



## Testimony

Before the Subcommittee on Oversight  
and Investigations, Committee on  
Veterans' Affairs, House of  
Representatives

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For Release on Delivery  
Expected at 10:00 a.m. ET  
Wednesday, December 6, 2023

# VETERANS HEALTH ADMINISTRATION

## Actions Needed to Address Persistent Control Weaknesses and Related Risks in Employee Screening Processes

Statement of Seto J. Bagdoyan, Director, Forensic Audits  
and Investigative Service

# GAO Highlights

Highlights of [GAO-24-107188](#), a testimony before the Subcommittee on Oversight and Investigations, Committee on Veterans' Affairs, House of Representatives

## Why GAO Did This Study

The Department of Veterans Affairs (VA) operates one of the largest health care systems in the nation, with over 9 million veterans enrolled in the VHA health care program. VHA is responsible for ensuring that its more than 400,000 health care providers and support staff are qualified, competent, and suitable to provide safe care.

This testimony discusses (1) VHA's policies and procedures for dealing with employees with controlled substance-related felony convictions and the need to obtain waivers from DEA before employing these people in certain positions; and (2) VHA's suitability process, including control weaknesses associated with the conduct of background investigations.

This testimony is based primarily on GAO's [February 2023 report](#) on VHA's employee screening processes. For that report, GAO analyzed a generalizable sample of 305 VHA employees employed as of January and June 2020 with indications of controlled substance-related criminal history. GAO examined court records and other documentation, reviewed regulations and policies, and interviewed officials from VHA, DEA, and other agencies. For this statement, GAO also obtained updates on actions VA has taken to address related GAO recommendations.

## What GAO Recommends

In February 2023, GAO made 14 recommendations to VA. As of November 2023, the recommendations are not yet implemented.

View [GAO-24-107188](#). For more information, contact Seto J. Bagdoyan at (202) 512-6722 or [bagdoyans@gao.gov](mailto:bagdoyans@gao.gov).

December 6, 2023

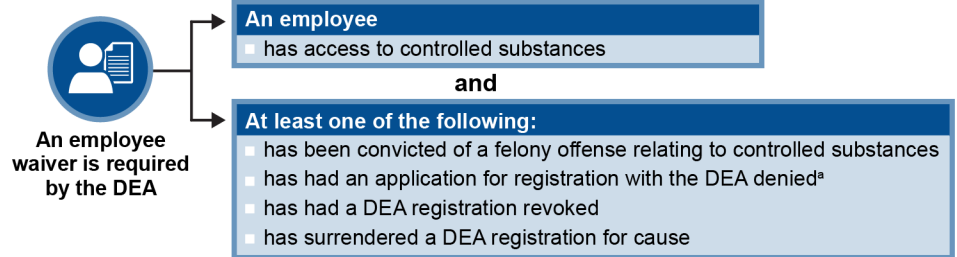
## VETERANS HEALTH ADMINISTRATION

### Actions Needed to Address Persistent Control Weaknesses and Related Risks in Employee Screening Processes

## What GAO Found

The Veterans Health Administration (VHA) received information regarding some employees but did not have control procedures to ensure it responded as required. For example, VHA received information about some employees' controlled substance-related felony convictions and actions taken against certain employees by the Drug Enforcement Administration (DEA). VHA was required to obtain waivers from DEA for any of these employees whose job gave them access to controlled substances.

#### Drug Enforcement Administration (DEA) Employment Waiver Requirements



Source: GAO analysis of DEA information and [sdecoret/stock.adobe.com](#) (icon). | [GAO-24-107188](#)

<sup>a</sup>DEA registrations are required for certain health care practitioners licensed to dispense, administer, or prescribe controlled substances.

GAO identified 12,569 VHA employees with indications of controlled substance-related criminal history. Of these, GAO obtained further information about a generalizable sample of 305 employees and found 50 of them had one or more controlled substance-related felony convictions. However, VHA has no policy regarding DEA employment waivers, including guidance for determining whether an employee has access to controlled substances. VHA confirmed that it did not request waivers for 48 of the 50 employees GAO identified. VHA did not confirm whether it requested waivers for the remaining two. GAO previously recommended the development of a waiver policy and, while VA agreed, it had not yet developed the policy. Therefore, in February 2023, GAO recommended that VHA establish a timeline for finalizing and implementing a waiver policy. In November 2023, VA informed GAO that it is developing a DEA waiver policy and expects to implement it in March 2024. Until VHA implements such a policy with guidance for determining whether an employee has access to controlled substances, it cannot assess whether its employees need waivers. VHA also lacks assurance that its facilities are complying with DEA regulations and controlling against theft and diversion of controlled substances.

