

A DIRECTOR'S MONOGRAPH

BREAKING TRUST:
Prohibited Personnel Practices
in the Federal Service



February 1982

**A REPORT OF THE U.S. MERIT SYSTEMS PROTECTION BOARD
OFFICE OF MERIT SYSTEMS REVIEW AND STUDIES**

MERIT PRINCIPLES GOVERNING THE FEDERAL PERSONNEL SYSTEM

The Civil Service Reform Act (Pub.L. No. 95-454, 92 Stat. 111 (1978)) requires that Federal personnel management be implemented consistent with the following merit principles:

- (1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.
- (2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.
- (3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.
- (4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.
- (5) The Federal work force should be used efficiently and effectively.
- (6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.
- (7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.
- (8) Employees should be--
 - (a) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and
 - (b) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.
- (9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences--
 - (a) a violation of any law, rule, or regulation, or
 - (b) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

It is a prohibited personnel practice to take or fail to take any personnel action when taking or failing to take the action results in the violation of any law, rule or regulation implementing or directly concerning these merit principles.

The Merit Systems Protection Board is directed by law to conduct special studies of the civil service and other Federal merit systems to determine whether these statutory mandates are being met, and to report to the Congress and the President on whether the public interest in a civil service free of prohibited personnel practices is being adequately protected.

These studies, of which this report is one, are conducted by the Office of Merit Systems Review and Studies.

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INTRODUCTION

What Director's Monographs Are. This is the first in a series of Director's Monographs which will be regularly issued by the Office of Merit Systems Review and Studies. Each of the monographs will focus intensively on one critical aspect of the merit system. For example, this monograph examines the subject of prohibited personnel practices--which of them occur with what frequency, and how well the mechanisms intended to prevent their occurrence are working.

The monographs draw upon the unique store of quantitative information about the Federal merit system which the Office has gathered through a variety of surveys of the Federal workforce. These surveys are a primary tool in the program of special studies which the Office conducts in fulfillment of the Board's statutory mandate to report to the Congress and the President on the health of the merit system.

Our staff designs each survey to support the study of a specific topic (such as the Federal merit pay system). However, we also build into each survey instrument a core of questions which address common topics central to the merit system. Because of this common core, the collective survey results present a rich and unprecedented bank of data on the experiences and perceptions of Federal employees about the way the merit system operates "in real life."

Using this bank of data, it is now possible to examine and compare in a disciplined way the views and experiences of different groups of Federal employees, with different demographic characteristics and working in different agencies, about critical aspects of the merit system.

The systematic study of patterns across the entire Federal Government has been a goal of the Office from its earliest planning. Thus, these monographs represent the fruits of several years' planning and patient work with that goal in mind. As our program of special studies continues, we will be able to examine a greater number of topics, and to look at changes as they occur over time.

What this monograph addresses. This monograph explores the subject of "prohibited personnel practices," as seen or experienced by key groups of Federal employees.

The "prohibited personnel practices" are a set of statutory prohibitions which were enacted as part of the Civil Service Reform Act of 1978. Generally speaking, the Act forbids taking (or failing to take), any personnel action based on any of 11 practices enumerated in the law. (A synopsis of the prohibited personnel practices appears on the inside back cover of this monograph.)

An important statutory companion to the prohibited personnel practices is a list of positive "merit principles" upon which Federal personnel management is required to be based. (The full text of the merit principles is set forth on the inside front cover of this monograph.) Taken together, the two sections of law constitute a sort of "Magna Charta," or constitution of Federal employment law.

In the following pages, we examine:

- What Federal employees have told us about the incidence of prohibited personnel practices in their workplaces;
- how aware Federal employees are of specific mechanisms which are intended to prevent the commission of prohibited personnel practices, and how much confidence they have in those mechanisms; and
- what the implications of those findings are for the merit system.

The surveys from which our data was drawn. Most of the data presented in this monograph was drawn from the following three surveys of the Federal workforce:

- **Senior Executive Survey.** This survey queried a random sample of 1,519 members of the Senior Executive Service in November, 1980. The questionnaire was completed and returned by about 980 executives, or roughly 67% of those who received the questionnaire (i.e., excluding a small number of undeliverable returns). Major results of this survey were reported in A Report on the Senior Executive Service, presented by the Board to the Congress and the President in September, 1981.
- **Mid-Level Employee Survey.** This survey instrument was sent to a random sample of approximately 4,900 "mid-level" employees (i.e., in grades GS-13 through GS-15 or equivalent) in December, 1980. About 70% of those who received this instrument responded to the survey. Major results of this survey were reported in the Board's report to the Congress and the President in June, 1981, Status Report on Performance Appraisal and Merit Pay Among Mid-Level Employees.
- **Senior Personnel Professionals.** This survey examined the experiences and attitudes of a sample of about 1,750 senior personnel officials in the Federal Government (including grades GS-15 and above in Washington, and grades GS-13 and above in the field). Over 73% of those in our sample responded. Principal findings of that survey are included in the Board's Report on the Significant Actions of the Office of Personnel Management During 1980.

Data was also drawn in some instances from a fourth survey:

- **Reprisal Survey.** This questionnaire was distributed to approximately 13,000 employees in 15 Federal agencies which have statutory inspectors general. Approximately 66% of these employees responded to the survey, the results of which are discussed in the Board's report, Whistleblowing and the Federal Employee (October 1981).

CAUTION ON INTERPRETING THE DATA

Readers of this report should take into account the following general observations about the source and significance of the data in this monograph.

Qualifications of observers. The data presented here are based upon the observations of some of the more knowledgeable observers in the Federal civil service system. Senior personnel officials, in particular, are in excellent positions to observe the commission of prohibited personnel practices. (Because of this fact, we have ordered all rankings in this report in the order reported by these personnel officials, unless otherwise stated).

Senior executives, mid-level employees and the general employee population (surveyed in the Reprisal Study) provide interesting comparisons to the observations of this "inside" group.

Accordingly, we feel that the collective observations reported here ought to be given great weight by policy-makers who wish to map the terrain of the merit system.

At the same time, it must be conceded that even these well-placed observers can provide at best only the gross outlines of major features of that terrain. Their observations suffer from the inevitable constraints of the broad scale, confidential surveys from which they were drawn: observers cannot be subjected to rigorous cross-examination, some may independently report the same event several times over, and intense publicity given to a few events in a given agency may distort observers' perceptions of the frequency of occurrence of those events.

There is no doubt that if it were possible to deploy an army of trained investigators to cover the ground mapped in this monograph, some of the detail might change. It is conceivable that the incidence of prohibited personnel practices observed in such an investigation might be lower than that reported here, because of the more rigorous standards of proof and definition which on-the-spot investigators could apply.

The hard fact is, however, that the resources to conduct such detailed Government-wide exploration by professional investigators simply are not available. Under the circumstances, this data represents the best available evidence of the shape of the real world in terms of prohibited personnel practices.

Finally, it should be recognized that the backgrounds of the observers affect their perceptions, and thus this data. The observers' demographic characteristics have demonstrable effects on their views of a number of items. Where it is useful to do so (within the constraints of statistical validity) we have shown the differing perceptions among relevant groups.

Agency Variation. One of the most interesting features of this report is the wide variation among agencies. Not only does the incidence of given prohibited practices vary among the agencies, but the relative order of incidence within the several practices also varies by agency.

However, the very interest of this result requires that we raise the companion caution that the causes of these variations are numerous, complex, and far from understood.

It would therefore be a serious mistake to make gross comparisons between agencies based simply on the variations evident in the data we report here. We certainly are not prepared on this evidence to either praise or condemn any given agency for its "track record" in this area.

This is precisely an area in which the deployment of on-site investigators could greatly further the understanding of all concerned. At best, we can say that there is certainly more smoke in some locations than in others. We cannot say for certain that there is a fire at the source of each column of smoke.

Nevertheless, common sense indicates that there is substantial significance in the agency variations. Therefore, we can and do urge agency heads to seek to understand their own relative position, and responsible oversight authorities to take these variations into account when considering the deployment of their resources.

SUMMARY OF FINDINGS

This monograph describes:

- the Government-wide incidence of prohibited personnel practices (Charts 1 - 5);
- what Federal employees think about how well the machinery intended to prevent prohibited personnel practices actually works (Charts 6 - 14); and
- the incidence of such practices in individual agencies (Charts 15 - 33 in Appendix A).

In summary, the data reported here indicate that:

- By far the most frequently occurring prohibited personnel practices are those which involve some form of discrimination--either actively manipulating the merit system to benefit persons of like kind, or denying persons of unlike kind their proper due within the system.
- Most forms of political abuse--thought to be the greatest threat to the merit system--actually occur only at insignificant levels of frequency.
- Federal employees are generally ignorant of the mechanisms which are intended to curb the commission of prohibited personnel practices. However, knowledge of the mechanisms varies significantly among the groups we surveyed.
- Employees are also skeptical of how well those mechanisms work, although it appears that the more familiar they are with a given mechanism, the greater confidence they have in it.

How to Obtain Raw Data. Interested persons may obtain data tapes, data description, and a related price schedule for each of these surveys by writing:

General Services Administration
National Archives (NNA)
c/o Chief of References
711 - 14th Street, N.W.
11th Floor
Washington, DC 20408

All data tapes are, of course, edited to assure the absolute confidentiality of survey respondents.

FINDINGS

THE INCIDENCE OF OCCURRENCE OF PROHIBITED PERSONNEL PRACTICES

The incidence of prohibited personnel practices on a Government-wide basis "clusters" in a marked way at the high and low end of the scale. When the incidence of observed prohibited personnel practices is ordered in the frequency with which senior personnel officials reported having observed them (Chart 1), certain practices at both the high and low end of the scale tend to "cluster" together (Table 1). These clusters do not track the order which one might expect to find from the anecdotal opinions upon which policy in this area has often been based in the past.

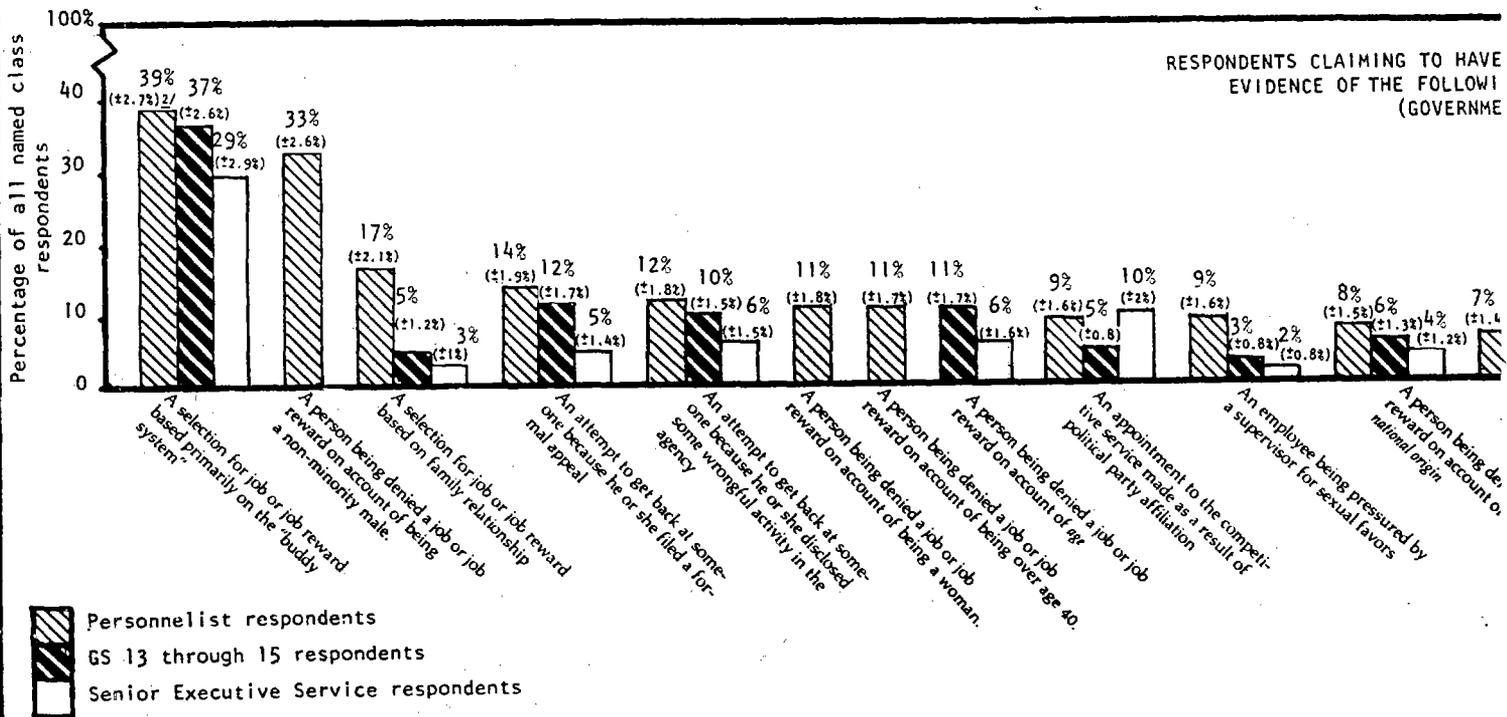
TABLE I

"CLUSTERS" OF LIKE PROHIBITED PERSONNEL PRACTICES
(In order of the frequency of observation by senior personnel officials)

DISCRIMINATION- RELATED OFFENSES	REPRISAL OFFENSES	POLITICAL OFFENSES
1. A selection for job or job reward based primarily on the "buddy system" (39%)		
2. A person being denied a job or job reward on account of being a non-minority male (33%)		
3. A selection for job or job reward based on family relationship (17%)		
	4. An attempt to get back at someone because he or she filed a formal appeal (14%)	
	5. An attempt to get back at someone because he or she disclosed some wrongful activity in the agency (12%)	
6. A person being denied a job or job reward on account of being a woman (11%)		
7. A person being denied a job or job reward on account of being over age 40 (11%)		
		8. An appointment to the competitive service made as a result of political party affiliation (9%)
9. An employee being pressured by a supervisor for sexual favors (9%)		
10. A person being denied a job or job reward on account of race, color, or national origin (8%)		
	11. An attempt to get back at someone because he or she engaged in lawful union activity (7%)	
12. An attempt to influence someone to withdraw from competition for a Federal job in order to help another person's chances for getting the job (6%)		
13. A person being denied a job or job reward on account of a handicap unrelated to job (5%)		
		14. A career employee being pressured to resign or transfer on account of his or her political affiliation (3%)
		15. A person being denied a job or job reward on account of political affiliation (2%)
16. A person being denied a job or job reward on account of marital status (2%)		
		17. An employee actively seeking partisan political office or raising funds on behalf of a partisan political candidate (2%)
18. A person being denied a job or job reward on account of religion (1%)		
		19. An employee being pressured to participate in partisan political activity (.3%)
		20. An employee being pressured to contribute to a political campaign (.1%)

34. During the past 12 months, have you personally observed any events which strongly suggested to you the possibility of any of the following prohibited practices in your immediate work group?

RESPONSES FROM SES, MID-



1/ Executives and mid-level employees were asked to report only those events that occurred in their "immediate work group." Immediate work group was defined as the co-workers with whom the respondents came in contact on a more-or-less daily basis. Senior personnelists were asked to report only those events that occurred in their "organization." Organization was defined as the "largest organizational unit for which the personnel specialist could best judge the quality of personnel management." Thus, organization might refer to an agency, bureau, major military command, regional office, or field installation.

2/ The number in other words and other chance that

AND SENIOR PERSONNELIST STUDIES

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 THIBITED PERSONNEL PRACTICES
 DE SUMMARY 1/

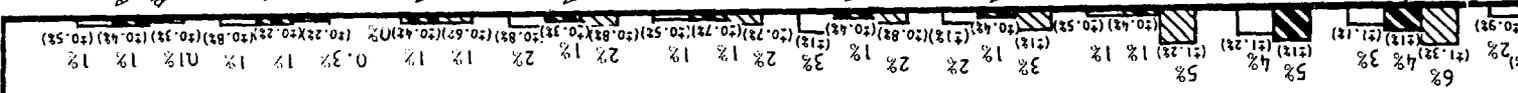


CHART 1

entheses indicates the possible error range, at the 95% confidence level, for the associated figure. based on a sample of this size, one can say with 95% confidence that the error attributable to sampling effects could be up to this many percentage points in either direction, but there is less than 5% "true" figure lies outside the indicated bracket.

Thus, with but a single important exception discussed below, prohibited practices which may be described as "political offenses" uniformly cluster at the **low** end of the scale, in such small rates of incidence as to be virtually insignificant. On the other hand, prohibited practices which relate to the denial of equal access to the merit system, or discrimination, cluster at the **high** end of the scale.

As Table I illustrates, of the 15 prohibited practices which 5% or more of responding senior personnel officials reported having observed, 11 are discrimination-related offenses, as are the 3 most commonly reported offenses. Only one "political" offense appears in this group of 15. (That offense may also be considered a form of discrimination, as is discussed further below.) Offenses involving reprisal against employees for their having taken protected actions cluster in the middle of this higher incidence group.

On the other hand, the remaining "political" offenses cluster among the bottom group of offenses which less than 5% of respondents reported having observed, an incidence which is virtually insignificant for all practical purposes. Discrimination offenses related to marital status and religion are also among this lower incidence group.

It is therefore clear that the human or "civil rights" aspects of the merit system must still occupy first priority among policy-makers, notwithstanding the attention which has been devoted to this area over the last quarter century, and gains which on the surface appear to have been made in assuring equal opportunity in the system. On the other hand, political abuse of the system, which has clearly been a minor part of our observers' experience, does not appear to be as significant a threat to the merit system as is often supposed.

We point out that the incidence of these occurrences and their relative order varies among the agencies (compare Charts 15 through 33) in Appendix A. Thus, the practices may not cluster in the same way in any given agency.

Likewise, we caution that the data we report here represents no more than a single "snap shot" within a relatively limited period of time. It will be of the highest importance to track changes in these rates of incidence over time.

DISCRIMINATION RELATED OFFENSES

By far the highest incidence of prohibited personnel practices is that of practices related to denial of equal access to the merit system, or discrimination. This is overwhelmingly so when those practices are considered as a "cluster" of like practices.

The concept of free and open competition for employment and advancement in the public service is a fundamental alloy in the steel of public personnel law.

