

March 22, 2002

JON M. STEELE  
VICE PRESIDENT, NORTHEAST AREA OPERATIONS

ELIZABETH A. JOHNSON  
MANAGER, MAINE DISTRICT

SUBJECT: Audit Report – Sexual Harassment Prevention Measures in the Maine District (Report Number LH-AR-02-002)

This report presents the results of our audit of sexual harassment prevention measures in the Maine District (Project Number 01JA011LB000). Our overall objective was to determine if the Maine District had adequate policies and procedures in place to prevent sexual harassment in the workplace and to effectively address sexual harassment complaints. The audit was initiated based on a March 26, 2001, letter from a member of Congress requesting the Office of Inspector General (OIG) to consider a review of sexual harassment prevention measures in the Maine District.

The audit revealed that although the district had adequate policies and procedures to prevent sexual harassment and effectively addressed related complaints in the Maine District, managers did not always comply with the procedures. Specifically, managers did not provide documentation that all employees had received sexual harassment awareness and prevention training, did not document that all sexual harassment complaints had been investigated, and had not taken preventive measures when findings were inconclusive in sexual harassment cases. Additionally, we found that some managers involved in sexual harassment cases received incentive pay under the Postal Service's Pay for Performance Program.

We recommended that Postal Service managers establish controls to ensure that: sexual harassment awareness training is provided to all employees and training records are complete; sexual harassment investigations are prompt and fully documented in case files; employees directly involved in cases where the evidence is inconclusive receive sexual harassment training and monitoring; and employees disciplined for sexual harassment be considered for exclusion from the Pay for Performance Program. Management's comments were generally responsive to our report and actions taken or proposed should address the issues identified in the report. Management's comments and our evaluation of these comments are included in this report. While managements' comments are generally responsive, we are concerned at the amount of information that was provided after we completed our work. If this information had been provided

sooner we would have been able to include all the relevant facts which would have facilitated an earlier issuance of this report.

The OIG considers recommendations 1 through 4 significant and, therefore, requires OIG concurrence before closure. Consequently, the OIG requests written confirmation when corrective actions are completed. These recommendations should not be closed in the follow-up tracking system until the OIG provides written confirmation that the recommendations can be closed. If you have any questions, please contact Chris Nicoloff, director, Labor Management, at (214) 775-9114 or me at (703) 248-2300.

Ronald K. Stith  
Assistant Inspector General  
for Core Operations

Attachment

cc: Suzanne F. Medvidovich  
Nancy F. James  
Anthony J. Vegliante  
Susan M. Duchek

## TABLE OF CONTENTS

<b>Executive Summary</b>	i
<b>Part I</b>	
<b>Introduction</b>	1
Background	1
Objectives, Scope and Methodology	1
Prior Audit Coverage	2
<b>Part II</b>	
<b>Audit Results</b>	
Measures to Prevent Sexual Harassment Need Improvement	3
Policies and Procedures Were Adequate	3
Documentation Lacking to Support that All Sexual Harassment Training Had Occurred	5
Recommendation	6
Management's Comments	6
Evaluation of Management's Comments	6
Effectiveness of Investigations Was Questionable	7
Recommendation	9
Management's Comments	9
Evaluation of Management's Comments	9
Employees Responsible in Sexual Harassment Cases Disciplined	11
Preventive Measures Needed When Findings Are Inconclusive	12
Recommendation	13
Management's Comments	13
Evaluation of Management's Comments	14
Disciplined Managers Received Pay for Performance	15
Recommendation	15
Management's Comments	16
Evaluation of Management's Comments	16
Conclusions	17
Overall Management's Comments	17

<b>Appendix A. Objectives, Scope and Methodology</b>	<b>18</b>
<b>Appendix B. Management's Comments</b>	<b>20</b>

## EXECUTIVE SUMMARY

---

### Introduction

This report presents the results of our audit of sexual harassment prevention measures in the Maine District, located in the Northeast Area. Since 1999, the Postal Service has paid over \$1.3 million for six sexual harassment judgments and settlements in the Maine District. The Maine District was chosen as our survey site for a nationwide audit as a result of a request from a member of Congress. Our overall objective was to determine if the Maine District had implemented adequate policies and procedures to prevent sexual harassment in the workplace and to effectively address sexual harassment complaints.

---

### Results in Brief

We concluded that the Postal Service had adequate policies and procedures in place to prevent sexual harassment and effectively address related complaints in the Maine District. In addition, the district manager provided us with information about the initiatives taken in the district regarding sexual harassment awareness and education. She stated these initiatives were taken to prevent sexual harassment and mitigate potential future liabilities after a jury decision awarded damages in 2001.

We also found that employees responsible for sexual harassment were disciplined. However, managers<sup>1</sup> did not always follow the policies and procedures in the areas of training, investigations, and preventive measures. Specifically, managers could not provide documentation that all employees had received sexual harassment awareness and prevention training, did not document all investigations of sexual harassment complaints, and had not taken preventive measures when findings were inconclusive in sexual harassment cases. We also found that some managers involved in sexual harassment cases received Pay for Performance Program<sup>2</sup> incentive awards.

Sexual harassment can increase stress, reduce management's credibility with employees, reduce employee

---

<sup>1</sup> The term "managers" includes supervisors, plant and facility managers, Human Resources manager, and the district manager.

