 cases, I have observed patterns of discrimination that subject African-American employees (male and female), to downgrades; while white females are being denigrated, moved to other positions in isolated locations and physically intimidated. All the individuals have been subjected to **unwarranted** disciplinary actions with minimal due process, exposed to excessive workload with reduced staffing levels and imperiled to arbitrary and unreasonable time frames. Not only are your employees misadvised of their rights, but far too often their rights are also omitted by HR. While all of this is happening to these two classes, white males are not taken out of their positions, even temporarily, or subjected to any of these similar hostilities for serious episodes of misconduct at the facility.

What is this doing to these employees who are there to care for our patients? Six of the 40 staff members I have represented at the VA Phoenix have had to be put on antidepressant therapy, two have been treated for suicidal ideations, and one individual's child attempted suicide due to the humiliation, degradation and loss of dignity imposed on the employee by senior leaders. These behavioral episodes are a sad testimony and a direct result of completely irresponsible and reckless management actions conducted at the medical center.

If the Regional Director of ORM in Los Angeles, CA. has not alerted you to the nature or volume of complaints being generated from the VAMC-Phoenix then he/she is not doing their job.

In accordance to the Secretary's memorandum of June 8th, 2001, updates and subsequent policies released to the field, as well as, the GAO Report of April 1998, I am again requesting you to convene an AIB to review performance and conduct issues involving senior leaders, especially Director Sharon Helman and Associate Director Lance Robinson at the VAMC-Phoenix, AZ.

Respectfully,



ROGER G. FRENCH
Employee Relations Consultant