The first prohibited personnel practice forbids any Federal employee to discriminate **for or against** any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status or political affiliation.

The first merit principle demands that Federal personnel management endeavor to achieve a work force from all segments of society, and that selection and advancement be determined **solely** on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. The second merit principle requires that equal opportunity be practiced in all aspects of personnel management.

Other prohibited personnel practices forbid tampering with the system in ways which undermine the ideals of fair and open competition and equal opportunity. Thus, it is an offense to deceive or obstruct persons with respect to their right to compete for employment, to influence persons to withdraw from competition, and to grant unauthorized preferences or advantages to individual competitors. Finally, other laws promoting equal opportunity are specifically incorporated into the prohibited personnel practices.

Yet the relatively high incidence of the group of offenses which are clustered together in Table I under the rubric "discrimination-related" indicates that Federal personnel practices are far from achieving what these laws demand.

These discrimination-related practices subvert the ideals of fair, open competition and equal employment opportunity, either by extending some form of favoritism to classes of persons, or by denying classes of persons access to or rights which are properly theirs under the merit system.

The discriminatory practice of selecting or rewarding employees based on the "buddy system" is the most frequently observed prohibited activity. Practices closely related to the "buddy system" were also observed with some frequency. The wrongful practice most frequently reported by senior personnel officials, senior executives, and mid-level employees alike was that of selection for a job or a job reward based primarily on the "buddy system." Nearly 40% of the senior personnel official respondents reported having seen this practice, as did 37% of mid-level respondents and 29% of senior executive respondents (Chart 1).

(We determined in our pre-tests that respondents easily understood the term "buddy system" to mean the practice of granting preferential treatment or access to people known through direct or indirect acquaintance, independent of those persons' merits relative to other competitors.)

Other practices which **favor** persons "of like kind" (as opposed to actively discriminating **against** persons of "unlike kind") were also observed with disturbingly high frequency by the surveyed groups. These are, in the order of the incidence by which senior personnel officials reported that they had observed them:

- selection for a job or job reward based on family relationship (17%);
- an appointment to the competitive service made as a result of political affiliation (9%); and

an attempt to influence a person to withdraw from competition for a Federal job in order to help another person's chances for getting the job (6%).

These practices may usefully be thought of as particular expressions of the "buddy system".

Thus, the selection based on family relationship is simply an instance of drawing the network of "buddies" tighter and closer to home. The relatively high frequency with which it is reported here is surprising, given the existence of Federal anti-nepotism laws and the high visibility which family ties usually have.

However, the high frequency might be explained on several grounds. The conduct observed may have involved indirect family relationships which would not be covered by the anti-nepotism laws as such (e.g., helping the friend of a relative, or the relative of a friend). Or, it may have involved helping a direct relative in such a way as to evade on a "technicality" the prohibitions against nepotism.

Appointments made to the competitive service on the basis of political affiliation represent the converse case to nepotism, that of opening the network to include "political buddies." Those persons may or may not also be "personal buddies."

Attempting to influence a person to withdraw from competition in order to help another person's chances may be seen as a tool either of the "buddy system" or of more active discrimination.

The practice would be a tool of the "buddy system" where it is aimed at eliminating from competition a competitor whose superior qualifications would block the selection of a "buddy" under strict merit selection. It would be a device for "active" discrimination where the motivation is not so much the relationship of the favored competitor as a class characteristic of the pressured competitor.

Other acts involving active discrimination against persons of unlike kind dominate the practices most frequently observed. Our respondents also reported a relatively high incidence of persons being denied jobs or job rewards on account of their race, sex (including pressure for sexual favors), age, color or national origin (Chart 1, Table 1).

The prohibited practice reported with second most frequency by senior personnel officials was discrimination against non-minority males. A noteworthy aspect of this cluster is the fact that discrimination on account of a person's being a **non-minority male** was reported as having been observed with the second highest frequency by senior personnel officials. A third of those officials responding to this question (33%) claimed to have observed a person being denied a job or job reward on account of being a non-minority male. 1/

1/ This question was not addressed in the other surveys, all of which were conducted before the survey of senior personnel officials. Thus, we cannot compare the observations of other employee groups on the issue. However, we will include the question in future surveys where appropriate to their subject matter.

This finding is certain to be controversial and compels several comments. First, as is true of all of the observations reported here, account must be taken of the demographic characteristics of the respondents. (We have included data showing the demographic characteristics of respondents to this and a number of other questions sensitive to group characteristics in Charts 2 - 5.)

Thus, non-minority males constituted the overwhelming majority of senior personnel officials who responded to this question, and they reported having observed the practice with a significantly higher frequency than did non-minority women and minority males (Chart 2). (The number of minority females responding to this question was too low to be of statistical significance.)

CHART 3

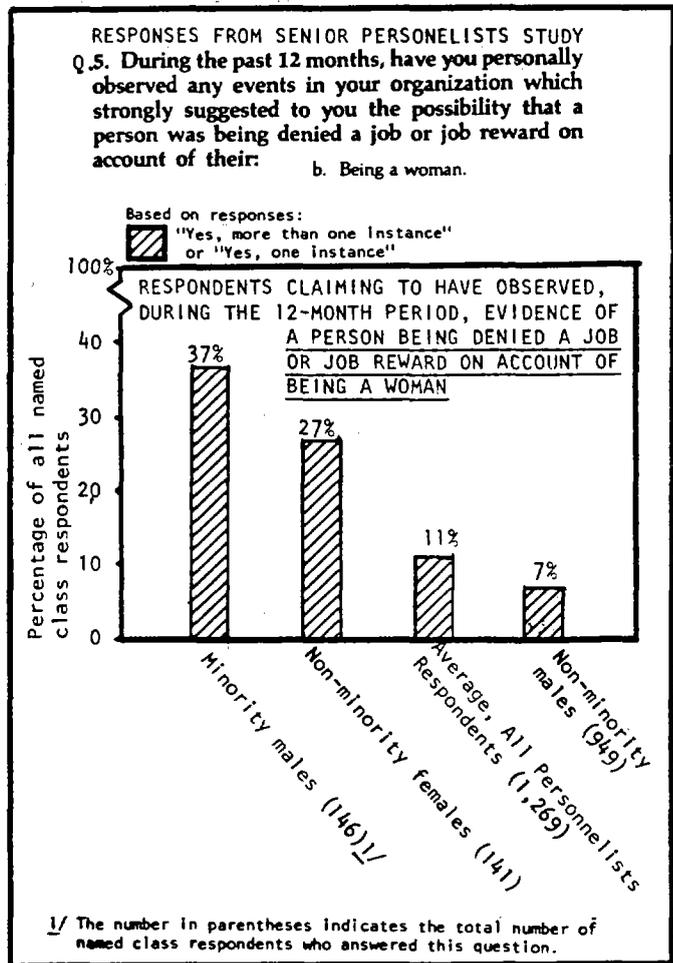


CHART 2

RESPONSES FROM SENIOR PERSONNELISTS STUDY

Q.5. During the past 12 months, have you personally observed any events in your organization which strongly suggested to you the possibility that a person was being denied a job or job reward on account of their: c. Being a non-minority male.

Based on responses:
 [Hatched bar] "Yes, more than one instance" or "Yes, one instance"

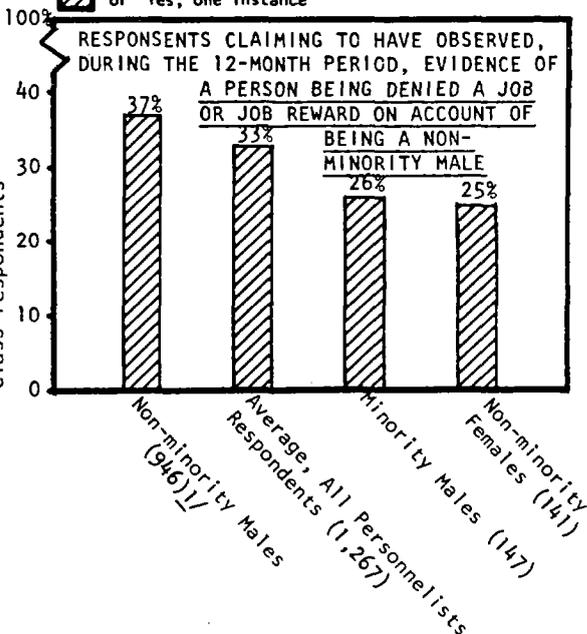
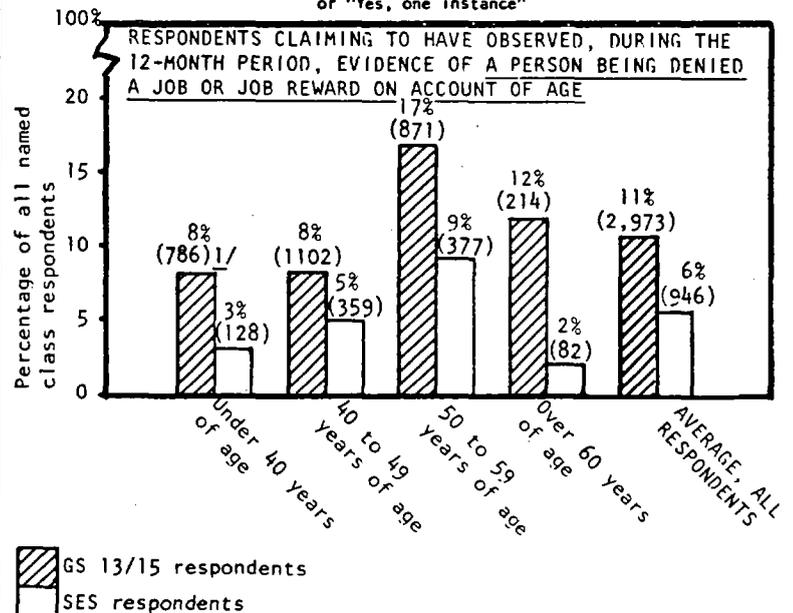


CHART 4

RESPONSES FROM SES AND MID-LEVEL STUDIES

Q.35. During the past 12 months, have you personally observed any events which strongly suggested to you the possibility of any of the following discriminatory practices in your immediate work group? d. A person being denied a job or job reward on account of age

Based on responses:
 [Hatched bar] "Yes, more than one instance" or "Yes, one instance"



1/ The number in parentheses indicates the total number of named class respondents who answered this question.

CHART 5

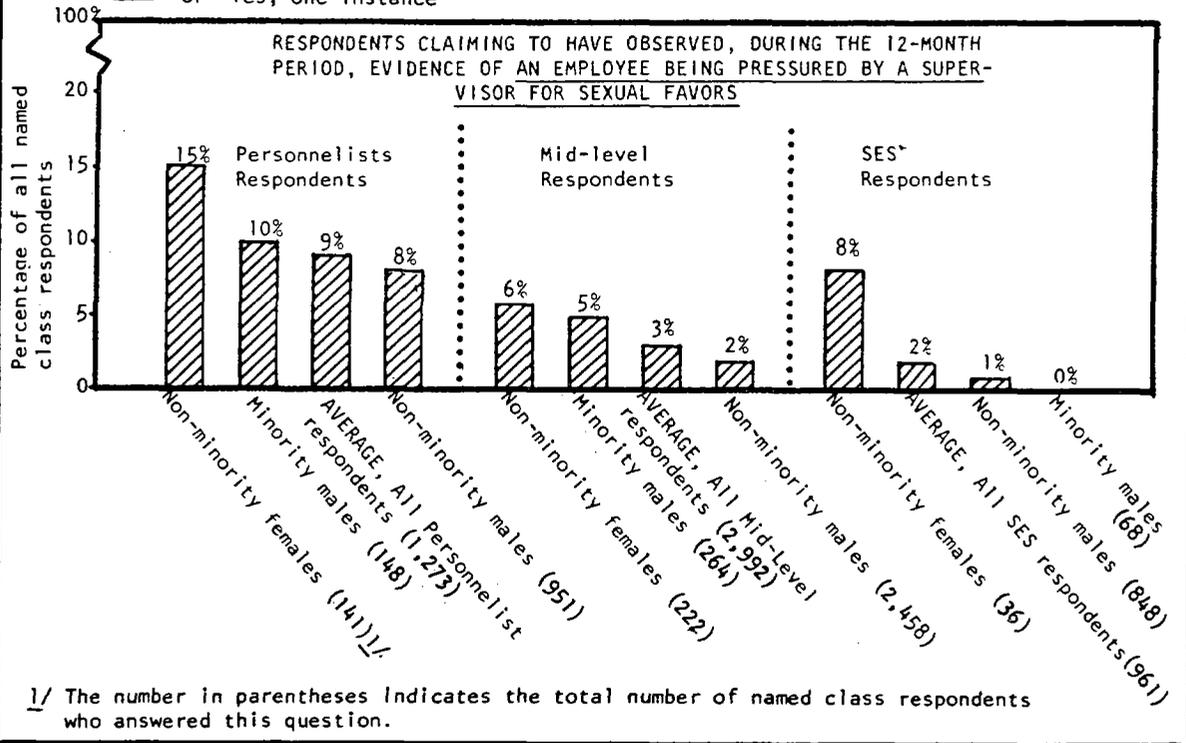
RESPONSES FROM SES, MID-LEVEL, AND SENIOR PERSONNELISTS STUDIES

Q.34. During the past 12 months, have you personally observed any events which strongly suggested to you the possibility of any of the following prohibited practices in your immediate work group?

I. An employee being pressured by a supervisor for sexual favors

Based on responses:

 "Yes, more than one instance" or "Yes, one instance"



Second, non-minority males can logically be expected to some degree to perceive discrimination against themselves because of the very existence of programs intended to aid other classes of persons. For this reason, the reported incidence here may to some extent inflate the actual incidence of discriminatory practice against non-minority males. The standing of non-minority males in respect to their distribution by grade level as compared to other classes certainly tends to confirm this aspect.

Finally, however, whether or not the observations of these personnel officials accord with the true incidence of discrimination against non-minority males, it must be recognized that this key group in the implementation of Federal equal opportunity programs **sees itself to a large extent as a victim of those programs.** That is, the predominant number of senior personnel officials are non-minority males, and about a third of them believe that they have seen discrimination against members of that class.

Why are discrimination-related offenses predominant among those practices which respondents reported having observed? We do not pretend to have the definitive answer to this question. Nevertheless, we suggest that the relatively high occurrence of discrimination-related prohibited personnel practices has both a **social** base common to all segments of our society, and a **structural** base characteristic of (if not peculiar to) the Federal personnel system.

The social base is obvious. Federal employees are first of all Americans, products of the society which they serve. They grew up subject to the same experiences, influences and attitudes as their counterparts in the private sector. Accordingly, they may be expected to bring to the Federal work place the same attitudes and patterns of practice which characterize the society as a whole.

To put it simply, people will be people, and Federal employees are people. Thus, for example, Federal employees no doubt share the well-documented preference of people generally to select as co-workers people who are "like" them. Numerous authorities have documented the fact that as many as 3 out of 4 of those who obtain professional, technical, and managerial jobs in this country do so through informal personal contacts--the "buddy system." 2/

The struggle to define and enforce the proper limits of this irreducible minima of "human nature" is at the core of the civil rights struggle in the society as a whole. It would be astounding if the Federal work force were free of this aspect of "human nature."

(However, we discuss the related and extremely important issue of public office as a public trust in the next section.)

2/ See, e.g., Bolles, *What Color is Your Parachute?*; Granovetter, *Getting a Job: A Study of Contacts and Careers*; U.S. Department of Labor, *Job Seeking Methods Used by American Workers.*

There is a less obvious structural base which may aggravate the social base in the case of the Federal personnel system. That is, there is some evidence that the Federal personnel system does not operate to attract into competition for jobs the people best qualified to fill those jobs. If this is so, managers may feel themselves forced to rely on their own networks (the "buddy system") to produce better qualified candidates.

Thus, nearly a third (31%) of the senior personnel officials we surveyed indicated that the candidates recruited by their organizations are highly qualified **only to "some" or to "little or no extent."** That such a high percentage of the Government's senior personnel officials think so little of its candidates for employment should in our view be a matter of the gravest concern for the merit system.

We cannot say whether the more important element which contributes to this dismal result is the **unattractiveness** of Federal employment, or **deficiencies** in the Federal recruiting system. We suspect that both are significant factors, however.

The attractiveness of Federal employment may well be at a low point. Many Federal employees feel themselves as having been under siege in recent years. The image of the drone-like bureaucrat has been widely promoted as symbolic of the "mess in Washington." It is unlikely, to say the least, that such public excoriation has encouraged the country's best talent to seek (or remain in) Federal employment.

In addition to this political popularization of the negative image of Federal employees, Federal compensation and benefit programs have been in turmoil for the last several years. We have documented some of the negative effects of this turbulence in other reports to the Congress and the President.^{3/} At a minimum, we would expect the uncertainty and confusion which has characterized Federal compensation policy to have had a decidedly negative effect on the attractiveness of Federal employment.

Deficiencies in the Federal recruiting system are more difficult to document. However, we think it is significant that the Federal Government has literally no national job information system, although several private entrepreneurs have proven the feasibility of such a system by offering their own directory services for a fee.

In any event, it is naive to expect that conscientious managers will not go outside of the formal mechanics of the merit system and use the informal mechanics of the "buddy system" if the merit system cannot produce qualified persons to fill the employment bill. And to the extent that managers use the "buddy system," they will perpetuate discrimination--the selection for jobs and job rewards of people of "like kind," to the disadvantage of people of "unlike kind."

^{3/} U.S. Merit Systems Protection Board, A Report on the Senior Executive Service (September, 1981), and Status Report on Performance Appraisal and Merit Pay Among Mid-Level Employees (June, 1981).

Discrimination is intolerable in the merit system. Acknowledging the social and structural causes for the high incidence of discrimination-related prohibited practices is an important step in coming to understand how the merit system works. But by no means does it excuse the occurrence of those practices, or justify throwing up one's hands and saying, "That's just the way people are."

The merit personnel system exists precisely because public office is a public trust. Federal laws and programs draw on every citizen's taxes and touch every citizen's life. All citizens are therefore entitled to the best qualified public servants available, and to compete fairly and openly for public employment and advancement.

That discriminatory practices betray that public trust ought to be obvious. However, these practices also corrode the public service in another, more subtle way.