GAO also identified vulnerabilities in VHA's process for completing employee background investigations. For example, GAO found that 13 of the 305 employees in the generalizable sample did not have background investigations as required by regulation and policy. From the universe of the approximately 12,569 VHA employees, GAO estimated that about 400 (3 percent) did not have completed background investigations. As a result, in February 2023, GAO recommended that VHA establish control procedures to ensure background investigations are completed as required. In November 2023, VA informed GAO this recommendation would be implemented by March 2024.

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Chairwoman Kiggans, Ranking Member Mrvan, and Members of the Subcommittee:

I appreciate the opportunity to discuss our work on persistent control weaknesses and related risks in the Veterans Health Administration's (VHA) employee screening processes.

The Department of Veterans Affairs' (VA) Veterans Health Administration operates one of the largest health care systems in the nation. Currently, there are over 9 million veterans enrolled in the VA health care program. VHA employs more than 400,000 health care professionals and support staff.

VA is responsible for ensuring that employees who work in its medical facilities are qualified, competent, and suitable to provide safe care to veterans. As part of the federal hiring process, applicants to federal agencies, including VA, must undergo a broad screening process, which includes determining their suitability for employment.<sup>1</sup> As part of this process, individuals must disclose their criminal and drug-use histories and certify that the information provided is true, correct, complete, and made in good faith.<sup>2</sup> VA must perform a suitability review for its applicants based on character and conduct to determine whether employing an applicant may adversely affect the integrity or efficiency of the federal service.<sup>3</sup>

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<sup>1</sup>Depending on the type of position, VA personnel security staff or contracting officers determine whether the individual needs a background investigation. For example, a new investigation may not be needed if a prior investigation is still considered current.

<sup>2</sup>The Declaration for Federal Employment (OF-306) is required for all applicants, including those who do not require background investigations. It requires that applicants disclose, among other criminal history information, felony and misdemeanor convictions that occurred during the preceding seven or ten years, depending on the version of the form. VA officials review the applicant's applications, the position description, Declaration for Federal Employment, electronic Questionnaires for Investigations Processing form (if applicable), and the results of a fingerprint Special Agreement Check. Based on this information, the adjudicator makes an interim suitability determination, pending a full investigation. If the determination is favorable, the person is hired and may begin working for VHA.

<sup>3</sup>The Defense Counterintelligence Security Agency (DCSA) completes the background investigation. This includes compiling criminal history information from local law enforcement agencies as well as the Federal Bureau of Investigation (FBI). DCSA provides the completed investigation to the VA office that requested the information. The VA adjudicator uses the information in the file to make a final suitability determination.

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In addition, the Controlled Substances Act requires persons and businesses that handle controlled substances to register with the Drug Enforcement Administration (DEA).<sup>4</sup> These “registrants” with the DEA include certain health care practitioners licensed to dispense, administer, or prescribe controlled substances and pharmacies authorized to fill prescriptions.<sup>5</sup> Further, registrant employers, such as VHA, are required to apply for and receive an employment waiver for certain individuals. Specifically, such waivers are required before employing any person in a position with access to controlled substances who, at any time

- has been convicted of a felony related to controlled substances, or
- has had an application for a DEA registration denied or had a DEA registration revoked or surrendered for cause.<sup>6</sup>

VHA is not required to obtain a DEA employment waiver if an applicant holds an active DEA registration, because DEA has already determined that the person is suitable to handle controlled substances.<sup>7</sup>

Both GAO and the VA Office of Inspector General (OIG) have previously reported on VA’s systemic oversight deficiencies in hiring personnel. For example, in 2018, the VA OIG reported on deficiencies in VA’s management of the personnel suitability program.<sup>8</sup> The OIG found that VA did not manage its personnel suitability program effectively and lacked the oversight necessary to ensure that employee background investigations were completed and documented as required. In 2019, we found that VHA did not have policies regarding DEA employment waivers,

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<sup>4</sup>DEA enforces the controlled substances laws and regulations of the United States. The Controlled Substances Act defines substances as controlled based on the substance’s medical use, potential for abuse, and safety or dependence liability.