<sup>2</sup> The Pay for Performance Program, formerly referred to as the Economic Value Added Program, is an incentive award program for nonbargaining employees. The amount of money received by each employee is based on a group achievement of performance targets and financial measurements.

morale and productivity and can result in financial liability to the Postal Service.

Full compliance with policies and procedures should help prevent sexual harassment in the Maine District and should help mitigate any liability for sexual harassment that might occur.

---

**Summary of  
Recommendations**

We recommended that Postal Service managers establish controls to ensure that: sexual harassment awareness training is provided to all employees and training records are complete; sexual harassment investigations are prompt and fully documented in case files; employees directly involved in cases where the evidence is inconclusive receive sexual harassment training and monitoring; and employees disciplined for sexual harassment be considered for exclusion from the Pay for Performance Program.

---

**Summary of  
Management's  
Comments**

Management generally agreed with our recommendations to prevent sexual harassment in the workplace and to effectively address sexual harassment complaints. They agreed to ensure sexual harassment awareness training is provided to all employees and training records are complete; sexual harassment investigations are prompt and fully documented in the case files; and employees disciplined for sexual harassment be considered for exclusion from the Pay for Performance Program. Management did not agree that employees directly involved in sexual harassment cases where the evidence is inconclusive receive sexual harassment training and monitoring. Management stated the recommendation is inconsistent with Postal Service policy. However, management satisfied the intent our recommendation by agreeing to notify proper officials at Postal Service Headquarters and requesting that its policies be reviewed. Management's comments, in their entirety, are included in Appendix B of this report.

---

**Overall Evaluation of  
Management's  
Comments**

Management's actions taken or planned are responsive to the recommendations in this report.

## INTRODUCTION

---

### Background

Since 1999, the Postal Service has paid over \$1.3 million for six sexual harassment judgments and settlements in the Maine District. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

In 1980, the Equal Employment Opportunity Commission declared sexual harassment a violation of the Civil Rights Act of 1964, and issued guidance regarding employer liability for harassment by supervisors. The Postal Service issued its first sexual harassment policy statement on April 10, 1980, declaring sexual harassment as unacceptable conduct. In a continued effort to address sexual harassment, it also issued policy statements, memorandums, posters, and guidelines to employees addressing the legal principles defining sexual harassment and the Postal Service's position that sexual harassment would not be tolerated in the workplace.

In a March 26, 2001, letter to the Office of Inspector General (OIG), a member of Congress advised that the Northeast Area Maine District had been sued five times since 1998 for sexual harassment and asked the OIG to consider a review of the five cases<sup>3</sup> in our comprehensive review of sexual harassment in the Postal Service. The member of Congress wanted a review because local officials were allegedly slow in addressing sexual harassment issues in these five cases.

---

### Objectives, Scope and Methodology

Our overall objective was to determine if the Maine District had implemented adequate policies and procedures to prevent and effectively address sexual harassment complaints.

We selected the Maine District to conduct our survey for national work on sexual harassment. The objectives identified in this report were developed during our survey in the Maine District. Our objectives, scope, and methodology are discussed in Appendix A.

---

<sup>3</sup> Four of the five civil cases referred were filed since 1998 and were included in our review. The fifth case was filed in 1996 and not included in our scope because it was not originally a sexual harassment case.

This audit was conducted from June 2001 through March 2002 in accordance with generally accepted government auditing standards and included such tests of internal controls as were considered necessary under the circumstances. We discussed our conclusions and observations with appropriate management officials and included their comments where appropriate.

---

**Prior Audit Coverage**

The March 31, 1999, OIG report, Follow-up on USPS Recommendations to Investigate Sexual Harassment Allegations and to Reassign a Supervisor from His Position of Authority (Garden Grove Post Office), Report Number LR-AR-99-008, found that Garden Grove and Santa Ana District officials had not taken action to investigate some sexual harassment allegations. The OIG recommended the Pacific Area, vice president, investigate and report on the results of the sexual harassment investigations to the Labor Relations and Human Resources vice presidents, and the OIG and determine why allegations of sexual harassment were not investigated. We also recommended that the area vice president take appropriate action to address the allegations.

Management responded with an investigative report that concluded there was no evidence to support sexual harassment allegations were made or that the supervisor's behavior created a hostile work environment.

Management's investigative report was responsive to the OIG recommendation. The OIG did not agree, however, that the supervisor's behavior did not create a hostile work environment.

## AUDIT RESULTS

---

**Measures to Prevent  
Sexual Harassment  
Need Improvement**

The audit revealed that although the Maine District had adequate policies and procedures to prevent and effectively address sexual harassment complaints, district managers did not always comply with the policies and procedures related to training, investigations, and discipline.

---

**Policies and  
Procedures Were  
Adequate**

District policies and procedures were adequate and included several requirements that were recommended by the Equal Employment Opportunity Commission for an effective sexual harassment program. Policies and procedures included:

- A requirement that all employees be trained.
- A requirement to disseminate guidance to managers and employees on how to address and prevent sexual harassment.
- A requirement that employees who engage in sexual harassment be subject to disciplinary action.