To the extent that our laws and regulations on the one hand portray a system of open competition and impartiality, while our actions on the other hand embody a closed system of preference and exclusion, we encourage cynicism about all aspects of the merit system and the Government itself among Federal employees and private citizens alike.

These practices can therefore never be tolerable in the merit system.

REPRISAL OFFENSES

Respondents saw a fairly high incidence of reprisal against employees for exercising appeal rights or disclosing wrong-doing within their agencies.

The Board recently reported in some detail on the question of reprisal against Federal employees who see and report wrongdoing. ^{4/} We noted in that report that one in five respondents who said that they had reported wrongdoing in their agency and had been identified as the source of that report claimed to have been the victim of threatened or actual reprisal.

The observations reported here confirm that attempts at reprisal occur at a serious level within the Government as a whole. Twelve percent of the senior personnel official respondents indicated that they had observed an attempt to "get back" at someone who had disclosed wrongdoing, as did 10% of the mid-level respondents and 6% of the senior executives (Chart 1).

The comparatively lower incidence of observation reported for both of these categories by senior executives may in part be explained by the fact that senior executives are more likely than the other groups to be a part of the executive decisionmaking process which might--correctly or otherwise--be perceived as "wrongdoing" or "reprisal." As a part of senior management, these executives can naturally be expected to have a somewhat more beneficent view of their own stewardship than have their subordinates.

^{4/} U.S. Merit Systems Protection Board, Whistleblowing and the Federal Employee (October, 1981).

It is also important to note the great range of difference among the individual agencies in this respect. (See Charts 17 and 18 in Appendix A.)

At a minimum, these data suggest that further attention should be given to the question of what happens to Federal employees who exercise their statutory rights to appeal to the Board and other adjudicatory bodies.

POLITICAL OFFENSES

There is an almost uniformly low incidence of observed politically related prohibited personnel practices. Practices involving political influence, pressure, or retaliation were uniformly reported by all groups of respondents to have been observed at insignificant levels, with the marked exception of that involving appointments to the competitive service on the basis of political affiliation (Chart 1).

The low incidence of these practices might be explained by several alternative hypotheses.

It is possible that the Civil Service Reform Act has indeed put into place mechanisms which discourage or diminish the opportunity for political abuse of the merit system. This low incidence could therefore reflect the salutary effects of the law.

On the other hand, it is also possible that political abuse was neither as widespread nor as pervasive in previous administrations as some of the proponents of civil service reform believed. The evidence of such abuse in the past has been largely anecdotal, involving a few agencies, and highly publicized.

Finally, it could be that such political abuse as occurs involves policy-level positions, and is not observable at lower levels. In any event, the markedly higher incidence of observed abuse of the competitive appointment process reinforces the suggestion which the Board made in its Report on the Significant Actions of the Office of Personnel Management in 1980 that a more effective and efficient system be instituted by OPM for monitoring the movement of persons between political positions excepted from the competitive service and those in the competitive service itself.

Certainly the data indicate that appointments to the competitive service ought to be the focus of those interested in monitoring potential political abuse in the merit system.

RESPONDENTS' PERCEPTIONS OF MERIT PROTECTION MECHANISMS

The merit system's first line of defense is in each of the Federal agencies. The law specifically instructs that "the head of each agency shall be responsible for the prevention of prohibited personnel practices." 5/

Furthermore, the number of cases which finally reach the Board and other central merit protection agencies by way of formal appeal is considerably smaller than the universe from which such appeals might be drawn. (This is, of course, true of any system for policing wrongdoing, adjudicating offenders and correcting wrongs, including our criminal justice system.)

5/ 5 U.S.C. Section 2302(c).

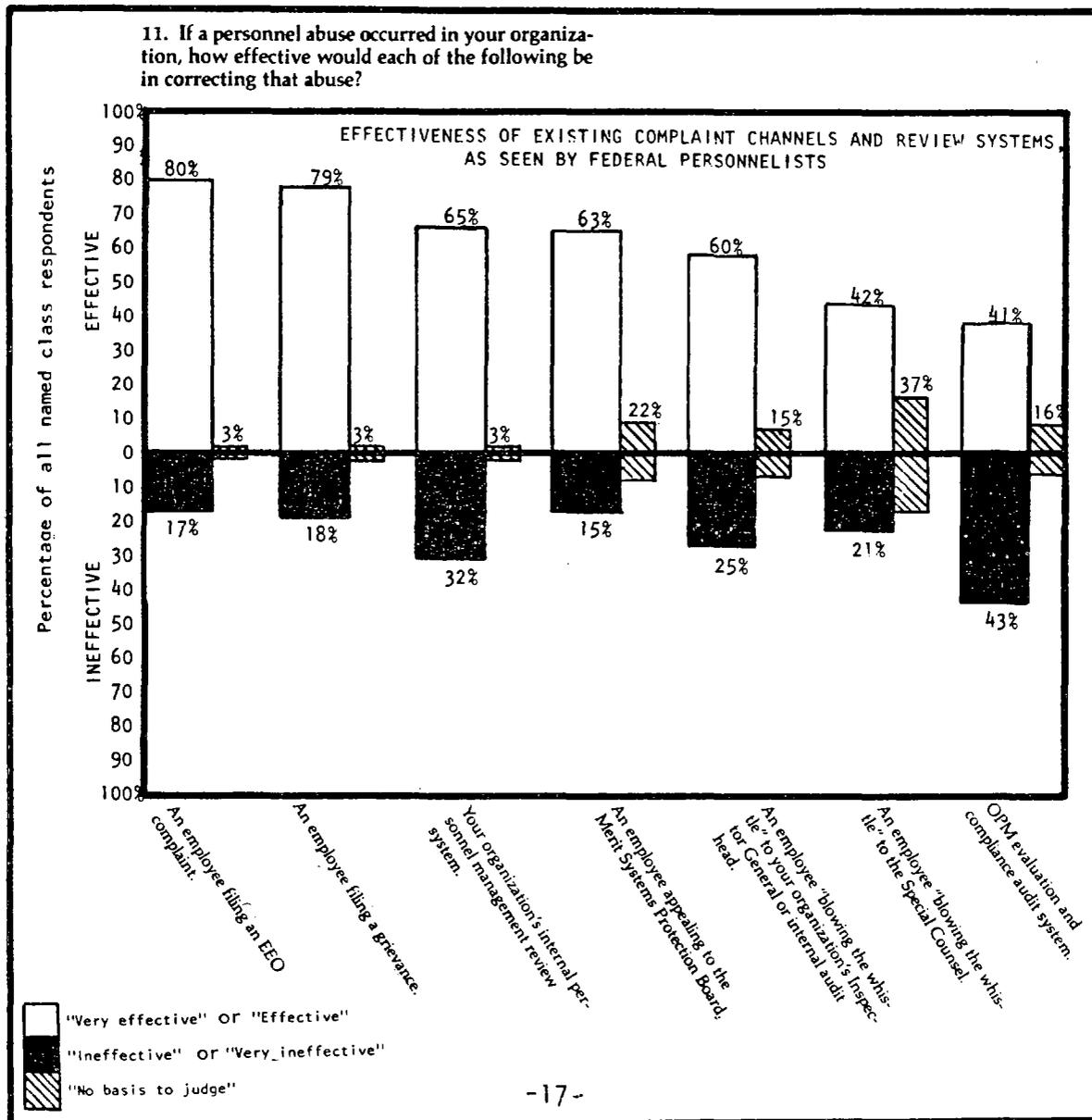
As a practical matter, therefore, whether prohibited personnel practices are prevented and the wrongs they cause corrected depends to a considerable degree on personnel practices in the individual agencies. Even so, the knowledge and attitudes of Federal employees toward the central merit protection mechanisms is important, even in "the front line."

The better employees and managers are informed of the requirements, sanctions and mechanisms for enforcing the merit system, the more likely both are to respect them, and to assert their rights when wrongdoing is done.

The relatively low level of knowledge among Federal employees about these mechanisms, and the low confidence which employees express in them therefore continue to be of major concern to the Board.

Senior personnel officials express much greater confidence in internal agency merit protection mechanisms than in the central merit protection mechanisms. When asked how effective they thought various merit protection mechanisms would be in correcting a personnel abuse which might occur in their agencies, senior personnel officials Government-wide indicated the highest degree of confidence in internal agency mechanisms (Chart 6).

CHART 6



Thus 80% indicated that they thought filing an EEO complaint would be "effective" or "very effective" in correcting an abuse, 79% thought filing a grievance would be so effective, and 65% thought the agency's internal personnel management evaluation system would be so effective.

The central protection mechanisms were rated lower by the senior personnel officials. Sixty percent thought that appealing to the Merit Systems Protection Board would be "effective" or "very effective." Only 42% felt that "blowing the whistle" to the Special Counsel would be so effective, and 41% expressed that level of confidence in OPM's evaluation and compliance audit system.

In general, Federal employees seem to know and understand little about the role of the central merit protection mechanisms. Such knowledge and understanding is significantly less among employees in lower grade levels than among those in higher grade levels. Charts 7 and 8 indicate the responses of the various groups of employees we surveyed when they were asked whether they knew about the Merit Systems Protection Board and the Special Counsel. The specific percentages varied from survey to survey, but a clear pattern emerges. Federal employees know distressingly little about the merit protection mechanisms, and such knowledge drops off dramatically at lower grade levels.

CHART 7

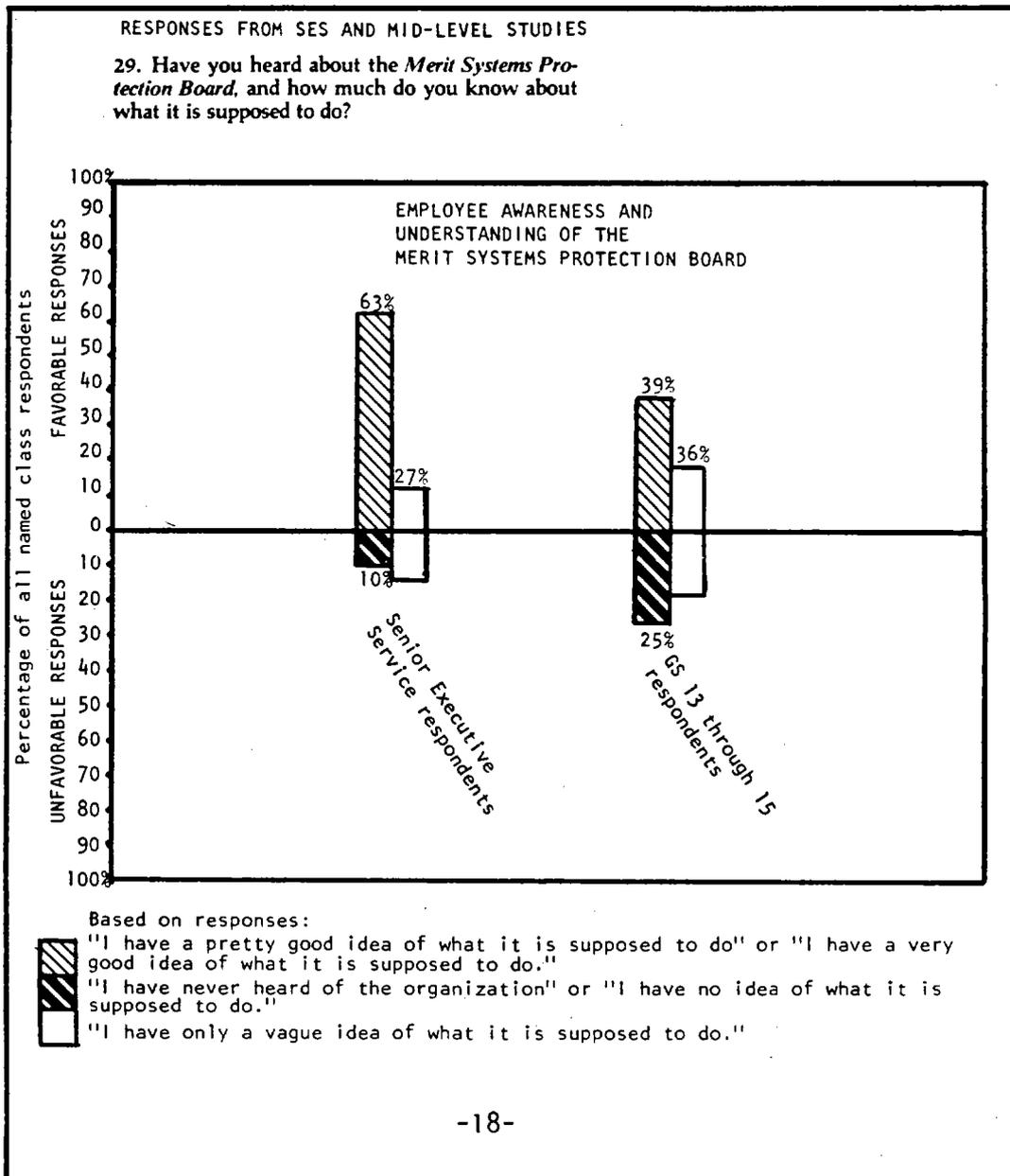
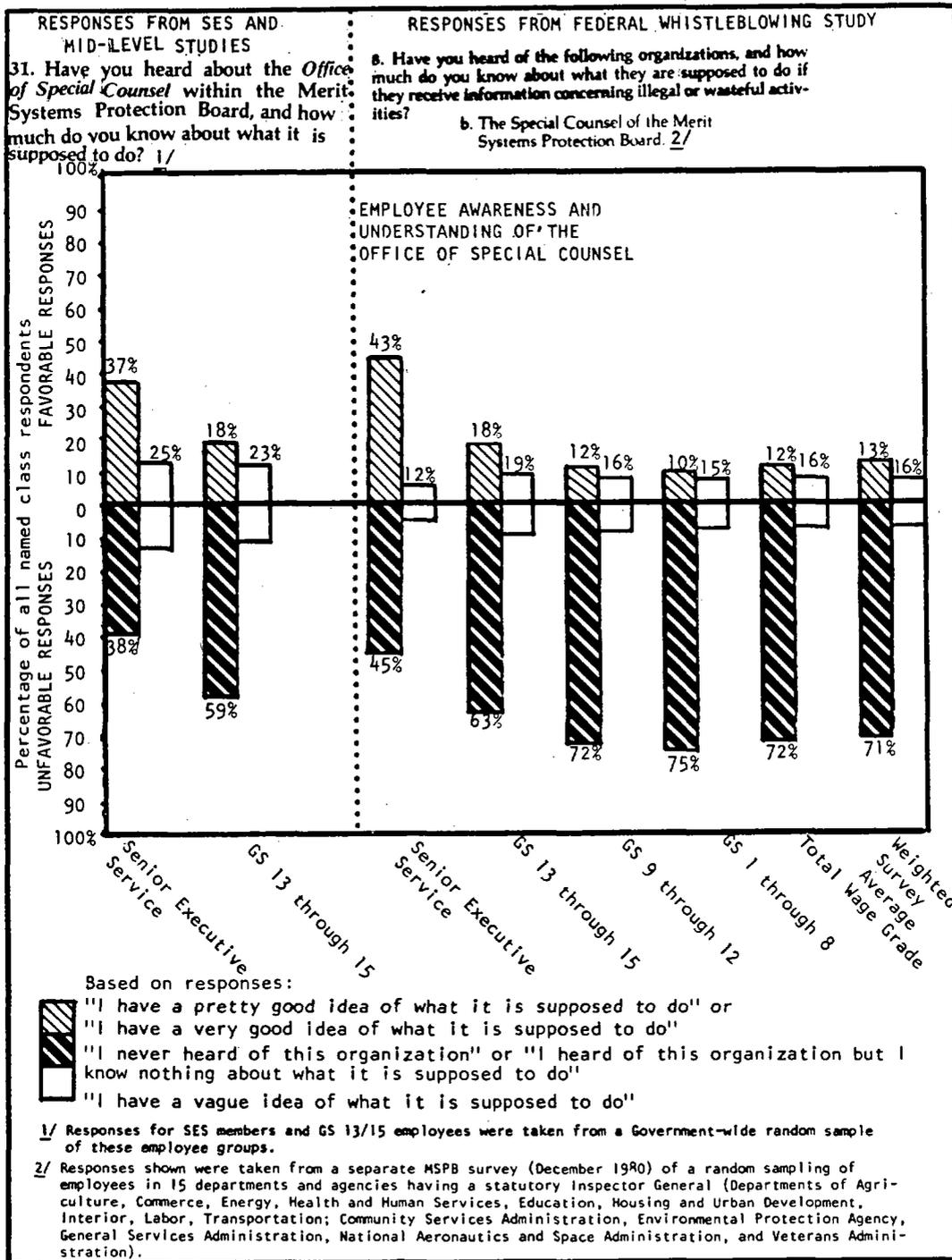


CHART 8



Charts 9 and 10 illustrate employee knowledge of and confidence in the agency inspectors-general. Although inspectors-general are not a direct part of the central merit protection system, they are an important element in the Government's system for encouraging employees to report fraud, waste and mismanagement.