<sup>5</sup>21 U.S.C. § 822.

<sup>6</sup>21 C.F.R. § 1301.76(a) prohibits registrants from employing persons with such a history. 21 C.F.R. § 1307.03 allows any person to “apply for an exception to the application of any provision of this chapter by filing a written request with the Office of Diversion Control, Drug Enforcement Administration, stating the reasons for such exception.” For purposes of this statement, we refer to applications for exception from application of 21 C.F.R. § 1301.76(a) as “DEA employment waivers.”

<sup>7</sup>A DEA registrant may possess more than one registration. According to DEA officials, if DEA took action against only one of an individual’s multiple registrations, the individual would not require an employment waiver if he possessed another active registration.

<sup>8</sup>Department of Veterans Affairs Office of Inspector General, *Veterans Health Administration: Audit of the Personnel Suitability Program*, 17-00753-78 (Washington, D.C.: Mar. 26, 2018).

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and that this may affect its ability to prevent the diversion of controlled substances in its medical facilities.<sup>9</sup> That work also identified two providers for whom VHA should have had waivers to employ in positions with access to controlled substances. We recommended, among other things, that VHA develop a policy for DEA employment waivers. In 2021, VHA officials told us they had established an interdisciplinary project team to identify an approach for VHA to take for managing and overseeing DEA employment waivers.<sup>10</sup>

My comments today present the findings from our February 2023 report pertaining to how VA manages DEA employment waivers and employee background investigations.<sup>11</sup> Specifically, my comments address

1. VHA's policies and procedures for dealing with employees with controlled substance-related felony convictions or actions taken against their DEA registrations and the need to obtain waivers from DEA before employing these people in certain positions, and
2. VHA's suitability process, including control weaknesses associated with the conduct of background investigations.

My comments pertaining to VHA's policies and procedures regarding employees with felony convictions or actions taken against their DEA

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<sup>9</sup>See GAO, *Veterans Health Administration: Greater Focus on Credentialing Needed to Prevent Disqualified Providers from Delivering Patient Care*, [GAO-19-6](#) (Washington, D.C.: Feb. 28, 2019). Drug diversion is the illegal acquisition of legally produced controlled pharmaceuticals for non-medical use. In 2015, we added VA health care to GAO's High-Risk List because of (1) ambiguous policies and inconsistent processes and (2) inadequate oversight and accountability, among other things. See GAO, *High-Risk Series: An Update*, [GAO-15-290](#) (Washington, D.C.: Feb. 11, 2015). GAO's High Risk List identifies government operations with vulnerabilities to fraud, waste, abuse, and mismanagement, or in need of transformation. In addition, in March 2021, we added drug misuse to GAO's High Risk List because national rates of drug misuse have increased, and drug use represents a serious risk to public health. See GAO, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas*, [GAO-21-119SP](#) (Washington, D.C.: Mar. 2, 2021). We previously identified preventing drug diversion as an opportunity to strengthen the federal government's efforts to address this persistent and increasing problem. See GAO, *Drug Misuse: Sustained National Efforts Are Necessary for Prevention, Response, and Recovery*, [GAO-20-474](#) (Washington, D.C.: Mar. 26, 2020).

<sup>10</sup>The Interdisciplinary Project Team is responsible for preparing a proposal for VHA leadership that identifies an approach to management and oversight of DEA waivers in response to our recommendation.

<sup>11</sup>See GAO, *Veterans Health Administration: Action Needed to Address Persistent Control Weaknesses in Employee Screening Processes*, [GAO-23-104296](#) (Washington, D.C.: Feb. 23, 2023).

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registrations and waivers are based on data we examined for our February 2023 report. This statement also provides updated information on recommendations specifically related to DEA waivers and background investigations.<sup>12</sup>

To identify VHA employees who may have needed DEA waivers for our February 2023 report, we matched a list of 400,339 individuals employed at VHA as of January and June 2020 to the FBI's Next Generation Identification (NGI) system and the Department of Health and Human Services National Practitioner Data Bank (NPDB) data.<sup>13</sup> This matching identified a population of 12,569 employees who had indications of criminal history related to controlled substances.<sup>14</sup> From this population, we selected a generalizable, stratified random sample of 305 employees for further review and verification.<sup>15</sup> In addition to our sample of 305 employees, we reviewed information for 11 employees we identified with actions taken against their DEA registrations as reported in NPDB and for

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<sup>12</sup>In the February 2023 report we made 14 recommendations to VA. As of November 2023, the recommendations are not yet implemented.