In addition, the district manager provided us with information about the initiatives taken in the district regarding sexual harassment awareness and education. She stated these initiatives were taken to prevent sexual harassment and mitigate potential future liabilities after a jury decision awarded damages in 2001. For example, she stated that the requirement for all employees to be trained had been augmented with personal communications, such as round-table discussions, town-hall meetings and other informal sessions with employees. In addition, she stated that a letter focusing on issues relating to sexual harassment awareness and prevention had been periodically sent to employees at their home mailing address. She said these letters included messages from the Northeast Area vice president. Furthermore, the manager stated that she had also invited union and management association leadership to directly share with the district, concerns or reports of sexual harassment that they might receive.

The district manager also stated that to ensure a consistent approach in responding to allegations of sexual harassment, a standard operating procedure was developed and distributed as guidance for supervisors, managers and postmasters. She added that oversight responsibility of

management's response to allegations of sexual harassment had been assigned to the manager, Human Resources.

Finally, Northeast Area officials stated that out of 85 performance clusters in the Postal Service, the Maine District tied for the second highest percentage of negative (favorable) responses on the Voice of Employee Survey<sup>4</sup> in fiscal year (FY) 2001 for the question "In the last 12 months, have you personally been sexually harassed by a Postal Service employee?"

In addition to these initiatives, at two Maine District postal facilities,<sup>5</sup> we observed posters displayed in employee work areas that described the Postal Service's position that sexual harassment would not be tolerated in the workplace. We also noted that a toll-free telephone number and an e-mail address were posted for employees to obtain information about sexual harassment.

These initiatives, policies, and procedures should enable managers to identify and prevent behavior in the workplace that could constitute sexual harassment. They should also allow managers to respond promptly and effectively to employees who come forward with complaints, thus mitigating liability and costs.

---

<sup>4</sup> The Voice of the Employee survey is a data collection instrument that the Postal Service has established to help improve workplace relationships and ensure that all employees are treated with fairness, feel safe in their workplace, have opportunities to participate and take pride in being Postal Service employees.

<sup>5</sup> The OIG visited the Biddeford/Saco Post Office and Portland Processing and Distribution Center because five of the six monetary settlements for sexual harassment claims occurred at these two facilities.

---

Documentation Lacking  
to Support That All  
Sexual Harassment  
Training Had Occurred

While policies and procedures to prevent and address sexual harassment complaints were adequate, district managers did not provide documentation to support their statement that all employees received training in understanding and preventing sexual harassment. Equal Employment Opportunity Commission Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, states training is an essential part of an agency's sexual harassment prevention program. Postal Service Headquarters did not mandate sexual harassment training in FY 2001, however, the Maine District required that all employees attend a 1-hour training course by June 1, 2001. To ensure compliance, the Maine District required employee signatures on sign-in sheets to certify attendance.

We found that as of August 30, 2001, there was no documentation that 761 of the approximately 1,680 employees at six<sup>6</sup> district facilities had received the required training. According to a district official, employees had received the training; however, training sign-in documents used to enter information into the database were misplaced, thus the training records were incomplete. The official told us the training information would be entered into the database and updated information would be sent to our office. On January 8, 2002, the district provided additional training documentation, however, it was still lacking for approximately 311 employees at the six facilities.<sup>7</sup> The district training manager told us the process of entering all employees into the database who had received the training is still ongoing.

With documented training records, the district could ensure that all employees receive the required training.

---

<sup>6</sup> The training records at six facilities: Biddeford/Saco Post Office, Portland Processing and Distribution Center, Eastern Maine Processing and Distribution Center, Camden Post Office, Portland Post Office, and Ellsworth Post Office; were reviewed because these were the facilities where the majority of the formal and informal sexual harassment complaints were filed.

<sup>7</sup> We followed up with headquarters and Maine District officials on November 13, November 28, December 4, 2001, January 3, and January 14, 2002, to obtain this information.

---

**Recommendation**

We recommended the vice president, Northeast Area Operations, direct the manager, Maine District, to implement controls to improve the effectiveness of the sexual harassment prevention program. Specifically, establish controls to ensure:

1. All employees receive the required sexual harassment training and training records are complete.

---

**Management's  
Comments**

Management agreed with the finding and recommendation and will deliver sexual harassment awareness training and complete training records for employees by September 8, 2002. Management stated however, that since the sexual harassment training was a voluntary undertaking by the district, it was "de minimis," that the training records for a small percentage of the 4,700 employees in the Maine District were not available. They also stated we did not report that the Maine District was in full compliance with headquarters' training requirements each year since FY 1997.

---

**Evaluation of  
Management's  
Comments**

Management's planned actions to the recommendation are responsive, and should resolve the issues presented in the report. Regarding management's statement that the missing training records was "de minimis," as stated in the report, we reviewed training documentation for employees at six facilities, which represented approximately 1,680 employees, and not the entire Maine District. We believe documentation is the support needed to ensure that all employees received the required training. The importance of this documentation was evident by the district manager's requirement that employee signatures appear on sign-in sheets to certify their attendance.

Regarding management's statement that we did not report the Maine District's compliance with headquarters training requirements for past fiscal years, we did not review compliance for those years. We focused our review on FY 2001 because it was the most current year and showed the Maine District's commitment to providing employees the ongoing sexual harassment training that should be provided to all employees.