CHART 9

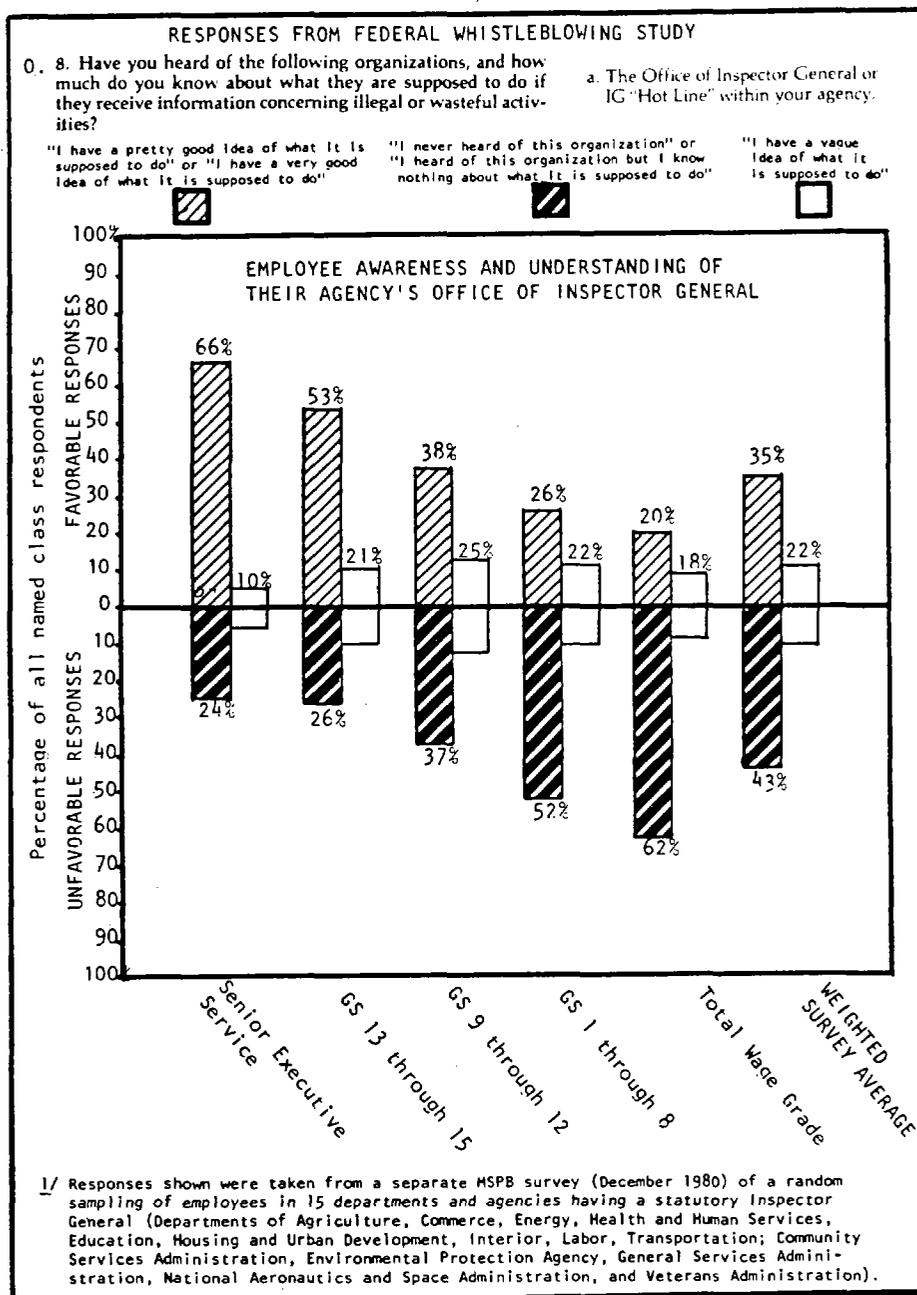
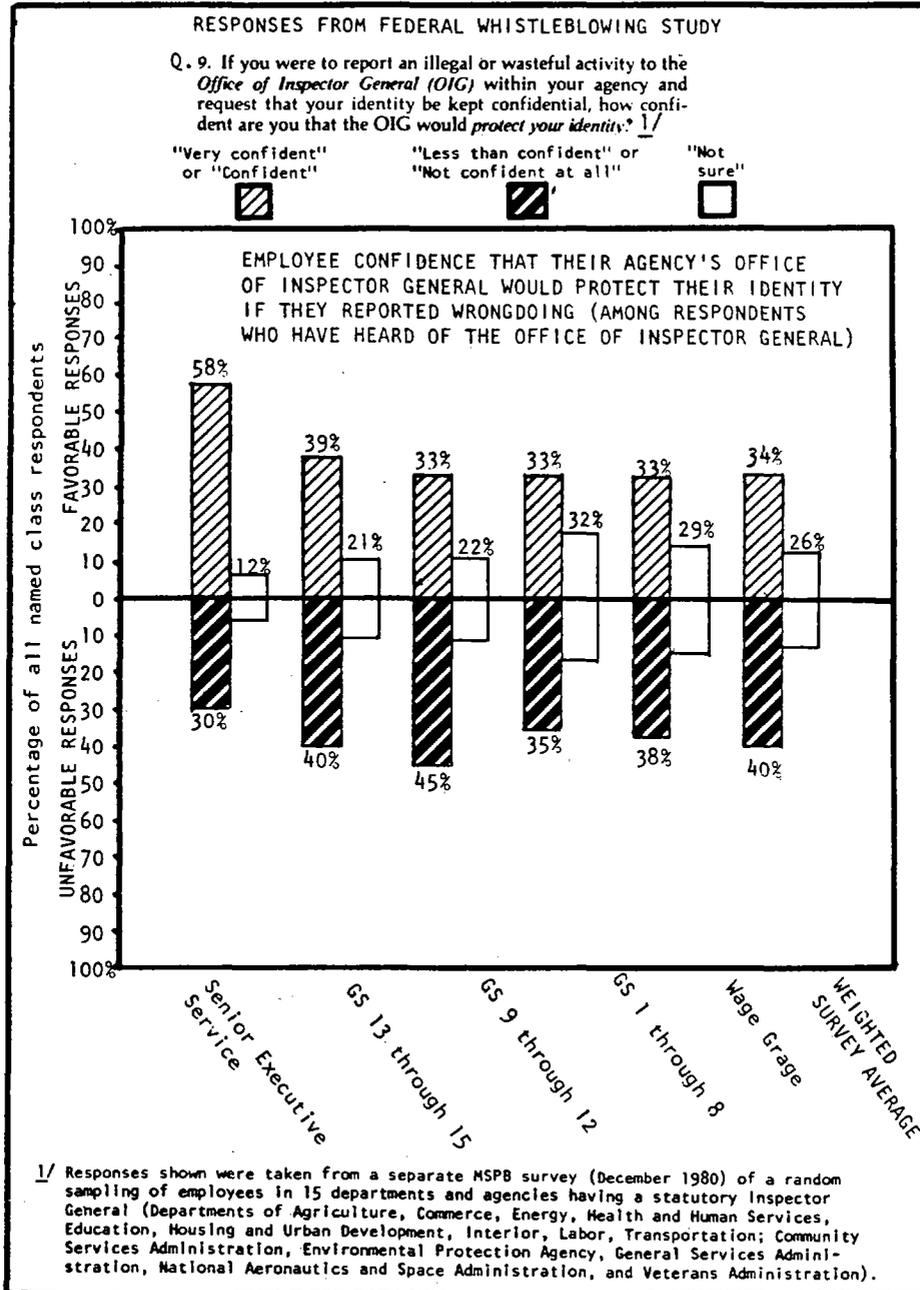


CHART 10



Thus, 63% of senior executive respondents indicated that they had a "pretty good" or "very good" idea of what the Board is supposed to do. Only 10% indicated that they had never heard of the Board, but 27% indicated that they had only a "vague idea" of its function.

On the other hand, only 39% of mid-level employees said that they had a "pretty good" or "very good" idea of the Board's function, 36% had only a "vague" idea, and 25% had never heard of the Board.

The same pattern of decreasing awareness at lower grade levels appears in the responses to similar questions about the Special Counsel. (Two samples of both SES and mid-level employees were queried on this issue. SES and mid-level sample groups were contacted in the surveys directed specifically to those groups, and samples of each were also included in the study of reprisal.)

Only 37% of the senior executive respondents in the senior executive survey indicated that they had a "pretty good" or "very good" idea of the Special Counsel's function; 43% of the senior executive respondents in the reprisal survey said that they had that level of knowledge and understanding about the Special Counsel.

Employee knowledge and awareness drops off markedly among lower graded employees. Only 18% of mid-level respondents in both the mid-level survey and the reprisal survey said that they had a "pretty good" or "very good" idea of the Special Counsel's function. The percentage of respondents indicating that they had this level of understanding dropped to a low of only 10% among employees in grades GS-1 through GS-8 surveyed in the reprisal survey.

Correspondingly high percentages of lower-graded employees indicated that they had never heard of the Special Counsel, peaking at 75% of the respondents in grades GS-1 through GS-8 surveyed in the reprisal study.

These low levels of awareness have been pointed out in other reports of the Board, most recently in the final report of the study on reprisal. It should also be recognized that the Board and the Special Counsel are relatively new entities in the Federal system.

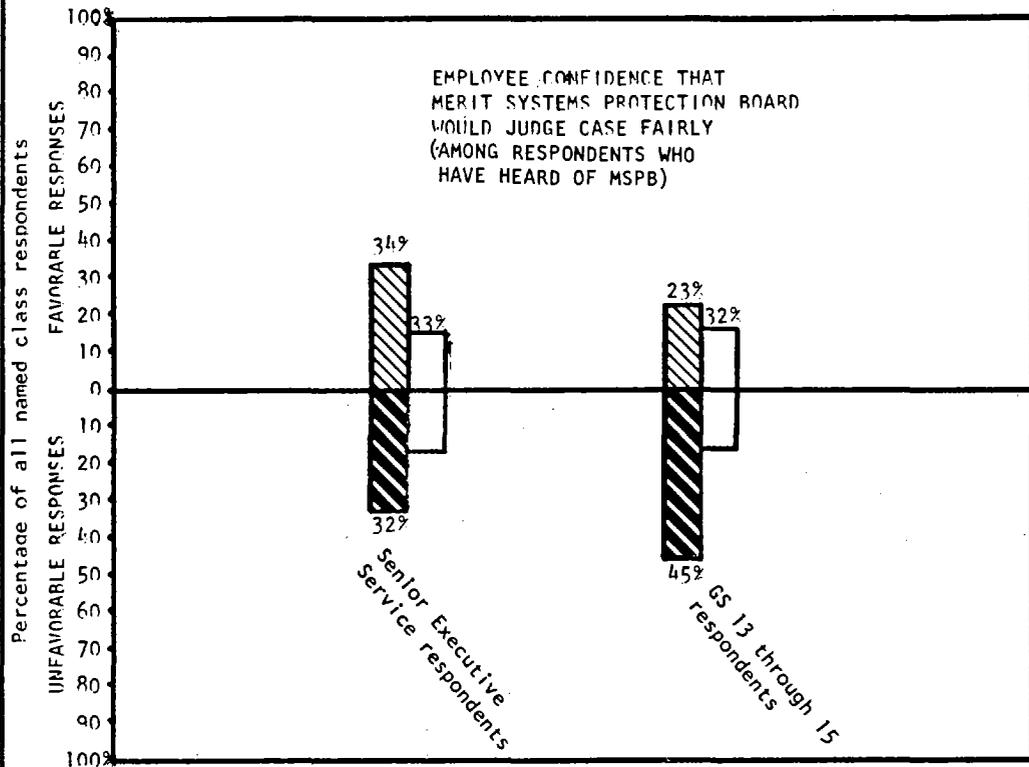
Nevertheless, both the Board and the Special Counsel have acknowledged the problem which low levels of employee awareness present for the healthy functioning of the merit system, and are continuing to take steps to raise the level of awareness. This office will track the success of those efforts in future studies.

Employees who are aware of the Board and the Special Counsel do not have a high degree of confidence in those entities. At least as disturbing as the low level of awareness of employees of the existence and function of the Board and the Special Counsel is the low level of confidence employees expressed in those entities. (Charts 11 and 12.) We should also point out that we have consistently found in our studies that the more experience employees have with new CSRA programs, the more confidence they have in them.

CHART 11

RESPONSES FROM SES AND MID-LEVEL STUDIES

30. How confident are you that the *Merit Systems Protection Board* would judge your case fairly and equitably if you were to appeal a personnel action affecting you?



Based on responses:

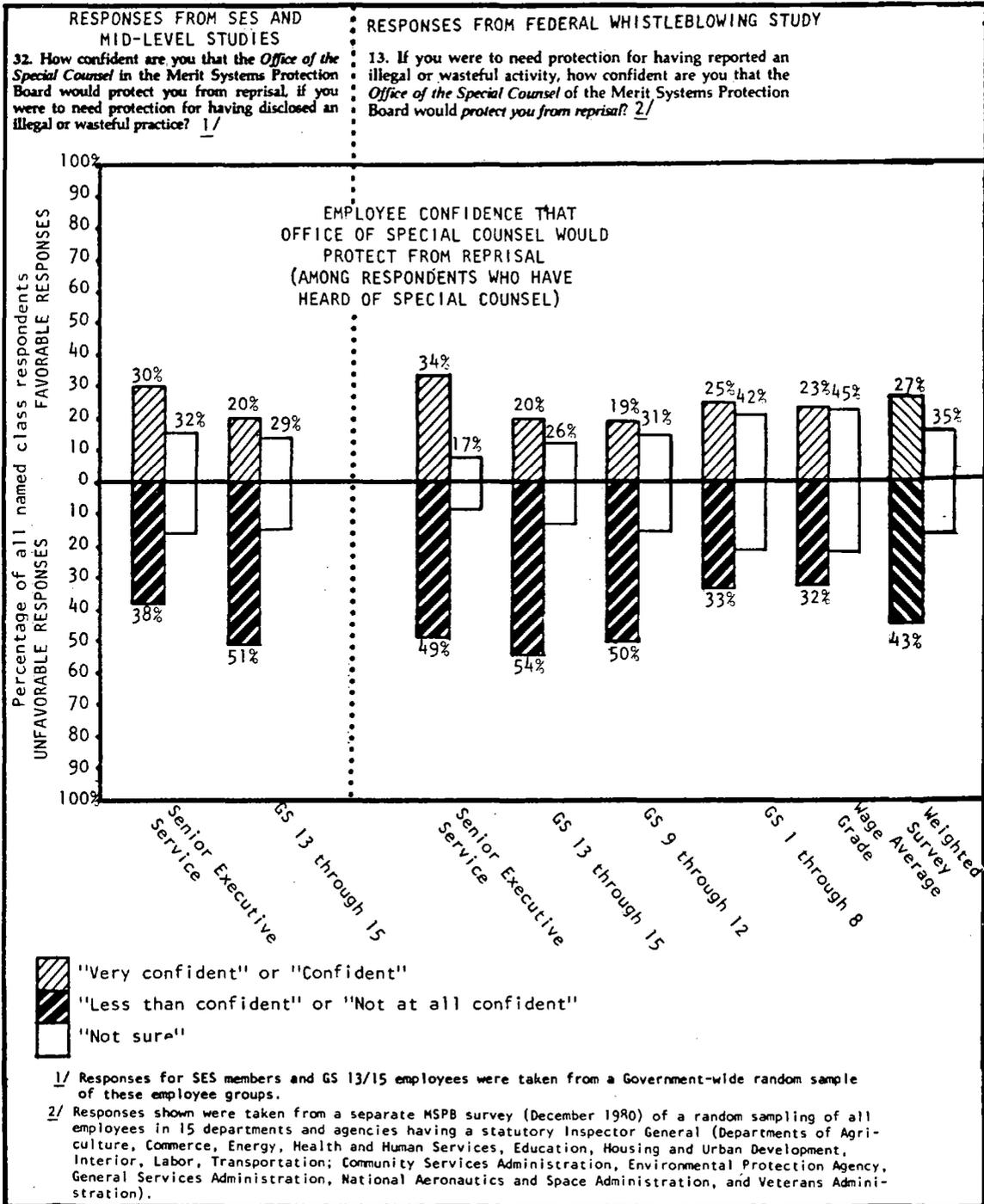


"Very confident" or "Confident"

"Less than confident" or "Not at all confident"

"Not sure"

CHART 12



Of senior executives who had heard of the Board, about one third (34%) said they were "confident" or "very confident" that it would judge their case fairly if they were to appeal to it, another third (32%) said that they were "less than confident" or "not at all confident," while the final third (33%) were "not sure."

Mid-level employees demonstrated even less confidence in the Board. Only 23% of those who had heard of the Board were "confident" or "very confident" that it would judge their case fairly, while 45% said that they were "less than confident" or "not at all confident." The remaining 32% were "not sure."

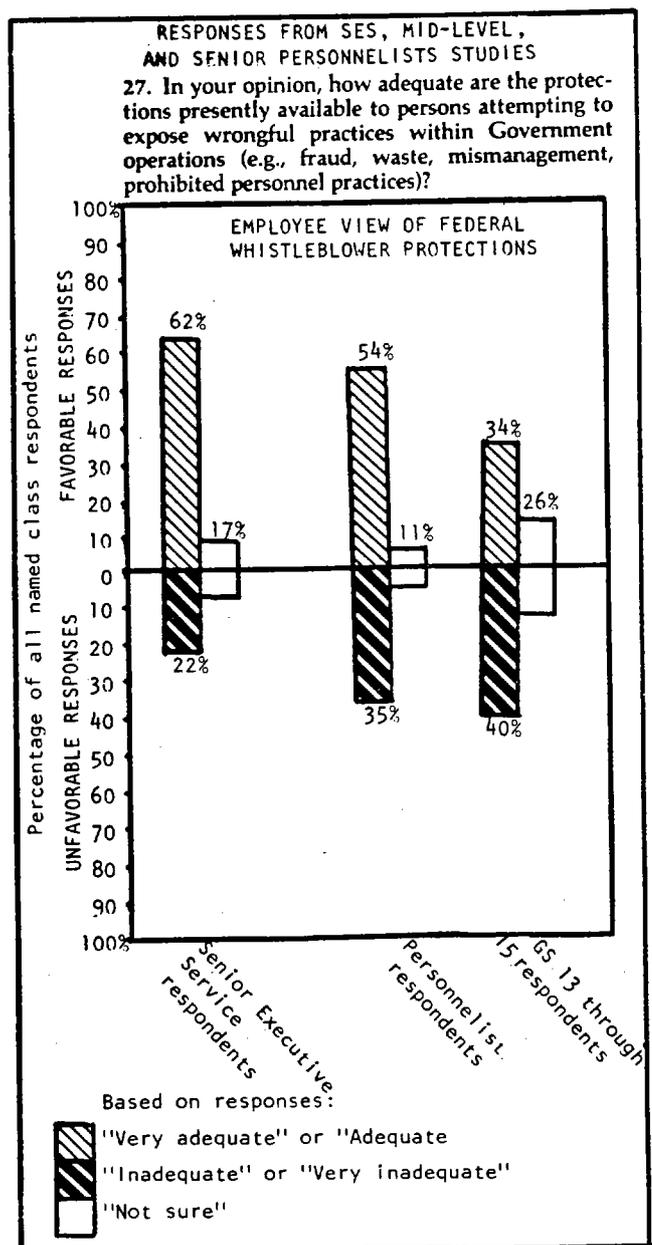
The several groups expressed comparably low confidence that the Special Counsel would protect them from reprisal for having disclosed wrongful activity.