<sup>13</sup>The NGI System provides an electronic repository of biometric and criminal history record information voluntarily submitted by all states and territories, as well as federal and some foreign criminal justice agencies. NGI provides the criminal history record information on file for an individual identified via a fingerprint check, plus any record indexed in the national system that is maintained by a state that supports the purpose of the request. NGI is one of the systems used by DCSA to identify criminal history as part of the federal background investigation process. Because law enforcement entities send criminal history information to the FBI on a voluntary basis, criminal history records may not contain a given individual's full criminal history. NPDB is a web-based repository of reports containing information on medical malpractice payments and certain adverse actions related to health-care practitioners, providers, and suppliers. Created by Congress, the NPDB is a workforce tool that prevents practitioners from moving state to state without disclosure or discovery of previous damaging performance.

<sup>14</sup>We described our matches as employees who had indications of criminal history because (1) law enforcement entities send criminal history information on a voluntary basis and NGI records may not contain a given individual's full criminal history; (2) biographic information reported to NGI may not always be complete or accurate; and (3) NGI data do not readily distinguish controlled substance-related criminal offenses, so we relied on keyword searches to identify possible offenses related to controlled substances. As described below, we took additional steps to verify the identities and criminal histories of employees in our generalizable sample.

<sup>15</sup>We weighted the employees in the generalizable sample to reflect differences between strata in their proportions of the population of 12,569 employees. Thus, the estimated percentages of the population we project throughout the statement differ from the actual percentages we found in the sample of 305 employees. All estimates derived from this sample have a margin of error, at the 95 percent confidence level, of plus or minus 7 percentage points or fewer.

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13 employees with indications of drug-related warrants, thus totaling 329 employees for review.<sup>16</sup>

For these 329 employees, we verified the accuracy of the information we obtained using law enforcement and courthouse records, DEA information, and other sources.<sup>17</sup> We also asked VHA to identify which of the 329 employees had access to controlled substances, its method for determining access, and whether it requested DEA employment waivers for the employees with certain adverse information.

To examine the extent to which vulnerabilities exist in VHA's processes for completing and documenting employee background investigations, we analyzed documents maintained in the Office of Personnel Management's (OPM) electronic Official Personnel Folder (eOPF) system, DCSA's Personnel Investigations Processing System (PIPS), and VA's Centralized Adjudication and Background Investigation System (VA-CABS) for the 329 employees in our review and reviewed relevant regulations and policies from VA, VHA, and OPM.<sup>18</sup> More detailed information on our objectives, scope, and methodology can be found in the February 2023 report.<sup>19</sup>

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>16</sup>Only the results from the generalizable sample of 305 employees are projectable to the population of 12,569 with indications of controlled substance-related criminal history.

<sup>17</sup>We also interviewed relevant officials from VHA, DEA, and other agencies.

<sup>18</sup>OPM is responsible for developing regulations and providing guidance to federal agencies about investigative requirements and oversees suitability adjudications and the federal government's suitability program. OPM also oversees agency compliance with suitability program requirements. eOPF contains documentation of the employment history of individuals employed by the federal government. PIPS is the system DCSA uses to process and complete background investigations and contains a repository of background investigation records. VA-CABS was launched in 2018 as VA's case management system for background investigations and suitability adjudications. According to VA officials, it became VA's system of record for background investigations in August 2022.

<sup>19</sup>[GAO-23-104296](#).

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## VHA Did Not Have Control Procedures for Determining Whether Employees Had Access to Controlled Substances or Required DEA Waivers

As discussed in our February 2023 report, we found that VHA received information about some employees' controlled substance-related felony convictions and actions taken against employees' DEA registrations. We also found, however, that VHA did not have control procedures for determining whether the employees had access to controlled substances or required DEA employment waivers.

Specifically, of the 305 VHA employees in our generalizable sample, 50 employees had one or more controlled substance-related felony convictions, indicating they may need DEA waivers if they held positions with access to controlled substances and did not possess active DEA registrations.<sup>20</sup> These employees held a range of positions at VHA, including physician, pharmacy technician, and food service worker, among others.