---

Effectiveness of  
Investigations Was  
Questionable

The Maine District did not ensure that all sexual harassment investigations were effective. Equal Employment Opportunity Commission guidelines recommend that an effective investigation is a prompt, thorough, and impartial review of sexual harassment complaints.

These guidelines and Postal Service policy require managers to act quickly and investigate all allegations, as well as develop detailed evidence of the circumstances and nature of the complaints. Additionally, Postal Service guidelines state that some complaints can be resolved simply and directly between the parties without the need for a formal written record, but further requires anything considered serious be documented.

Our review of 16<sup>8</sup> formal and informal<sup>9</sup> sexual harassment complaints filed in the Maine District for the period January 1, 1996, to July 31, 2001, found that eight complaints had been effectively investigated, the effectiveness of seven investigations was questionable, and in one case, the employee complained directly to the Equal Employment Opportunity counselor and requested confidentiality. Therefore, management could not directly investigate the complaint.

For the eight cases<sup>10</sup> that we found were effectively investigated, the Postal Service did not pay any monetary damages. One case file contained information showing the facility manager responded within 24 hours of the allegation and the Inspection Service conducted a prompt investigation, which resulted in resolution of the complaint. We believe the prompt response and documentation of the investigation by the facility manager may have contributed to resolution of the complaint before it reached the formal process.

In seven cases we determined the effectiveness of the investigations was questionable. Although we were unable to determine whether the effectiveness would have

---

<sup>8</sup> Four of the five civil cases referred to in the member of Congress March 26, 2001, letter to the OIG were included in the 16 formal and informal sexual harassment cases reviewed in the Maine District. The fifth case was not included in our scope because it was not originally a sexual harassment case.

<sup>9</sup> The term "informal" complaint refers to complaints not filed in the Equal Employment Opportunity process.

<sup>10</sup> For three of these cases, documentation was not available during our fieldwork in June and July 2001, but was later provided to us in February 2002.

impacted monetary damages, we noted the Postal Service paid monetary damages in six of the cases. We found in two cases, the investigations were not prompt because they were not investigated at the facility level. Information was provided that indicated that once the district was notified of the complaints, a prompt investigation was conducted. In the remaining five cases, there was no evidence of a documented investigation. Two cases were supported by an affidavit that investigations had been conducted in conjunction with the Equal Employment Opportunity counselor. However there was no evidence in the case file to show that the investigations were prompt, thorough, or impartial. In two other cases, investigations were not performed because the complainants would not cooperate or had left the agency. In the final case, officials said the incident was considered minor and did not require an investigation.

We believe because the Postal Service has a duty to prevent and correct sexual harassment, it should have conducted investigations even though the complainants would not cooperate or were not available. Regarding the case where the Postal Service claims the incident was minor and did not require an investigation; Equal Employment Opportunity Commission guidance provides that an effective complaint process requires the employer to investigate employee complaints. In addition, the guidance states that reasonable care in preventing and correcting harassment requires an employer to instruct all supervisors to report complaints of harassment to appropriate officials.

Ensuring that managers promptly investigate all sexual harassment complaints and fully document case files, would assist the Postal Service in avoiding or reducing liability. This documentation could also be used to show the Postal Service exercised reasonable care to prevent and promptly correct, any harassing behavior.

---

**Recommendation**

We recommended the vice president, Northeast Area Operations, direct the manager, Maine District, to implement controls to improve the effectiveness of the sexual harassment prevention program. Specifically, establish controls to ensure:

2. Managers promptly investigate all sexual harassment complaints and fully document case files.

---

**Management's  
Comments**

Management agreed in part with the finding and agreed with the recommendation. Management stated that it believed an effective investigation was one that produced sufficient, timely information to take appropriate corrective measures or close the matter. Management stated that in three of the seven cases, corrective measures were taken when settlements, including the payment of damages, were reached as a result of investigative findings. Management did not agree that some documentation was not made available to the audit team during their site visits in June and July 2001. They said, however, there was no way to prove whether it was, or was not.

Management agreed with the recommendation and provided that in 1999, the Northeast Area developed and put in place a formal management investigation process to respond quickly to any claims of sexual harassment, and that the Maine District complies with this process. Management also stated that Postal Service guidelines allow that some matters can be resolved simply and directly between the parties without a formal written record. They said that in accordance with this policy, all matters of alleged sexual harassment will be fully documented, however, not all complaints would result in a full written record.

---

**Evaluation of  
Management's  
Comments**

Management's implemented and planned actions are responsive to the recommendation and should resolve the issues presented in the report. We agree with management that an effective investigation is one that produces sufficient, timely information to take appropriate action or close the

matter. We do not agree, however, that the payment of monetary damages is a corrective measure to prevent sexual harassment. We believe that early resolution in these matters is the best method to resolve a sexual harassment complaint and avoid financial liability to the Postal Service. In the seven cases where we determined the effectiveness of investigations was questionable, we found early resolution did not occur because investigations were not timely or were lacking the documentation to support that a timely or sufficient investigation had been conducted.

We also disagree with management's comment that all documentation was made available to the audit team during their site visits in June and July 2001. Documented workpapers of discussions with agency officials, as well as detailed reviews of case files, indicate the information was not available.