Employees in general are skeptical of the protections supposed to be given to "whistleblowers," although senior executives and senior personnel officials are more optimistic than other classes about these protections. It comes as no surprise that employees generally are skeptical about the effectiveness of the protections intended to be afforded so-called "whistleblowers," given the findings which we discussed in the preceding two sections.

Charts 13 and 14 sets forth in some detail the responses that various groups of employees gave when asked how adequate they thought the protections now afforded whistleblowers are. By far the greatest percentage of each class of respondents in our reprisal survey reserved judgment on the question, answering that they were "not sure" about the adequacy of the protections (Chart 14). On the average, 48% of the respondents selected this response.

The next greatest percentage of respondents in that survey indicated that they felt that the protections could be more adequate. On the average, 34% felt this was so.

CHART 13



Clearly favorable responses were much lower for all classes of respondents in the reprisal study. On the average, only 12% felt that the protections were "as adequate as can be," 5% felt that they were "about right," and a mere 1% that they were "more than adequate."

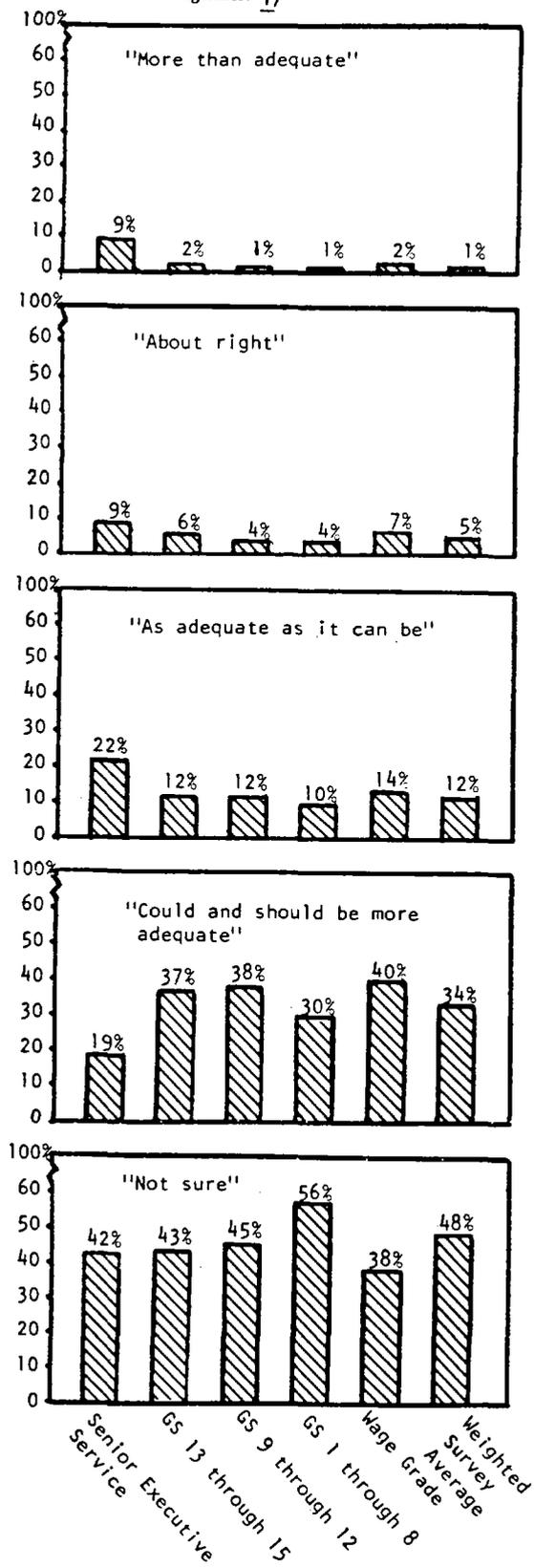
The respondents in our surveys of the senior executive service, senior personnel officials, and mid-level employees were somewhat more optimistic than the broader population surveyed in the reprisal study. Sixty-two percent of senior executive respondents thought the protections were "very adequate" or "adequate," 54% of senior personnel officials thought so, and 34% of mid-level employees agreed. (However, 22%, 35% and 40% of the same groups respectively thought that protections were "inadequate" or "very inadequate.")

The more optimistic view of senior executives and senior personnel officials might be explained in several ways. As indicated in our discussion of awareness of central protection mechanisms, senior officials tend to have a more complete "overview" of the Federal system. They may therefore be more aware of the potentially powerful remedies built into the law for "whistleblowers."

It is also probably true that senior executives and senior personnel officials have a good deal more continuing contact with these protection mechanisms than do individual employees, who may never have occasion to utilize such a mechanism or may see it operate only once or twice. Senior personnel officials thus are more likely to have a more balanced view of successes as well as failures in the protection system.

RESPONSES FROM FEDERAL WHISTLEBLOWING STUDY 1/

2. How adequate is the protection the Federal Government now offers to employees who report illegal or wasteful activities within their agencies? 1/



1/ Responses shown were taken from a separate MSPB survey (December 1980) of a random sampling of employees in 15 departments and agencies having a statutory Inspector General (Departments of Agriculture, Commerce, Energy, Health and Human Services, Education, Housing and Urban Development, Interior, Labor, Transportation; Community Services Administration, Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, and Veterans Administration).

CONCLUSION

The information we have reported and discussed in this monograph illustrates that the Federal merit system is an imperfect system. Since it would be foolish to suppose that some magical moment will ever arrive at which the system will be perfect, our intention here is not to degrade the system, but to shed some light on specific areas which can be improved.

All who are responsible for the health of the merit system, including especially the head of each agency, can build on the data presented here to improve the system.

Copies of this monograph have been delivered to **agency heads**. Each can examine and follow-up on the agency-specific data reported here, to determine whether their agency has a problem with prohibited personnel practices, why that problem exists, and what they can do to meet their statutory obligation to prevent such practices.

The Special Counsel has also been given the data reported here, and may well find it useful in examining agency patterns and practices.

The Merit Systems Protection Board itself will continue to monitor **individual agency indicators** as they develop over time. Where a consistent, continuing pattern of reported abuse occurs, the Office of Merit Systems Review and Studies may be directed to conduct more intensive, agency-specific investigations. (This tool for monitoring the health of the merit system is, incidentally, one of the great benefits of the approach to building a comprehensive data base over time which the Office has followed.)

The Office of Personnel Management can focus on agency patterns in the activities of its program of agency compliance and evaluation, and can develop more effective systems to monitor abusive appointments to the competitive service on account of political affiliation.

The Board and the Special Counsel can continue their programs to better inform Federal employees of their existence and functions.

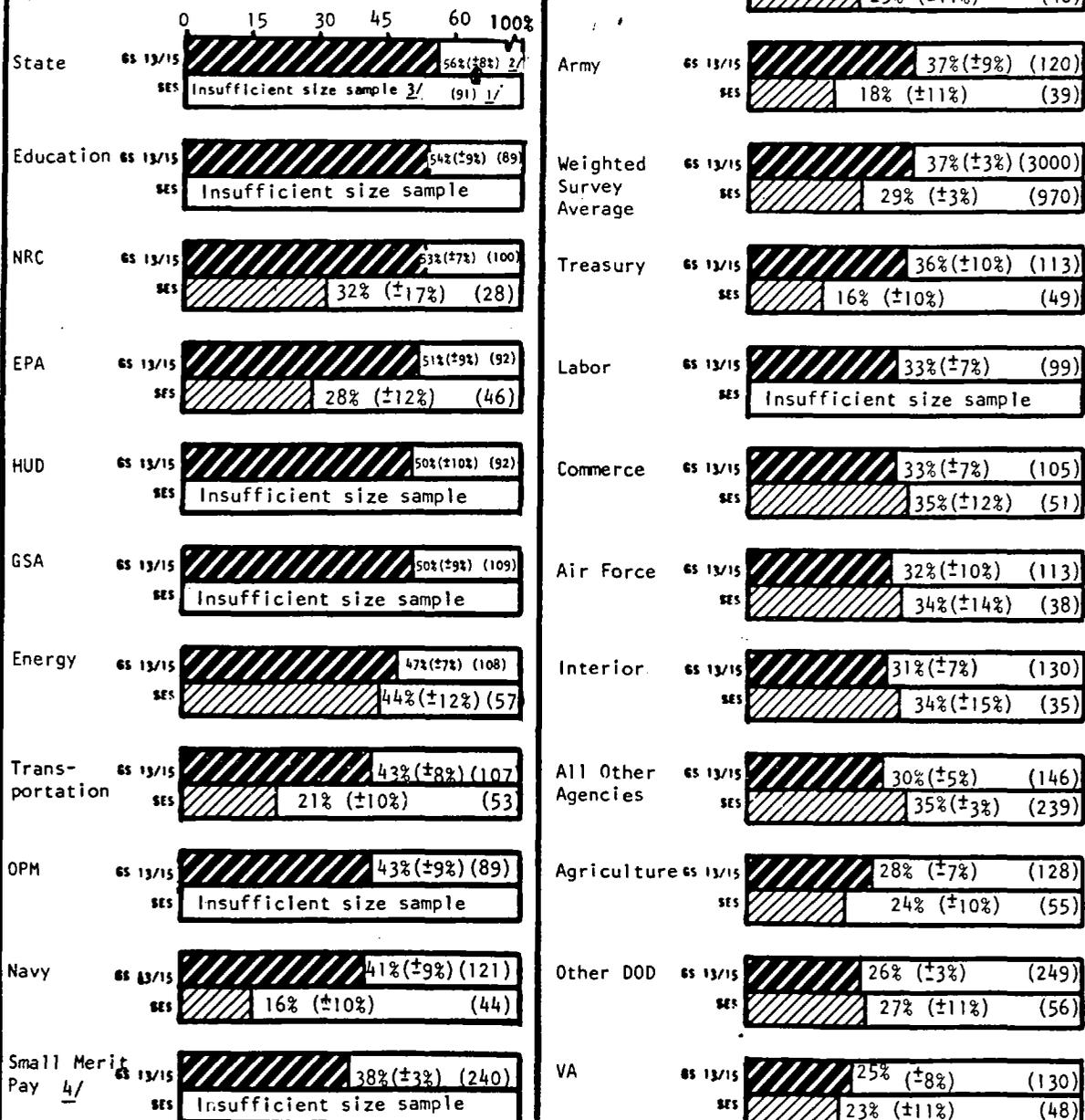
APPENDIX A
AGENCY SPECIFIC DATA

CHART 15

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF A SELECTION FOR JOB OR JOB REWARD BASED PRIMARILY ON THE "BUDDY SYSTEM." (Q34j.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

 SES respondents
  GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

3/ We have included agency-specific data from those departments and agencies where we received a sufficient number of responses to provide statistically reliable information. The sample of mid-level employees within individual agencies was much larger than the sample of SES members. Consequently, there are some agencies for which we are able to report on the views of mid-level employees, but not for senior executives. (Agency-specific data was not available from our 1981 survey of senior personnelists.)

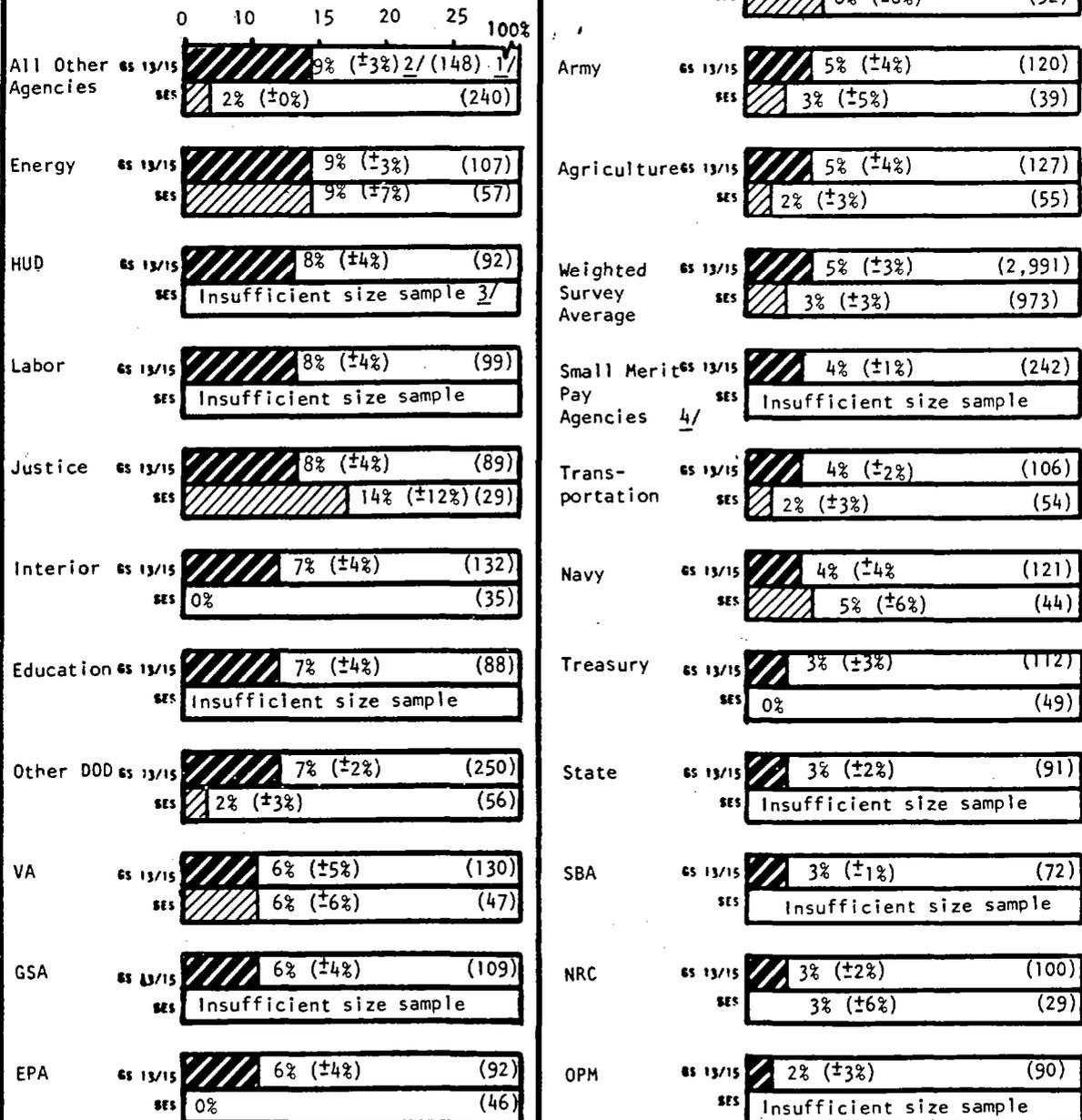
4/ This category—Small Merit Pay Agencies—combines the responses from the five smallest agencies implementing Merit Pay in October 1980: Civil Aeronautics Board, Commission on Civil Rights, Farm Credit Administration, Selective Service System, and U.S. Metric Board. Three other agencies—Office of Personnel Management, Environmental Protection Agency, and Small Business Administration—also implemented Merit Pay in October 1980. These agencies are shown separately, because the number of respondents was sufficiently large to allow for statistically reliable comparisons.

CHART 16

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF A SELECTION FOR JOB OR JOB REWARD BASED ON FAMILY RELATIONSHIP. (Q341.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

SES respondents GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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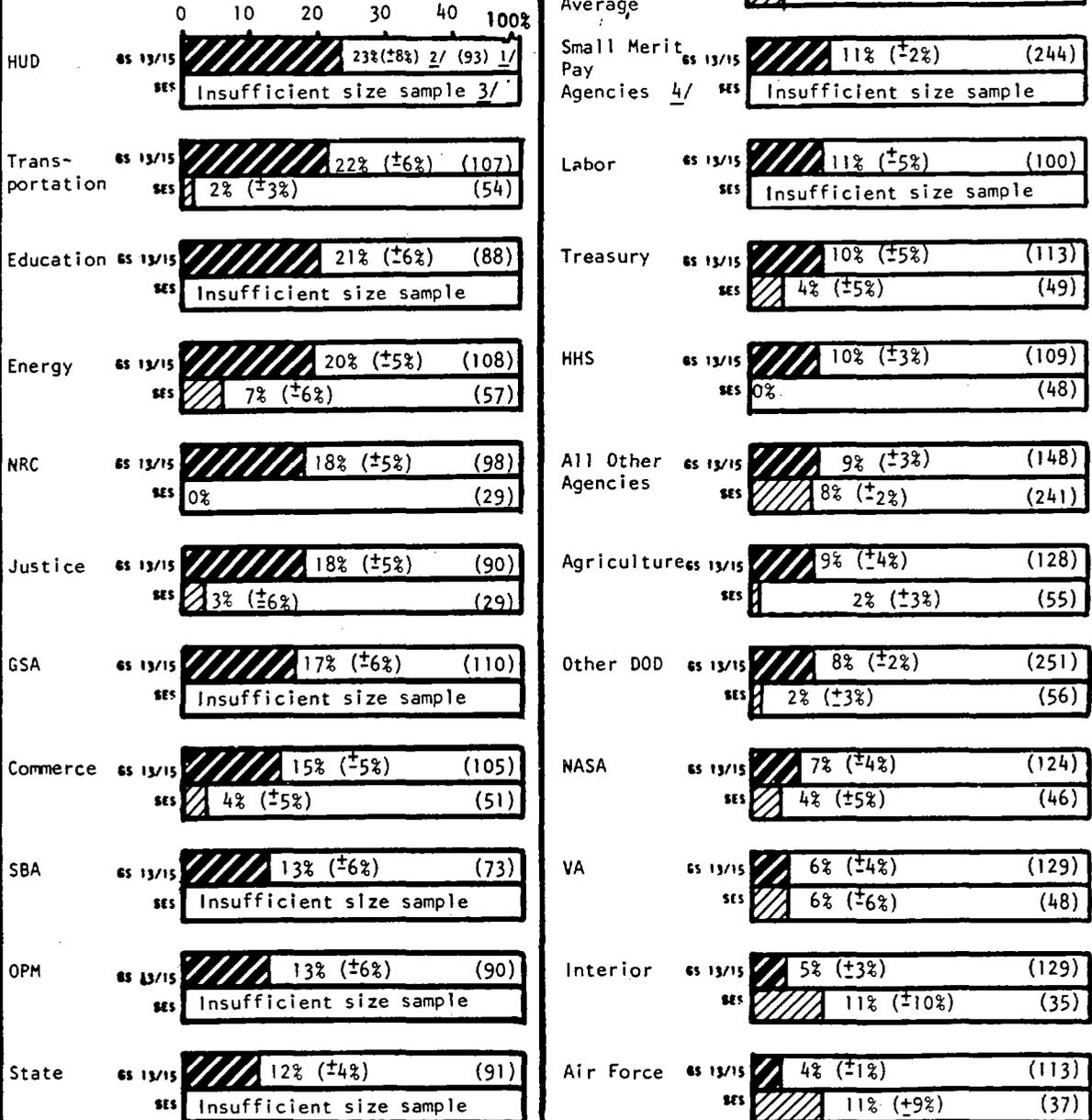
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CHART 17