Of these 50 employees, VHA received information about at least one controlled substance-related felony conviction for 49 of them. VHA received this information via criminal history records or employee attestations on screening forms.<sup>21</sup> For example, one employee we identified was convicted of both felony possession and sale of hydrocodone, an opioid used to treat pain, in February 1988. VHA received information about these convictions via a criminal history record in July 2006 and hired the employee as a pharmacy technician in October 2007. As of September 2022, the employee continued to work at VHA as a pharmacy technician.

Based on our analysis of our generalizable sample, we estimated that

- about 1,800 (14 percent) of the 12,569 employees we initially identified as having indications of controlled substance-related

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<sup>20</sup>We were unable to obtain court records for 42 employees in the sample. Thus, it is possible that additional employees had controlled substance-related felony convictions.

<sup>21</sup>We obtained copies of the criminal history records provided to VHA by DCSA and its predecessor agencies as part of the employees' suitability screening to determine whether they contained information about the convictions. Because DCSA removes investigative materials, including criminal history records, from its system of records after a specified retention period, the criminal history records we obtained were not inclusive of all reports VHA received for the employees under review. Thus, it is possible that VHA received criminal history records about these convictions before the date listed in the case below. Further, because law enforcement entities send criminal history information to the FBI on a voluntary basis, criminal history records may not contain a given individual's full criminal history. This may explain why we did not find evidence that VHA received information about one individual's controlled substance-related felony conviction.



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criminal history had at least one controlled substance-related felony conviction, and

- VHA received information about at least one controlled substance-related felony conviction for nearly all—about 1,700—of the approximately 1,800 employees with controlled substance-related felony convictions.

We asked VHA whether the 50 employees we identified in our sample with controlled substance-related felony convictions had access to controlled substances and if VHA had sought DEA employment waivers for these employees. VHA said that it had not requested employment waivers for 48 of these employees. VHA further stated that these employees did not require waivers because their job duties did not involve dispensing controlled substances and did not require DEA registrations.<sup>22</sup>

Further, in our February 2023 report we found that VHA received information about actions taken against providers' DEA registrations. Specifically, we identified five providers who were not in the generalizable sample and who required DEA employment waivers if they held positions with access to controlled substances because they surrendered their DEA registrations for cause and did not hold other active registrations. VHA received information regarding all five providers' DEA registration actions via NPDB reports and employee attestations in the VetPro credentialing system.<sup>23</sup> VHA officials confirmed that VHA did not request DEA employment waivers for these five providers. Although all five providers have since left VHA employment or obtained active DEA registrations, they worked for VHA without DEA registrations or employment waivers for periods of time ranging from less than a month to over three and a half years.

VHA's responses—stating that employees did not require DEA employment waivers because their job duties did not involve prescribing,

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<sup>22</sup>VHA did not confirm whether it sought or obtained employment waivers for the remaining two employees, a physician and a pharmacy technician. Rather, in its responses regarding these two employees, VHA stated that it reviewed providers with revoked or surrendered DEA registrations in response to our February 2019 report. It found no providers writing controlled substance prescriptions with a revoked or surrendered DEA registration. In March 2020 VA officials told us that their review identified one provider with a revoked or surrendered DEA registration. Because VHA did not disclose the identity of the provider, we were unable to determine whether this employee was among those we found with controlled substance-related felony convictions.

<sup>23</sup>VetPro is VHA's credentialing system, which contains data on VHA employees, contractors, and other types of non-federally appointed employees.

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dispensing, or having physical access to controlled substances and did not require DEA registrations—do not align with DEA’s definition of what constitutes “access.” DEA guidance states that access to controlled substances is not limited to physical access but includes any influence over the handling of controlled substances and is not limited to prescribers of controlled substances. VHA could not assess whether the employees we identified with controlled substance-related felony convictions or actions taken against their DEA registrations required DEA employment waivers. This is because VHA has not issued policies or guidance regarding the process for determining which employees have access to controlled substances and the circumstances in which employment waivers are required.

*Standards for Internal Control in the Federal Government* state that management should implement control activities through policies.<sup>24</sup> They further state that agencies are to ensure that the findings of audits and other reviews are promptly resolved. To that end, agencies are to complete and document corrective actions to remediate internal control deficiencies on a timely basis.

Without policies regarding DEA employment waivers, which include guidance for determining whether an employee has access to controlled substances and which specify the circumstances for which employment waivers are required, VHA cannot assess whether its applicants and employees need waivers. Further, without establishing a timeline for finalizing and implementing such policies and reviewing current employees we identified with indications of controlled substance-related criminal history to determine whether they need waivers, VHA does not have assurance that its facilities comply with DEA regulations that help control against theft and diversion of controlled substances.