---

Employees  
Responsible in Sexual  
Harassment Cases  
Disciplined

We found the Maine District disciplined employees responsible in sexual harassment cases. Equal Employment Opportunity Commission 1990 and 1999 guidelines recommend the employer take immediate and appropriate corrective action, including discipline, when sexual harassment has occurred. Postal Service policy states employees who engage in sexual harassment will be subject to disciplinary action, up to and including removal.

Our review of formal and informal sexual harassment complaints filed in the Maine District disclosed that sexual harassment in five cases was substantiated<sup>11</sup> and 11 employees were involved. In four of the cases, we found discipline was taken against seven of the eight employees involved. The disciplinary action ranged from an official discussion to a reduction in grade and pay. Discipline was not taken against one employee because he was on disability leave and subsequently retired.

---

<sup>11</sup> Of the five cases, one case was substantiated in civil court, and the four remaining cases were substantiated by the Postal Service's internal process.

---

Preventive Measures  
Needed When Findings  
are Inconclusive

In the fifth case, preventive measures were not taken against any of the three employees directly involved in the case, even though the jury found in favor of the complainant and awarded \$1 million to the complainant.<sup>12</sup> Equal Employment Opportunity Commission 1999 guidelines state that when the evidence against an alleged harasser is “inconclusive,” an employer should take preventive measures such as training and monitoring. Postal Service policy does not directly address the preventive measures to be taken when evidence of sexual harassment is inconclusive. However, Postal Service policy does define training as preventive measures for ensuring managers are aware of their role and responsibilities. The district Human Resources manager stated that no action was taken against the three employees because the jury’s verdict did not enable management to identify “which, if any,” employee or supervisor was the wrongdoer. He also stated discipline imposed “long after” the misconduct would not meet the timeliness principles of discipline that would be enforced by the Merit Systems Protection Board.<sup>13</sup> While we agree discipline is most effective when it is timely, the Merit Systems Protection Board does not have strict guidelines regarding timeliness of discipline issued for misconduct.

According to the district manager, the three employees received the required sexual harassment training provided to all employees. For example, during fiscal years 2000 and 2001 two of the three employees received 1-hour of sexual harassment training for each fiscal year. These same two employees also received a 4-hour course provided to managers. The third employee was on extended leave since November 1999 and had not received any sexual harassment training from September 1999 until his leave of absence.

Consistent with Equal Employment Opportunity Commission guidelines, we believe, as a preventive measure, refresher training could and should have been provided as soon as management became aware that the employees’ had been directly involved in an Equal Employment Opportunity case. Such training would have ensured that the employees were

---

<sup>12</sup> The Postal Service later settled the case for \$625,000.

<sup>13</sup> The Merit Systems Protection Board was established by the Civil Service Reform Act of 1978. It is an independent, quasi-judicial agency that serves as the guardian of the federal merit systems.

aware of their responsibilities regarding sexual harassment in the workplace. In addition, it might have enabled the Postal Service to raise an affirmative defense in the sexual harassment lawsuit. Specifically, Equal Employment Opportunity Commission guidance states that an employer is always liable for a supervisor's harassment if it culminates in a tangible employment action. It further states, however, that when it does not, the employer may be able to avoid liability or limit damages by establishing an affirmative defense that includes two necessary elements:

- (a) The employer exercised reasonable care to prevent and correct promptly any harassing behavior.
- (b) The employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

---

**Recommendation**

We recommended the vice president, Northeast Area Operations, direct the manager, Maine District, to implement controls to improve the effectiveness of the sexual harassment prevention program. Specifically, establish controls to ensure:

- 3. Sexual harassment training and monitoring is required for those employees directly involved in cases where the evidence is inconclusive that sexual harassment occurred.

---

**Management's  
Comments**

Management agreed in part with the finding and disagreed with the recommendation. Management agreed that employees directly involved in incidents of sexual harassment should be subject to appropriate measures. Management also acknowledged that the Postal Service was found liable in the case described in the report, however, they stated that no specific evidence of sexual harassment by any one individual was provided by the jury verdict, nor was there such evidence provided during discovery. Management further stated that two of the individuals associated with the case described in the report received additional sexual harassment training in FY 2001 as required by the district manager's training initiative.

Management disagreed with the recommendation that sexual harassment training and monitoring should be required for those employees directly involved in cases where evidence is inconclusive that sexual harassment occurred. They stated the recommendation was inconsistent with Postal Service guidelines. Management agreed, however, that following an investigation of sexual harassment, management would evaluate the evidence and take appropriate action, including training and monitoring.

Management also stated that since their disagreement with this recommendation centered around a difference between Postal Service policy and Equal Employment Opportunity Commission guidelines, it would notify proper officials at Postal Service Headquarters not later than April 15, 2002, and request that its policies be reviewed in light of Equal Employment Opportunity Commission guidelines.

---

**Evaluation of  
Management's  
Comments**

Management's planned actions are responsive to the recommendation and address the issues identified in the report. We will follow up with Northeast Area officials to determine what action has been taken regarding this issue. We do not agree with management's comments that the recommendation is inconsistent with Postal Service policy. Although, Postal Service policy does not directly address the preventive measures to be taken when evidence of sexual harassment is inconclusive, it does define training as a preventive measure for ensuring managers are aware of their role and responsibilities.