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF AN ATTEMPT TO GET BACK AT SOMEONE BECAUSE HE OR SHE FILED A FORMAL APPEAL. (Q34g.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

SES respondents GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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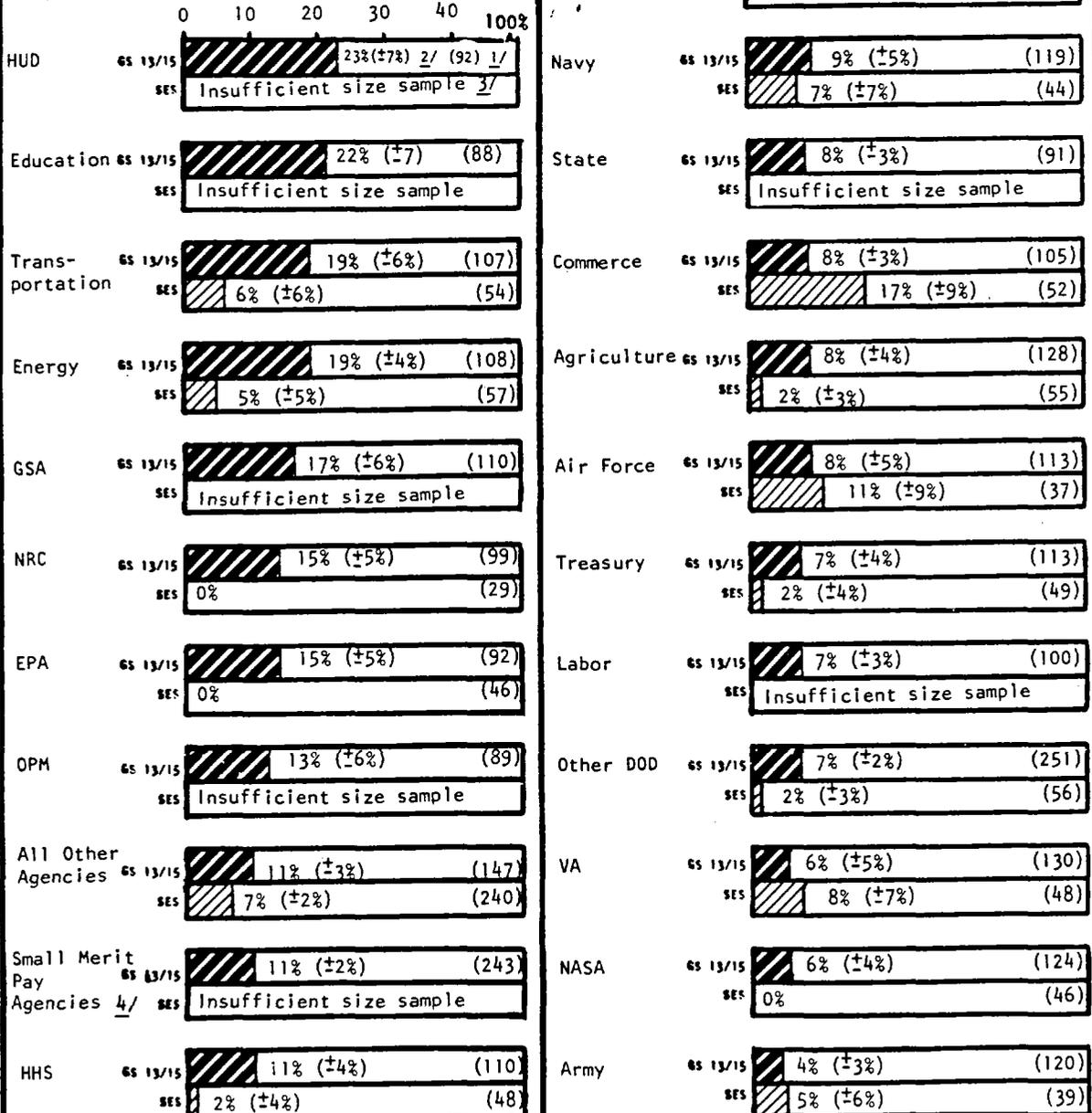
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CHART 18

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF AN ATTEMPT TO GET BACK AT SOMEONE BECAUSE HE OR SHE DISCLOSED SOME WRONGFUL ACTIVITY IN THE AGENCY. (Q34f.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

 SES respondents
  GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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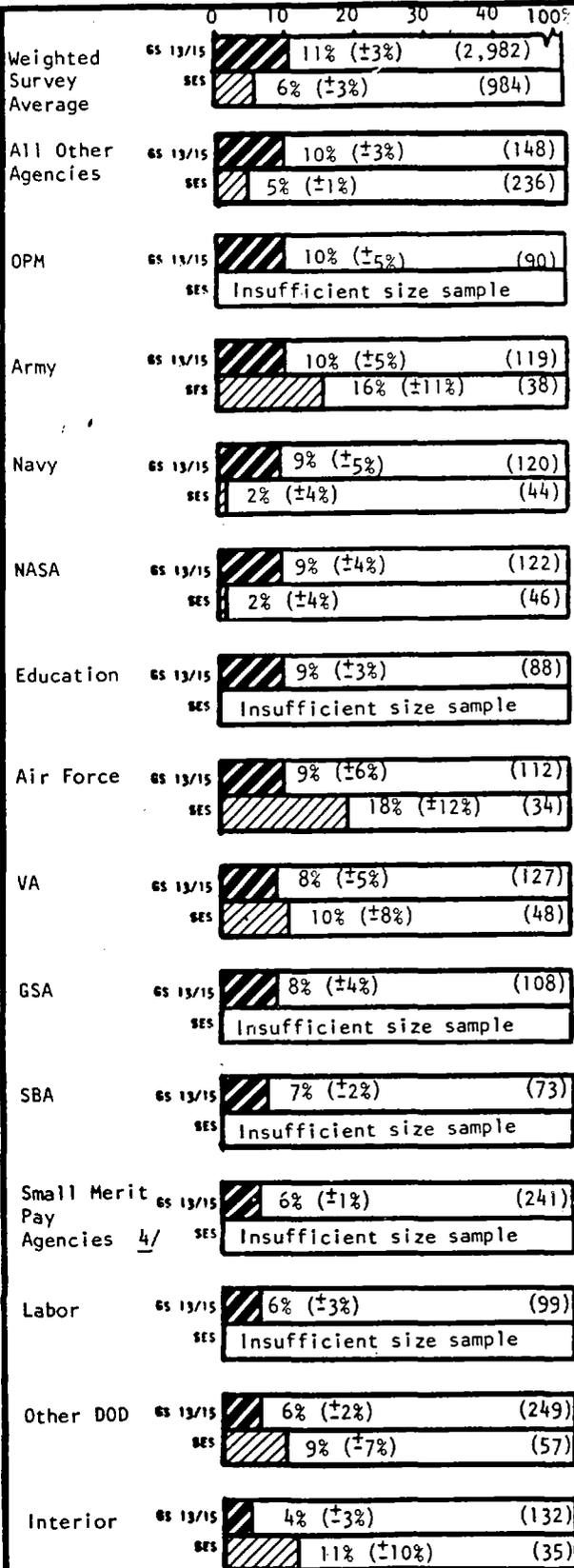
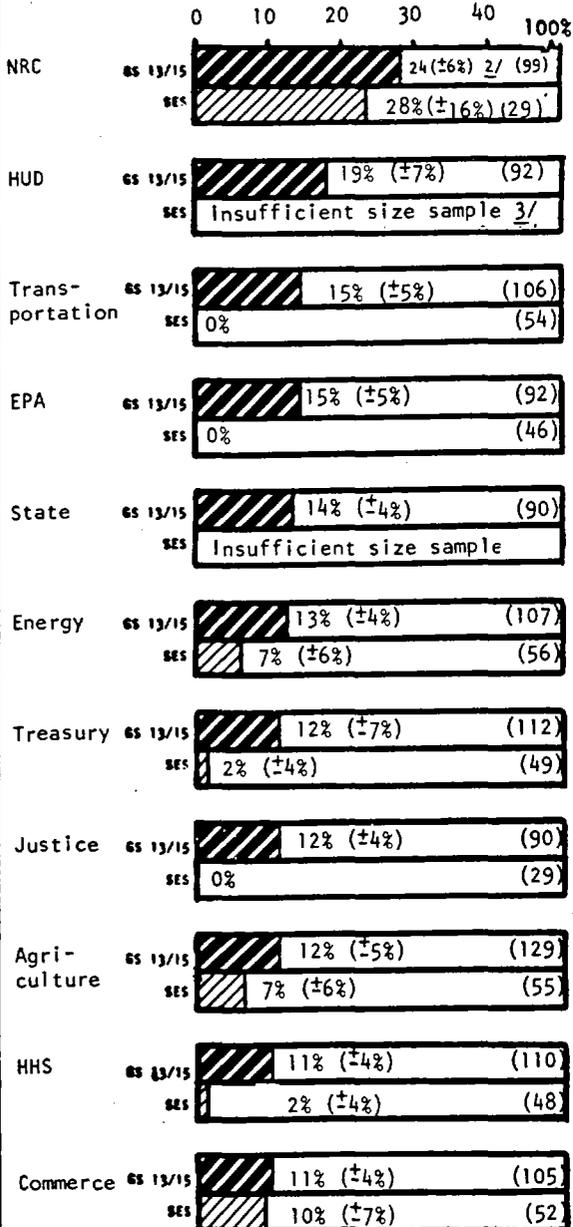
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CHART 19

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF A PERSON BEING DENIED A JOB OR JOB REWARD ON ACCOUNT OF AGE. (Q35d.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

SES respondents GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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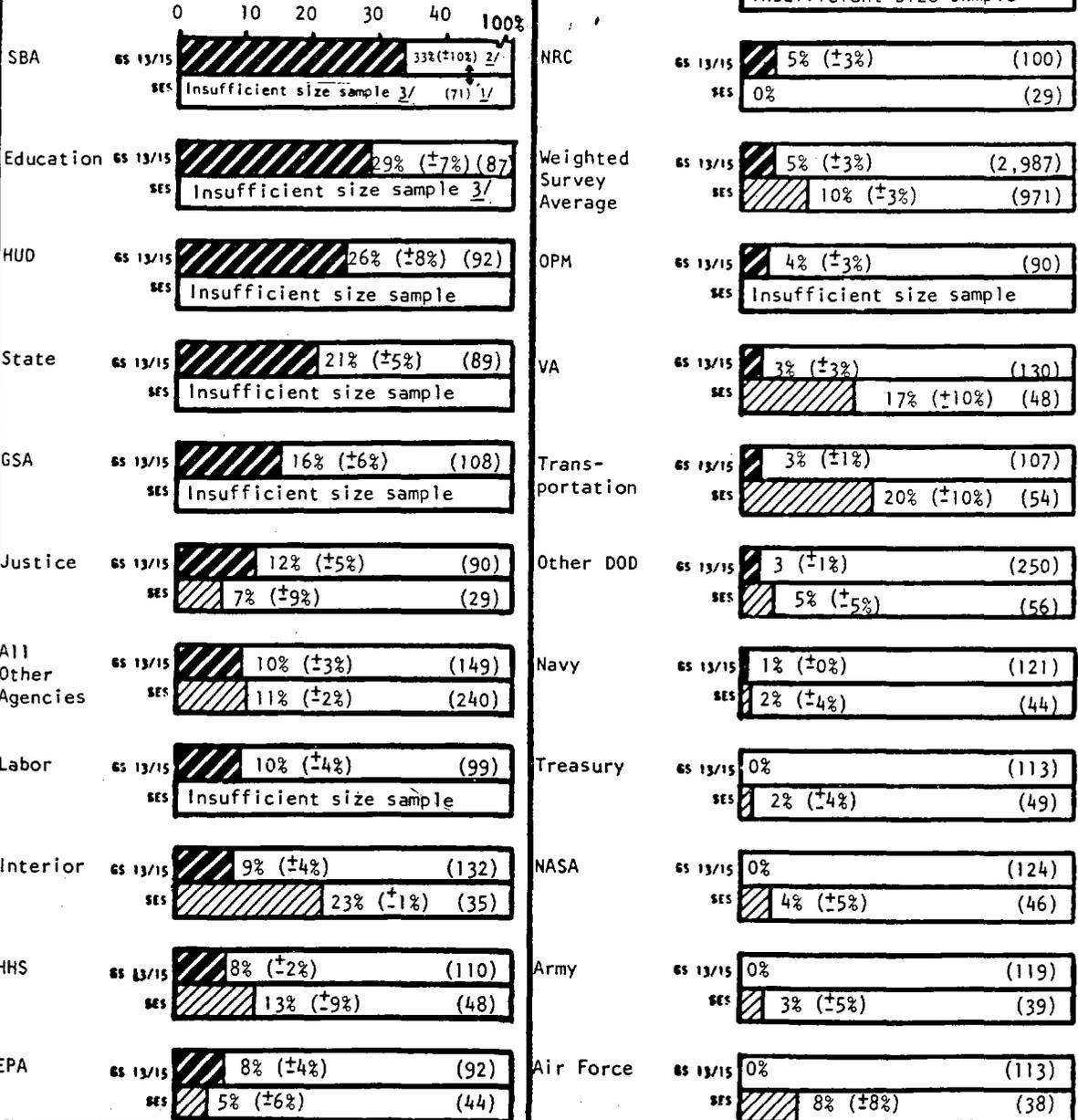
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CHART 20

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF AN APPOINTMENT TO THE COMPETITIVE SERVICE MADE AS A RESULT OF POLITICAL PARTY AFFILIATION. (Q34e.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

SES respondents GS 13/15 respondents



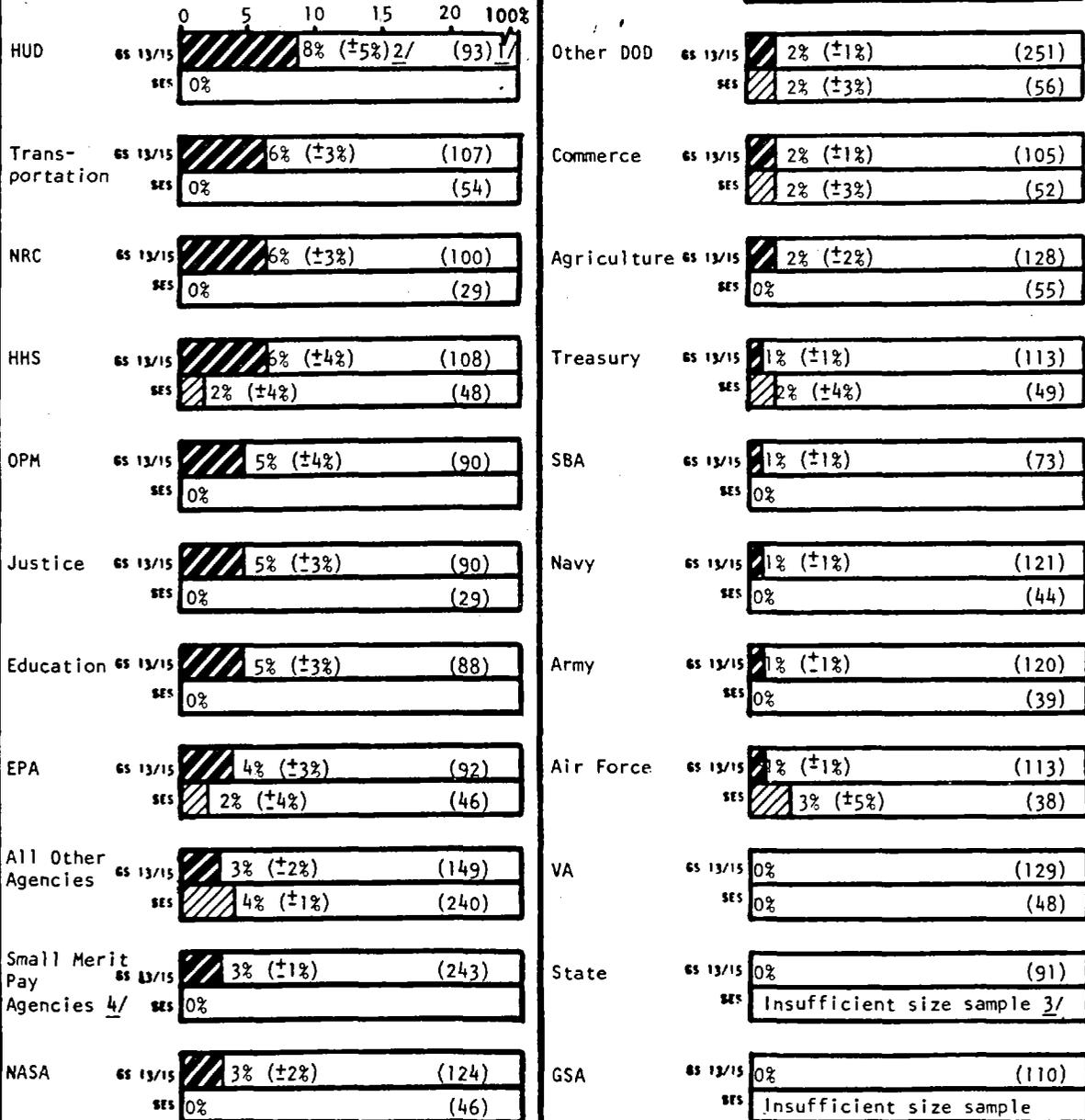
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 4/ This category—Small Merit Pay Agencies—combines the responses from the five smallest agencies implementing Merit Pay in October 1980: Civil Aeronautics Board, Commission on Civil Rights, Farm Credit Administration, Selective Service System, and U.S. Metric Board. Three other agencies—Office of Personnel Management, Environmental Protection Agency, and Small Business Administration—also implemented Merit Pay in October 1980. These agencies are shown separately, because the number of respondents was sufficiently large to allow for statistically reliable comparisons.