In our 2019 report, we recommended that VHA develop policies and guidance regarding DEA registrations, including the circumstances in which DEA waivers may be required, the process for requesting them, and a mechanism to ensure that facilities follow these policies.<sup>25</sup> VA agreed with our recommendation. Four years later, no policy or guidance was in place. Consequently, in our February 2023 report we

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<sup>24</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 2014).

<sup>25</sup>[GAO-19-6](#).

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recommended that VHA establish a timeline for finalizing and implementing a policy regarding DEA employment waivers.

In that report we also made recommendations pertaining to what the policy should include and steps to take after the policy is implemented to determine if individuals we identified with indications of controlled substance-related felony convictions need DEA employment waivers.

Further, as part of the Consolidated Appropriations Act, 2023, Congress directed VA to institute policies and procedures pertaining to DEA employment waivers.<sup>26</sup>

As of November 2023, VA informed us that it is developing a DEA waiver policy and expects to implement it in March 2024.

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## Persistent Vulnerabilities Exist in VHA's Processes for Completing and Documenting Employee Background Investigations

In our February 2023 report, we also found vulnerabilities in VHA's processes for completing and documenting employee background investigations. These investigations are critical for ensuring that VHA can identify and remove unsuitable individuals from the VHA workforce and mitigate the risk to veterans. Specifically, we found that some VHA employees did not have completed background investigations as required by OPM regulation and VA policy. As a result, VHA does not have assurance that its personnel are properly vetted and suitable to provide care to veterans.

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## VHA Did Not Always Ensure Employees Had Completed Background Investigations When Required

OPM regulation and VA policy require that most VHA employees undergo background investigations.<sup>27</sup> Specifically, per regulation and policy, VHA should initiate an individual's background investigation before appointing the individual. If that is not possible, VHA must initiate the investigation within 14 days of the individual's appointment. When we requested certifications of investigation or equivalent documentation of completed and adjudicated background investigations for the 305 employees in our

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<sup>26</sup>Pub.L. No. 117-328, Div. U, Title I, subtitle B, § 112(a), 136 Stat. 4459, 5411 (as codified at 38 U.S.C. § 7414).

<sup>27</sup>5 C.F.R. §§ 731.101, 731.104; VA Handbook 0710.

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generalizable sample, VHA confirmed that 13 of these employees did not have background investigations completed as required.<sup>28</sup>

For example, in one case we reviewed, VHA hired the employee as a medical technician in October 2017. VA later removed the individual from employment in August 2020 for reasons unrelated to the lack of a background investigation. According to VHA, the department initiated a background investigation for the employee. However, VA-CABS data indicated the employee's investigation was unacceptable as of October 2017. VHA officials told us the investigation was never completed. The director of the VHA Central Office Personnel Security Program Office told us that DCSA designates investigations as unacceptable if there are too many mistakes or fields left blank on investigative questionnaires such that DCSA cannot initiate an investigation. He further said DCSA contacts the agency requesting the investigation before designating it as unacceptable. DCSA cancels the investigation if the agency does not respond to its outreach or the employee being investigated does not fix the forms. Thus, this employee worked at VHA without a required background investigation between October 2017 and August 2020.

Based on our analysis of our generalizable sample, we estimated that about 400 (3 percent) of the approximately 12,569 employees with indications of controlled substance-related criminal history did not have completed background investigations.

Consistent with our findings, in March 2018, VA OIG reported that VA did not ensure that background investigations were completed when required. In response to the OIG findings, VA conducted "100 percent audits" of suitability data for all VA personnel. According to the director of the VHA Central Office Personnel Security Program Office, these 100 percent audits consisted of verifying that employees' background investigation closure dates were correctly recorded in HR Smart.<sup>29</sup>

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<sup>28</sup>Certifications of investigation contain information showing that the case was investigated, the level of the investigation, confirmation the case was adjudicated, and the date a suitability determination was made.

<sup>29</sup>According to VA officials, HR Smart was VA's system of record for background investigations until August 2022, at which time VA-CABS became VA's system of record for background investigations. VHA officials told us that VHA conducted two "100 percent audits" of suitability data. The officials said that limited resources amid VHA's efforts to respond to the coronavirus pandemic prevented VHA from taking corrective action based on the information obtained during the first audit, so VHA completed a second audit.