---

Disciplined Managers  
Received Pay for  
Performance

The Maine District did not exclude disciplined managers from the Postal Service's Pay for Performance Program. Postal Service policy states an employee whose conduct is clearly unacceptable may be excluded from the Pay for Performance Program. The Postal Service describes unacceptable behavior as "notoriously disgraceful or immoral conduct, or other conduct prejudicial to the Postal Service." Equal Employment Opportunity Commission guidelines also include a reduction in wages as an effective corrective measure to stop harassment and ensure it does not reoccur.

We determined that five of the seven employees disciplined for sexual harassment, were eligible for the Postal Service's Pay for Performance Program. Our review of the payment records disclosed that the five managers received incentive awards ranging from \$1,718 to \$2,900.

A Northeast Area official told us the program is a broad based group incentive that is tied to a manager's contribution to the success of the Postal Service. This official also said managers would be excluded only if their behavior is so "egregious" that it significantly detracts from the success of the Postal Service. Because the Postal Service has a "zero tolerance" policy regarding sexual harassment, we believe this type of harassment should be considered sufficient grounds for excluding an employee from any pay for performance incentive awards.

---

**Recommendation**

We recommend the vice president, Northeast Area Operations, direct the manager, Maine District, to implement controls to improve the effectiveness of the sexual harassment prevention program. Specifically, establish controls to ensure:

4. Employees disciplined for sexual harassment involvement are considered for exclusion from the Pay for Performance Program.

---

**Management's  
Comments**

Management agreed with our finding and recommendation and stated it would inform Executive and Administrative Schedule employees by April 15, 2002, that employees, who engage in unacceptable conduct, including sexual harassment, will be considered for exclusion from the Pay for Performance program. This notification will be done annually, as long as the Pay for Performance program is in effect.

---

**Evaluation of  
Management's  
Comments**

Management's planned actions are responsive to the recommendation and should resolve the issues presented in the report.

---

**Conclusions**

Sexual harassment can increase stress, reduce management's credibility with employees, reduce employee morale and productivity, and can result in financial liability to the Postal Service. The initiatives taken by the district manager and implementation of the recommendations outlined in this report, should help to ensure sexual harassment is prevented and if harassment does occur, should help mitigate negative impacts.

Although we were unable to determine whether following the policies and procedures would have prevented the monetary damages, full compliance with policies and procedures might have allowed resolution of sexual harassment complaints before they became formal.

---

**Overall  
Management's  
Comments**

Management stated that it was hopeful that the final report would be useful to ensure that it has the best sexual harassment prevention program in the Postal Service. Management also stated it was pleased that the report acknowledged the positive initiatives put in place to prevent sexual harassment in the district, and specifically pointed out the extraordinary measures the district manager took after a jury decision awarded damages in 2001. Management further stated that although the report was "fundamentally factual" there was some relevant information that was not included. For example, management stated that most of the incidents cited in the report occurred more than 5 years ago and that the current management team in the area was passionate about eliminating sexual harassment and that they have taken very strong proactive measures to prevent future occurrences. Management also stated that the draft did not acknowledge that sexual harassment complaints in the Maine District had declined steadily during the period of time covered in the report.

## APPENDIX A. OBJECTIVES, SCOPE AND METHODOLOGY

The OIG reviewed applicable laws, policies, procedures, and other documents including the Equal Employment Opportunity Commission guidelines and Postal Service policies and procedures for preventing sexual harassment in the workplace. We also reviewed Postal Service policy regarding the Pay for Performance Program. In addition, we reviewed General Accounting Office reports and previously issued OIG reports related to sexual harassment issues. We interviewed an OIG official, Postal Service Headquarters, Northeast Area, Maine District officials, and facility managers, responsible for sexual harassment complaint processing.

To determine if adequate policies and procedures were in place to prevent sexual harassment from occurring in the workplace, we identified 1990 and 1999 Equal Employment Opportunity Commission key recommendations to agencies regarding policies and procedures they should have in place to prevent sexual harassment and reduce the risk of agency liability. We then reviewed the 1996 through 2001 Maine District policies and procedures to see if the recommendations were included.

To determine the number of Maine District employees who received training in the prevention of sexual harassment, we reviewed the Maine District training reports as of January 4, 2002, for 6 of the 428 facilities located in the Maine District. We concentrated our effort on the employees at these facilities because these were the six facilities where the allegations of sexual harassment occurred for 16 of the formal and informal cases filed in the Maine District for the period January 1, 1996, through July 31, 2001.

To determine whether district managers were prompt and effective in addressing informal sexual harassment complaints to avoid formal complaints and mitigate liability, we reviewed information contained in the 16 formal and informal sexual harassment complaint files identified above. Thirteen of the sixteen were formal complaints, and the remaining three were informal. We reviewed formal complaint case files to determine what actions may have been taken that could have prevented the complaints from becoming formal. We originally identified 26 cases as follows:

- 5 closed sexual harassment civil cases<sup>14</sup> provided by the Postal Service Northeast Area Law Office, which represented the closed civil cases in the Maine District from January 1, 1996, through July 31, 2001.
- 18 formal sexual harassment cases provided by the Northeast Area Equal Employment Opportunity manager representing the total number of cases filed in the Maine District from January 1, 1996, through July 31, 2001.

---

<sup>14</sup> These are the five cases referred to in the member of Congress March 26, 2001, letter to the OIG.