CHART 21

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF AN EMPLOYEE BEING PRESSURED BY A SUPERVISOR FOR SEXUAL FAVORS. (Q341.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

SES respondents GS 13/15 respondents



^{1/} The number in parentheses indicates the total number of respondents from the agency who answered this question.

^{2/} The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

^{3/} We have included agency-specific data from those departments and agencies where we received a sufficient number of responses to provide statistically reliable information. The sample of mid-level employees within individual agencies was much larger than the sample of SES members. Consequently, there are some agencies for which we are able to report on the views of mid-level employees, but not for senior executives. (Agency-specific data was not available from our 1981 survey of senior personnelists.)

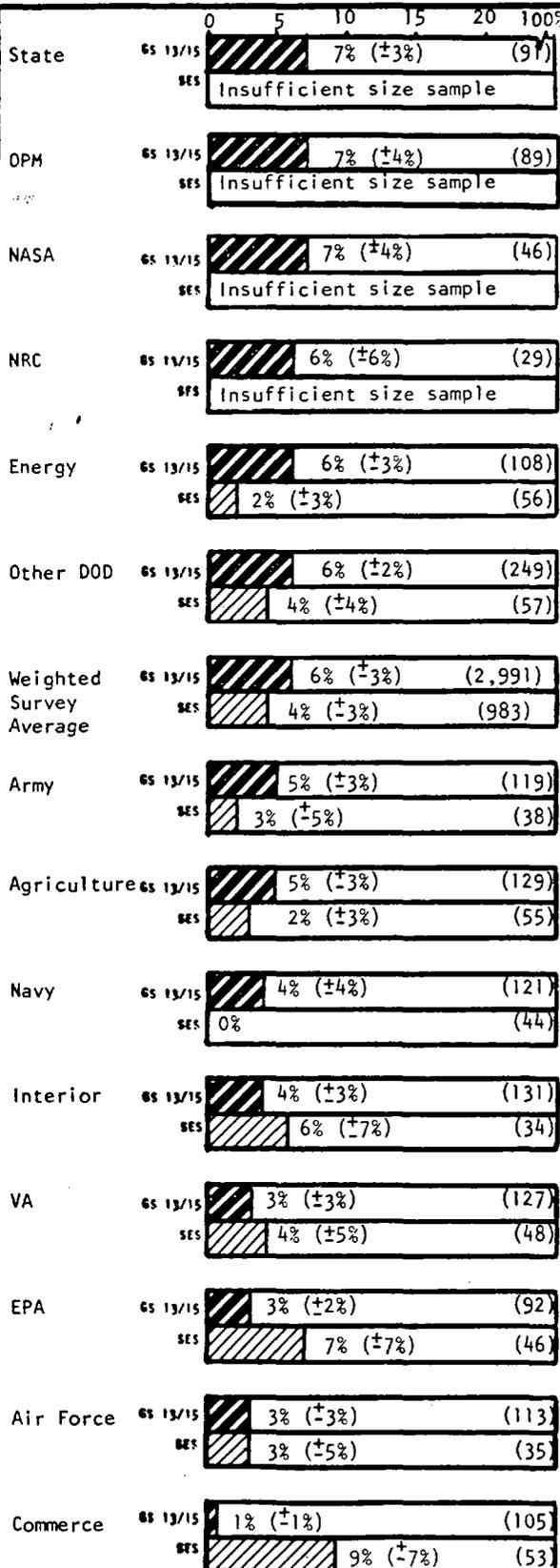
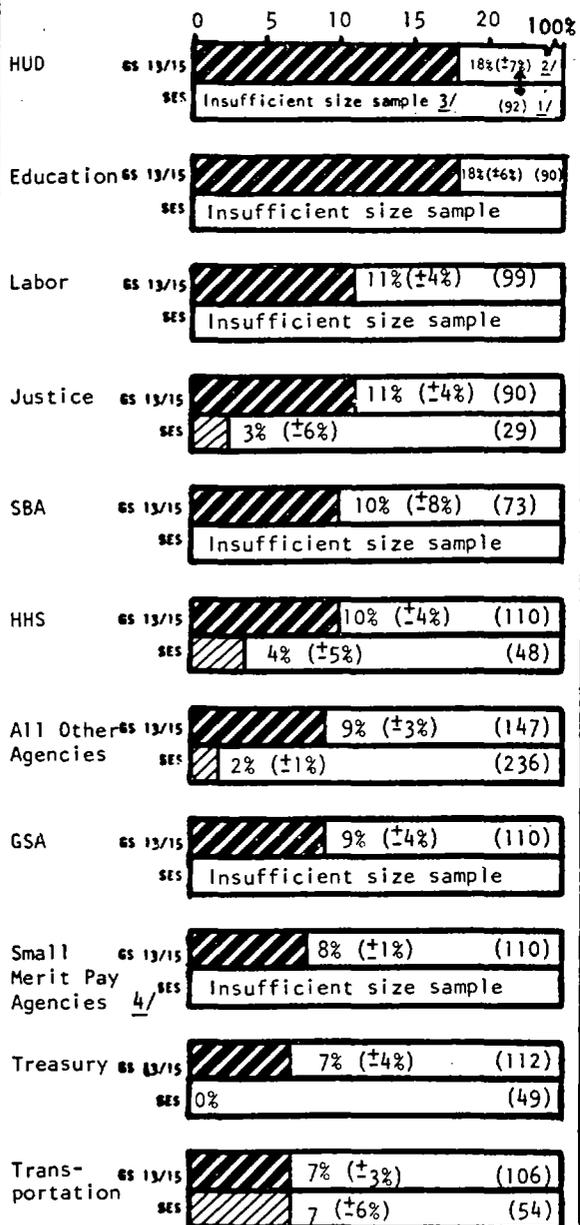
^{4/} This category—Small Merit Pay Agencies—combines the responses from the five smallest agencies implementing Merit Pay in October 1980: Civil Aeronautics Board, Commission on Civil Rights, Farm Credit Administration, Selective Service System, and U.S. Metric Board. Three other agencies—Office of Personnel Management, Environmental Protection Agency, and Small Business Administration—also implemented Merit Pay in October 1980. These agencies are shown separately, because the number of respondents was sufficiently large to allow for statistically reliable comparisons.

CHART 22

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF A PERSON BEING DENIED A JOB OR JOB REWARD ON ACCOUNT OF RACE, COLOR, OR NATIONAL ORIGIN. (Q35b.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

 SES respondents
  GS 13/15 respondents



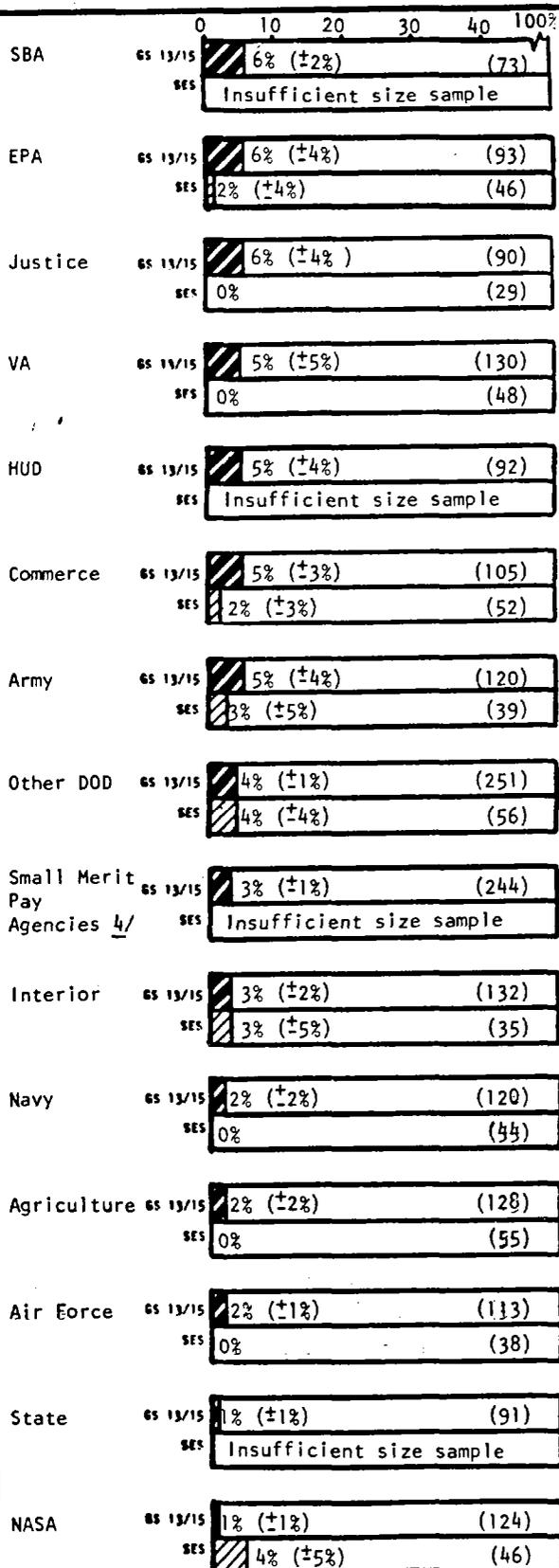
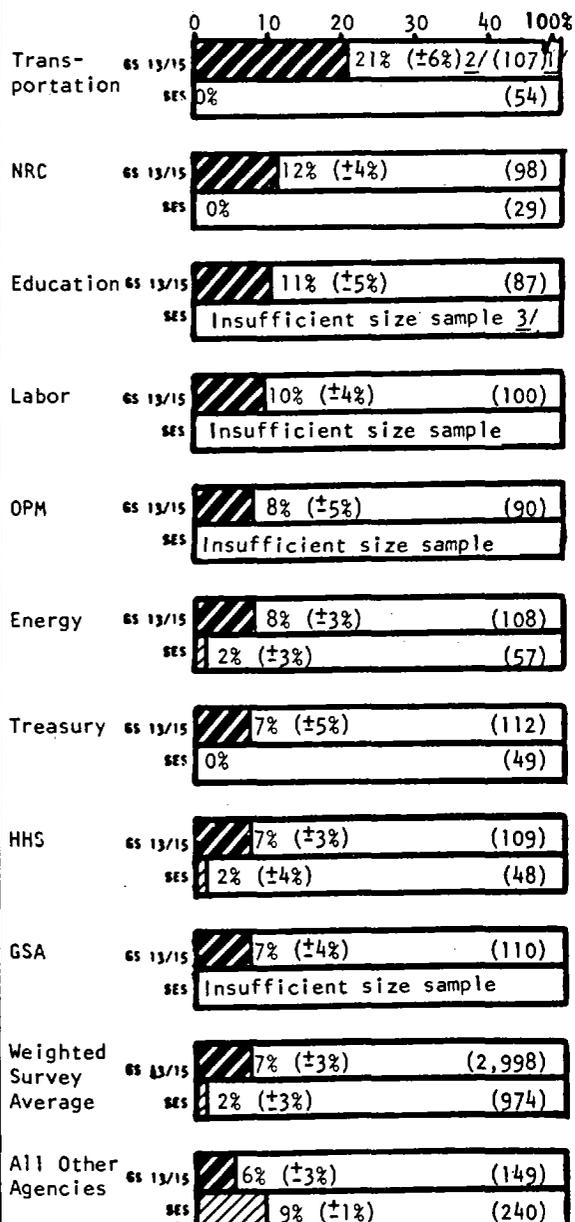
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CHART 23

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF AN ATTEMPT TO GET BACK AT SOMEONE BECAUSE HE OR SHE ENGAGED IN LAWFUL UNION ACTIVITY. (Q34k.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

 SES respondents  GS 13/15 respondents



^{1/} The number in parentheses indicates the total number of respondents from the agency who answered this question.

^{2/} The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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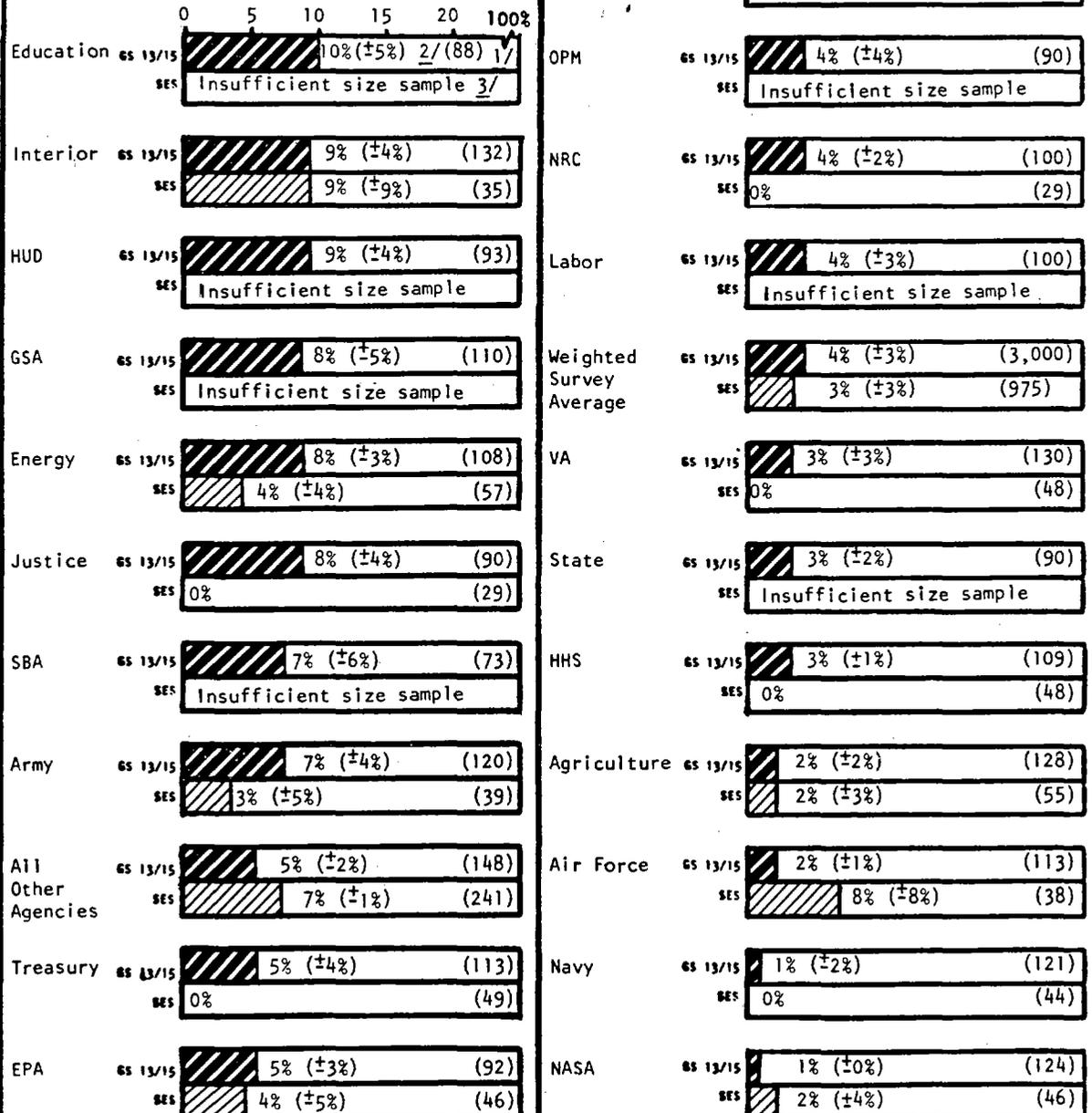
^{4/} This category—Small Merit Pay Agencies—combines the responses from the five smallest agencies implementing Merit Pay in October 1980: Civil Aeronautics Board, Commission on Civil Rights, Farm Credit Administration, Selective Service System, and U.S. Metric Board. Three other agencies—Office of Personnel Management, Environmental Protection Agency, and Small Business Administration—also implemented Merit Pay in October 1980. These agencies are shown separately, because the number of respondents was sufficiently large to allow for statistically reliable comparisons.

CHART 24

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF AN ATTEMPT TO INFLUENCE SOMEONE TO WITHDRAW FROM COMPETITION FOR A FEDERAL JOB IN ORDER TO HELP ANOTHER PERSON'S CHANCES FOR GETTING THE JOB. (Q34h.)