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In light of VA's efforts in response to the OIG's recommendations, we asked why some employees did not have background investigations when required. VHA officials stated that VHA does not have an automated means for monitoring whether background investigations are completed. Instead, VHA relies on manual processes. The officials told us that they would have expected the audits of suitability data to identify employees who did not have required background investigations. They noted, however, that such manual monitoring is prone to human error and that the extent and frequency of such monitoring is limited due to resource constraints. Thus, according to the officials, VHA's current control procedures are insufficient for identifying employees without required background investigations and for ensuring such instances are addressed.

VA launched VA-CABS in 2018 as its case management system for background investigations and suitability adjudications. VA officials told us, however, that VA-CABS may not contain complete information for some employees, so VA cannot currently use it for automated monitoring of whether employees have completed background investigations. The VHA officials stated that they expect future efforts to integrate background investigation data from various government-wide databases into VA-CABS. They believe this will enable automated monitoring, such as reports identifying employees who do not have investigations when required. The officials stated that these efforts would be part of VA's response to material weaknesses in its enterprise-level background investigation data identified in prior VA OIG audits assessing VA's compliance with the Federal Information Security Modernization Act.<sup>30</sup> However, the officials did not provide a timeline for when efforts at integrating background investigation data into VA-CABS would be complete or when VHA would be able to automate the monitoring of employee background investigations.

*Standards for Internal Control in the Federal Government* state that management should establish and operate activities to monitor the internal control system and evaluate the results.<sup>31</sup> They also state that management should evaluate and document internal control deficiencies,

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<sup>30</sup>See Department of Veterans Affairs Office of Inspector General, *Federal Information Security Modernization Act Audit for Fiscal Year 2020*, 20-01927-04 (Washington, D.C.: Apr. 29, 2021).

<sup>31</sup>[GAO-14-704G](#).

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determine appropriate corrective actions, and complete and document such corrective actions on a timely basis.

Without adequate control procedures to ensure employee background investigations are completed as required by OPM regulation and VA policy, VHA lacks assurance that its personnel, including those with indications of controlled substance-related criminal history, are properly vetted and suitable to provide care to veterans. Moreover, by not ensuring that background investigations are completed, as required, for the employees who we found did not have completed investigations, VHA cannot reliably attest to the suitability of these employees and will continue to expose veterans to individuals who have not been properly vetted.

In our February 2023 report, we recommended that VHA establish control procedures to ensure that employee background investigations are completed as required by OPM regulation and VA policy. VA agreed with our recommendation. In November 2023, VA informed us this recommendation would be implemented by March 2024.

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### VHA Did Not Always Document Employee Background Investigations as Required

In our February 2023 report, we found VHA did not document background investigations for some employees as required by OPM guidance and VA policy. Specifically, our review of the eOPF system found that VHA did not always file its employees' certifications of investigation or Declarations for Federal Employment in eOPF.

OPM guidance states that a certification of investigation or similar agency form should be filed permanently in an employee's official personnel folder. OPM guidance also states that a Declaration for Federal Employment should be filed permanently in the employee's official personnel folder. VA policy states that a signed copy of the certification of investigation should be filed in the employee's eOPF upon a favorable suitability determination. However, VA policy does not address the filing of Declarations for Federal Employment, as discussed below.

Of the 305 employees in our generalizable sample, we found that eOPF did not contain certifications of investigation or equivalent forms for 54 employees when required. Upon our request, VHA subsequently provided certifications of investigation or equivalent forms for 51 employees. However, the documents for 32 of these employees were signed and dated after our document request. VHA was unable to provide

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certifications of investigation or equivalent documents for three employees.<sup>32</sup>

Similarly, of the 305 employees in our generalizable sample, we found that eOPF did not contain Declarations for Federal Employment for 26 employees. Upon our request, VHA provided Declarations for Federal Employment for 24 of these employees. Six of these were signed after our request. VHA was unable to provide Declarations for Federal Employment for two employees. Based on additional analysis of our generalizable sample, we estimated that

- about 1,700 employees (14 percent) of the 12,569 employees we initially identified as having indications of controlled substance-related criminal history do not have certifications of investigation in eOPF as required, and
- about 1,100 (8 percent) of the 12,569 employees we initially identified as having indications of controlled substance-related criminal history do not have Declarations for Federal Employment in eOPF as required.<sup>33</sup>