- 3 informal cases for the period January 1, 1996, through July 31, 2001, identified through the use of a statistical sampling methodology.<sup>15</sup>

From the 26 cases, we eliminated 10 from our review because 3 were duplicates, 4 had been destroyed,<sup>16</sup> 2 were open, and 1<sup>17</sup> case was outside the scope of our audit.

Our review of the 16 cases included an analysis of the documentation to define the timeline of when the employee made the initial complaint to their supervisor up to the resolution of the complaint. In addition, we determined whether the case files contained a record of management investigations or inquiries into the employees' complaints.

To determine whether employees found responsible for sexual harassment received discipline, we reviewed the Equal Employment Opportunity Commission guidelines and Postal Service policies and procedures and identified the criteria regarding when immediate and appropriate corrective actions should be taken. We reviewed the 16 case files identified above, and interviewed district officials to determine:

- If the complaints were substantiated by either the Postal Service or an external court of law.
- If the individuals found responsible for the sexual harassment violations received discipline.

Based on this information, we identified that sexual harassment was substantiated in 5 of the 16 cases, and 7 of the 11 employees identified as having involvement in these 5 cases were disciplined. We did not determine if the discipline received by the seven employees was proportional to the seriousness of the offense.

To determine the impact on the Pay for Performance Program incentives for employees who were disciplined for sexual harassment violations, we identified that five of the seven employees were managers. We determined four managers received discipline in FY 1999 and one in FY 2001. We then obtained FYs 1999 and 2001 pay for performance payment information for the managers disciplined.

---

<sup>15</sup> We contacted 123 randomly selected facility managers, using a stratified universe of 428 sites. The list of randomly selected sites was composed of all 10 sites with over 50 employees and 113 of the remaining 418 sites. All three sexual harassment complaints identified in this sample came from a single site with over 50 employees.

<sup>16</sup> Four case files were destroyed in accordance with Equal Employment Opportunity Commission file retention requirements.

<sup>17</sup> This is one of the five cases referred to in the member of Congress March 26, 2001, letter to the OIG.

## APPENDIX B. MANAGEMENT'S COMMENTS

JON M. STEELE  
VICE PRESIDENT, NORTHEAST AREA OPERATIONS



UNITED STATES  
POSTAL SERVICE™

March 19, 2002

MEMORANDUM FOR RONALD K. STITH  
ASSISTANT INSPECTOR GENERAL FOR CORE OPERATIONS

SUBJECT: RESPONSE TO DRAFT AUDIT REPORT - SEXUAL HARASSMENT  
PREVENTION MEASURES IN THE DISTRICT OF MAINE  
(REPORT NUMBER LH-AR-02 DRAFT)

I am pleased to respond to the draft audit report ("the Draft") provided about sexual harassment in the State of Maine. I realize that this has been an exhaustive process, but I am hopeful that the final report will be useful to us to ensure we have the best sexual harassment prevention program in the postal service.

I am particularly pleased that the Draft now acknowledges the very positive initiatives put in place to prevent sexual harassment in the District of Maine. The extraordinary measures that Elizabeth Johnson, the District Manager, took after a jury decision awarded damages in 2001, are listed as an attachment.

While we agree that the Draft is fundamentally factual, there is some relevant information not included that we feel would be helpful for the reader:

- It is important that most of the incidents cited in the Draft occurred more than five years ago. The members of the current management team in the Northeast Area are passionate about eliminating sexual harassment, and we have taken very strong, proactive measures to prevent future occurrences.
- Missing from the Draft is acknowledgment of data reflecting that sexual harassment complaints in the District of Maine have declined steadily during the period of time covered in the Draft.
- The Draft does not mention that in 1999, the Northeast Area developed and put in place a formal, professional, area-wide Management Investigation process to quickly respond to any claims of sexual harassment.
- The Draft does acknowledge that the District Manager provided sexual harassment prevention training to all 4,700 employees in FY 2001 when it was not required by postal policy. However, the Draft fails to mention that sexual harassment prevention training has been done and documented routinely since FY 1997 in the District of Maine.

6 GRIFFIN ROAD NORTH  
WINDSOR CT 06006-7010  
860-285-7040  
FAX: 860-285-1253

We look forward to the final report. Recognizing all the relevant information developed, I'm sure you will find that the District of Maine should, in fact, be regarded as a model for sexual harassment prevention in the postal service.



Jon Steele

Attachment

cc: Joyce Hansen, Director, Audit Operations & Follow Up  
Elizabeth Johnson  
Suzanne Medvidovich  
Nancy F. James  
Anthony J. Vegliante  
John R. Gunnels  
Patrick R. Donahoe

SIGNIFICANT INITIATIVES IN THE DISTRICT OF MAINE  
TO PREVENT SEXUAL HARASSMENT

Immediately following the February 2001 jury verdict, Elizabeth Johnson, Manager, District of Maine, personally instituted the following initiatives to prevent sexual harassment in the district:

- Required sexual harassment prevention training for all 4,700 employees
- Personally delivered the message on sexual harassment to 400 postmasters at their regularly scheduled training program
- Regularly issues quarterly letters to all employees, at their home addresses, on the issue of sexual harassment
- Personally met with 800 employees in town hall meeting sessions and round-table discussions
- Required that 4 different face-to-face stand-up talks on sexual harassment be given in Quarter IV, 2001 to all 4,700 employees
- Personally conducted 8 postmaster meetings and 4 supervisor meetings throughout the state focusing on this subject
- Established a toll-free telephone call-in line and an e-mail address for individuals, craft and management alike, to raise workplace environment issues and problems including sexual harassment
- Advertised these addresses and numbers through *Newsbreaks*, payroll stuffers, and an ink pen provided to every employee in the state
- Expanded mentoring to include an additional 25 women in the mentoring program and established a networking group and support group of women modeled after the Southeast New England program

**AUDIT RESULTS  
MANAGEMENT RESPONSE**

Measures to Prevent Sexual Harassment Need Improvement

Management takes the position that sexual harassment can not, and will not, be tolerated in the workplace. While we agree in principle with the audit team's statement that adequate policies and procedures were in place, we do not fully agree with the team's assessments regarding compliance with those procedures. Management's position on these issues is explained in detailed comments below.

Policies and Procedures Were Adequate

Management **agrees** that the District of Maine had adequate policies and procedures to prevent and effectively respond to sexual harassment complaints, and supports that statement with the additional comments provided below. The current District Manager implemented strong measures for sexual harassment prevention after an adverse jury verdict in February 2001, in order to dispel misconceptions about sexual harassment in Maine, and to ensure that adequate preventive measures were in place. The Draft contains information about several of these initiatives. These initiatives have been reviewed and were approved by the Northeast Area Vice President.

It is significant to note that these initiatives have had the desired impact, as reflected in the District results for the FY 2001 Voice of the Employee Survey. As noted in the Draft, the District of Maine tied for the second highest percentage of favorable (negative) responses to the question whether the employee "has personally been sexually harassed by a postal employee."

Another significant fact is that EEO activity in the District of Maine in general is among the lowest in the nation, and complaints specifically alleging sexual harassment in the District of Maine have declined steadily during the period of time covered by the Draft.

Documentation Lacking to Support That All Sexual Harassment Training Had Occurred

Management **agrees** with the findings, as the Draft also indicates that sexual harassment prevention training, while not required in FY 2001, was given to all 4,700 employees in the District of Maine that year. Given the voluntary nature of this undertaking, the fact that the training records for a small percentage of these employees were not available seems *de minimis*. Additionally, the Draft is silent with respect to sexual harassment awareness training that has been done and documented in the District of Maine in full compliance with Headquarters' training requirements each year since FY 1997.

Management **agrees** that the District of Maine will deliver sexual harassment awareness training and complete training records for employees identified as not being documented as receiving such training by September 8, 2002.

Effectiveness Of Investigations Was Questionable

Management **agrees in part** with this finding. Management's position is that an effective investigation is, instead, one that produces sufficient, timely information either to take appropriate corrective action, or to close the matter. Of the seven matters questioned in the Draft, settlements were reached in at least three of those matters as a result of investigative findings that indicated corrective measures, including the payment of damages, were appropriate.

Management disputes the statement found in footnote 10 of the Draft. All documentation was made available to the audit team during their site visits in June and July 2001, however there is no way to prove either position.

Management **agrees** with the recommendation that all sexual harassment complaints be investigated and fully documented. In 1999, the Northeast Area developed and put in place a formal area-wide Management Investigation process to respond quickly to any claims of sexual harassment. The District of Maine complies with this process. However, as noted in the Draft, postal guidelines allow that some matters can be resolved simply and directly between the parties without a formal written record. Accordingly, although all matters of alleged sexual harassment will be fully documented, not all complaints will result in a full written record.

Employees Responsible in Sexual Harassment Cases Disciplined

Management **agrees** that corrective action was taken where evidence established that sexual harassment or improper conduct occurred.

Preventive Measures Needed When Findings Are Inconclusive

Management **agrees in part** with this finding. Management agrees that employees directly involved in incidents of sexual harassment should be subject to appropriate measures. While the Postal Service was found liable in the instant case described in the Draft, no specific evidence of sexual harassment by any one individual was provided by the jury verdict, nor was there such evidence provided during discovery. However, as identified in the Draft, two individuals associated with the case in question received additional sexual harassment prevention training in FY 2001 as required by the District Manager's training initiative.

Management **disagrees** with the recommendation that sexual harassment training and monitoring should be required for those employees directly involved in cases where evidence is inconclusive that sexual harassment occurred. This recommendation is inconsistent with current Postal Service guidelines as set forth in Publication 552. Management agrees that following an investigation into allegations of sexual harassment, management will evaluate the evidence and take appropriate action, including such preventive measures as training and monitoring, as appropriate.

Since the disagreement is centered around a difference between postal policy and EEOC guidelines, Northeast Area management will notify proper officials at U.S. Postal Service Headquarters not later than April 15, 2002, and request that its policies be reviewed in light of EEOC guidelines.

Disciplined Managers Received Pay for Performance

Management **agrees** with the finding and the recommendation that employees disciplined for sexual harassment involvement should be considered for exclusion from the Pay for Performance program.

In a mailing to all eligible employees, the Manager of the District of Maine will inform eligible employees by April 15, 2002 that EAS employees who engage in unacceptable conduct, including sexual harassment, will be considered for exclusion from the Pay for Performance program. This notification will be done annually, for so long as the Pay for Performance program is in effect.