Consistent with our findings, in March 2018 VA OIG reported that VA did not ensure that certifications of investigation were filed in eOPF when required. Accordingly, VA OIG recommended that VA, among other things, improve oversight of the personnel suitability program at VA medical facilities and ensure that investigation data are fully evaluated and reliable for program tracking and oversight. VA OIG told us that VA implemented these recommendations by establishing a VHA personnel security program office, appointing regional suitability coordinators,

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<sup>32</sup>These numbers do not include employees who were not present in the eOPF system, such as contractors, or those whose eOPF folders appeared to have been transferred to another agency or to the National Archives and Records Administration and no longer under VA's control. Further, the number of employees without the certification of investigation or equivalent documentation in eOPF does not include individuals who VA confirmed did not have completed background investigations. DCSA PIPS data for the three employees for whom VHA was unable to provide certifications of investigation or equivalent documentation upon request showed indications of completed background investigations, suggesting that certifications of investigation or equivalent documentation for these employees should have been in eOPF.

<sup>33</sup>In addition to the employees in the generalizable sample described above, we also examined whether background investigations were documented as required for the 24 employees we identified with actions taken against their DEA registrations and with active warrants. Among these groups, we found another five employees who did not have certifications of investigation or equivalent documents in eOPF as required and another five employees who did not have Declarations for Federal Employment in eOPF as required.

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implementing a quarterly review process for delinquent adjudications, and conducting “100 percent audits” of suitability data for all VA personnel.

Although VA took these actions, VA policy does not assign responsibility for filing certifications of investigation and Declarations for Federal Employment in eOPF. Specifically, although VA policy states that a copy of the signed certification of investigation should be filed in an employee’s eOPF after a favorable suitability determination, it does not establish who is responsible for doing so. Additionally, VHA’s staffing policy does not contain procedures for filing the Declaration for Federal Employment in eOPF. Also, VHA officials told us that VHA does not have control procedures to ensure that certifications of investigation and Declarations for Federal Employment are filed in eOPF as required.<sup>34</sup>

*Standards for Internal Control in the Federal Government* state that management should document responsibilities for internal control through policies and design control activities to achieve objectives and respond to risks.<sup>35</sup> Further, management should establish and operate monitoring activities to monitor the internal control system and evaluate the results. Management should also evaluate and document internal control deficiencies, determine appropriate corrective actions, and complete and document such corrective actions on a timely basis.

Without policies that establish who is responsible for documenting employee background investigations in eOPF in accordance with OPM guidance and VA policy and control procedures to ensure that these policies are followed, VHA lacks assurance that its personnel are properly vetted and suitable to provide care to veterans. Further, by not ensuring that background investigations are documented in eOPF as required for the employees who we found lacked such documentation and those with indications of controlled substance-related criminal history, VHA cannot reliably attest to the suitability of these employees.

In February 2023, we recommended that VA develop and implement policies that establish who is responsible for documenting employee

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<sup>34</sup>This insufficient oversight of VHA’s documentation of background investigations is not unique to the 12,569 employees we identified with indications of controlled substance related criminal history but characterizes the onboarding and background investigation processes for all VHA employees who require investigations. Therefore, it is possible that VHA also did not appropriately document background investigations for some employees outside our study population.

<sup>35</sup>[GAO-14-704G](#).



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background investigations in eOPF in accordance with OPM guidance and VA policy and control procedures to ensure that these policies are followed. VA agreed with our recommendation.

In August 2023, VA told us that it has initiated efforts to review and update policies that establish or clarify who is responsible for documenting employee background investigations in eOPF in accordance with OPM guidance. This effort includes the development and implementation of control procedures to ensure that these policies are followed. The target date for implementing this recommendation was September 2023. That date was not met and VA did not provide us with a new date.

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Chairwoman Kiggans, Ranking Member Mrvan, and Members of the Subcommittee, this concludes my prepared statement. I would be pleased to respond to any questions.

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## GAO Contact and Staff Acknowledgments

For further information about this testimony, please contact Seto J. Bagdoyan, Director, Forensic Audits and Investigative Service, at (202) 512-6722 or [bagdoyans@gao.gov](mailto:bagdoyans@gao.gov). Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this statement. Other individuals who made key contributions to this testimony include David M. Bruno (Assistant Director), Gloria Proa (Analyst in Charge), Garrick Donnelly, Colin Fallon, Barbara Lewis, Maria McMullen, Lisa Rogers, and Sabrina Streagle.

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