Based on responses:
"Yes, more than one instance" or
"Yes, one instance"

SES respondents GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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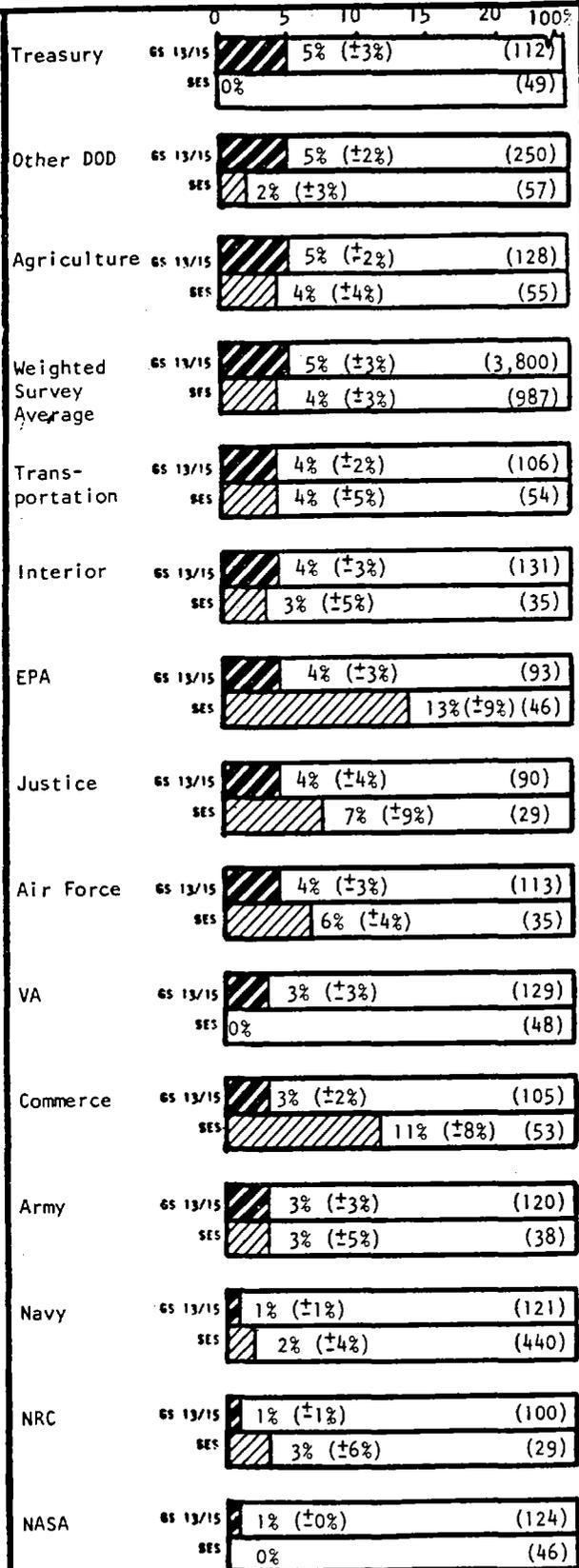
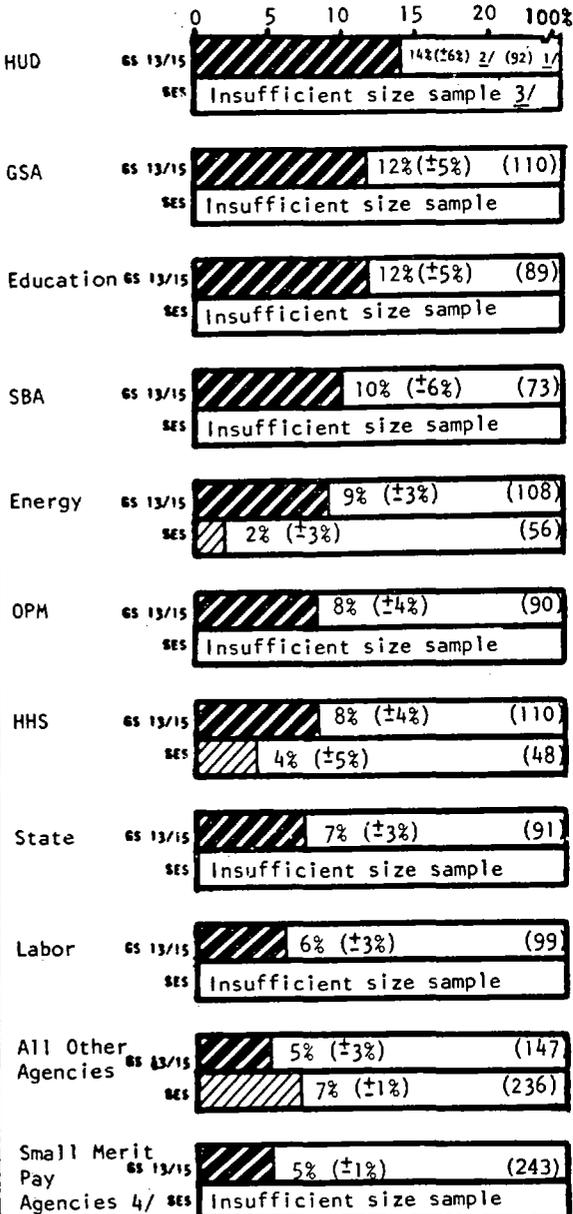
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CHART 25

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF A PERSON BEING DENIED A JOB OR JOB REWARD ON ACCOUNT OF SEX. (Q35a.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

SES respondents GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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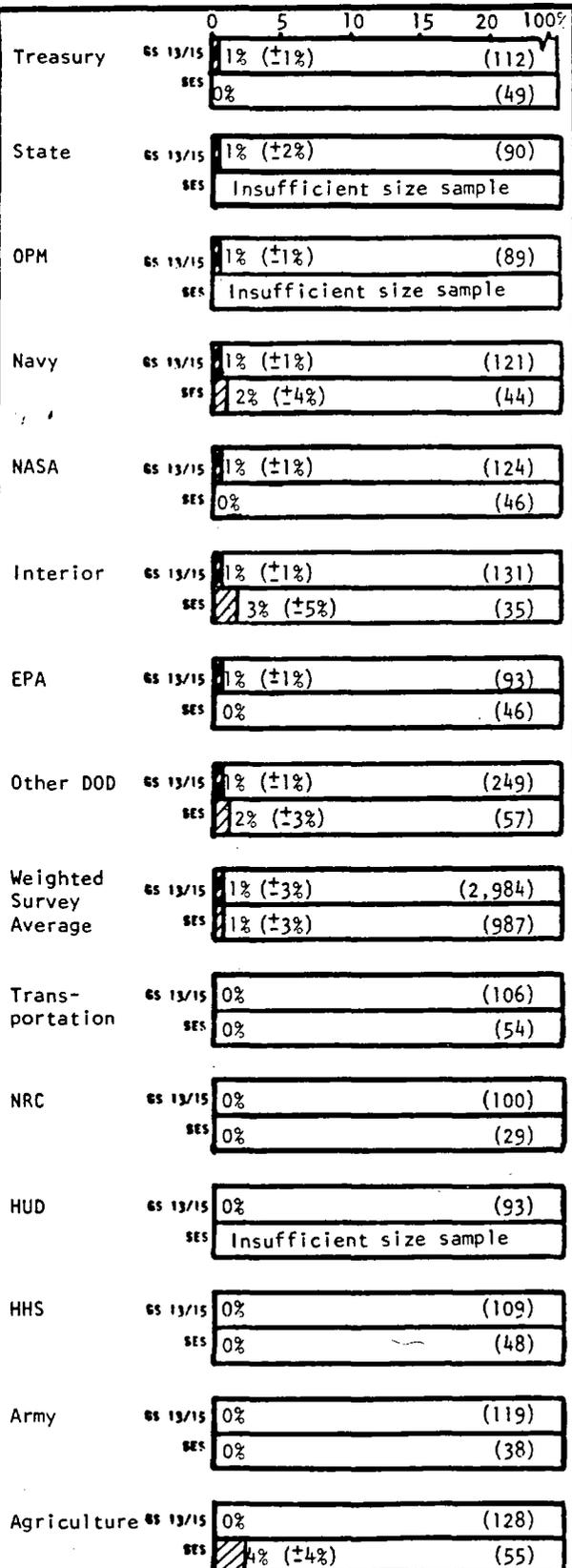
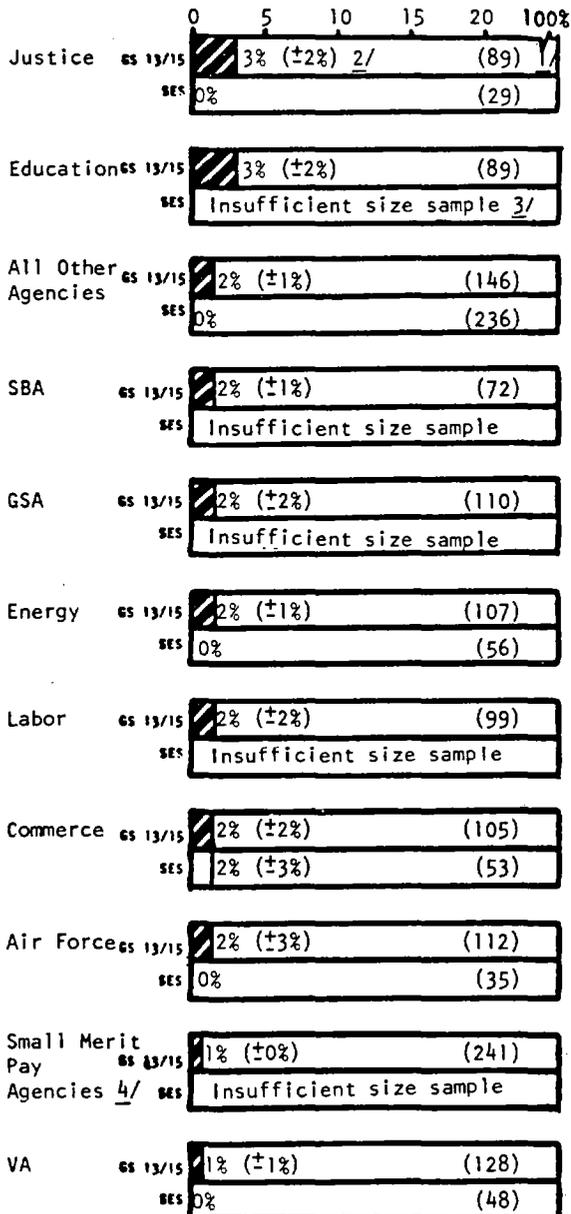
4/ This category—Small Merit Pay Agencies—combines the responses from the five smallest agencies implementing Merit Pay in October 1980: Civil Aeronautics Board, Commission on Civil Rights, Farm Credit Administration, Selective Service System, and U.S. Metric Board. Three other agencies—Office of Personnel Management, Environmental Protection Agency, and Small Business Administration—also implemented Merit Pay in October 1980. These agencies are shown separately, because the number of respondents was sufficiently large to allow for statistically reliable comparisons.

CHART 26

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF A PERSON BEING DENIED A JOB OR JOB REWARD ON ACCOUNT OF A HANDICAP UNRELATED TO JOB REQUIREMENTS. (Q35e.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

SES respondents GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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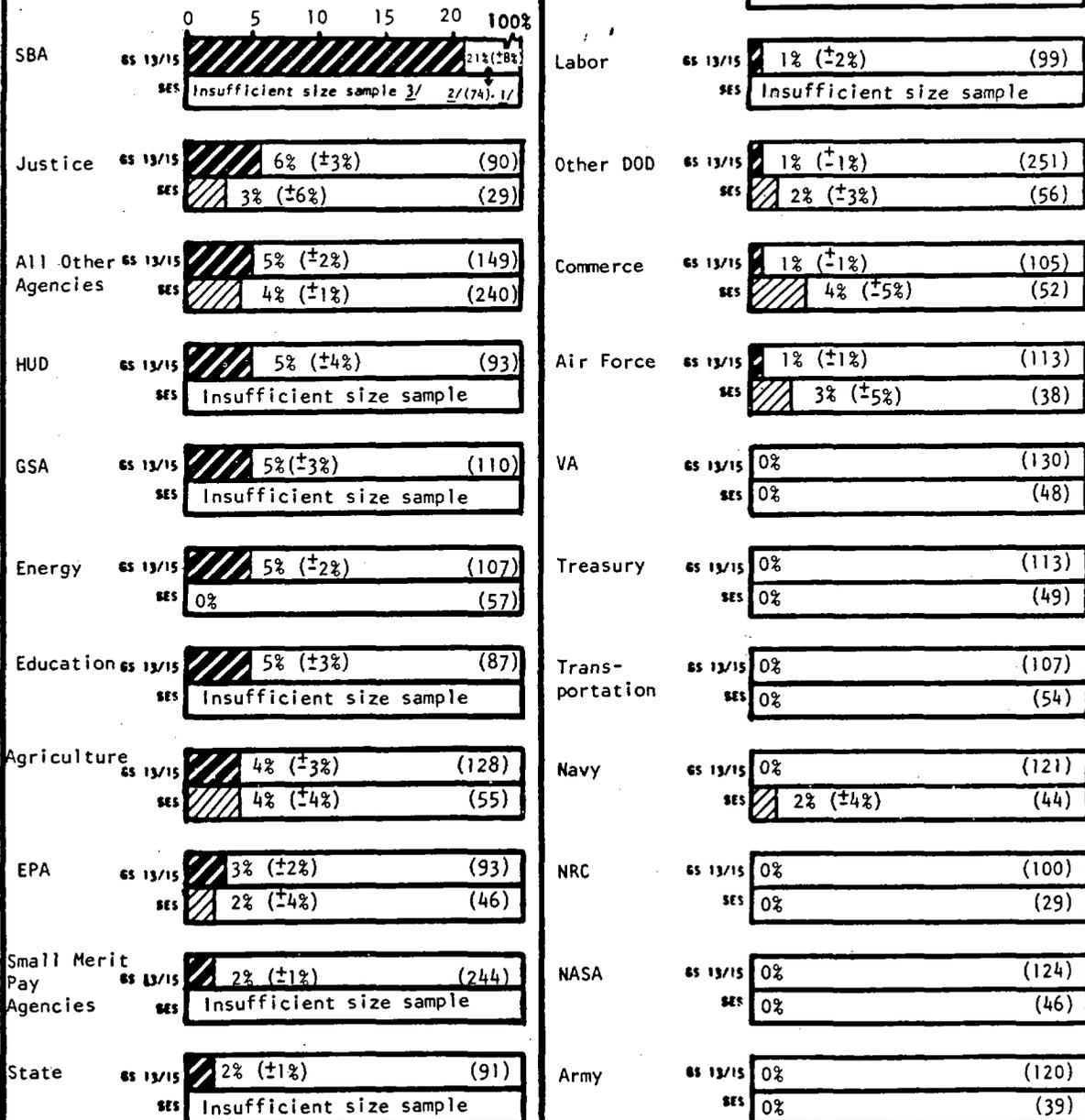
4/ This category—Small Merit Pay Agencies—combines the responses from the five smallest agencies implementing Merit Pay in October 1980: Civil Aeronautics Board, Commission on Civil Rights, Farm Credit Administration, Selective Service System, and U.S. Metric Board. Three other agencies—Office of Personnel Management, Environmental Protection Agency, and Small Business Administration—also implemented Merit Pay in October 1980. These agencies are shown separately, because the number of respondents was sufficiently large to allow for statistically reliable comparisons.

CHART 27

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF A CAREER EMPLOYEE BEING PRESSURED TO RESIGN OR TRANSFER ON ACCOUNT OF HIS OR HER POLITICAL AFFILIATION. (Q34d.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

 SES respondents  GS 13/15 respondents



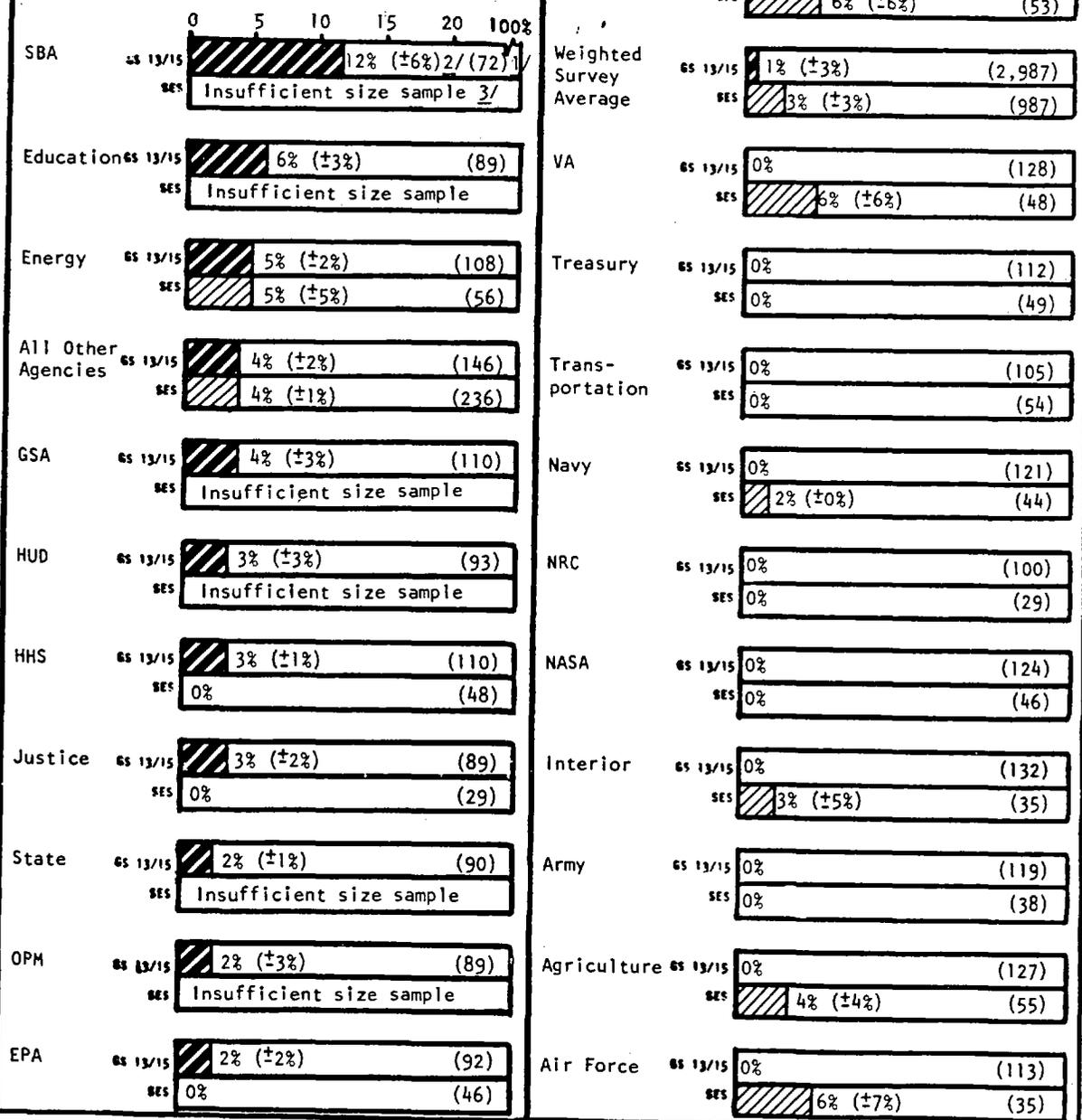
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 4/ This category—Small Merit Pay Agencies—combines the responses from the five smallest agencies implementing Merit Pay in October 1980: Civil Aeronautics Board, Commission on Civil Rights, Farm Credit Administration, Selective Service System, and U.S. Metric Board. Three other agencies—Office of Personnel Management, Environmental Protection Agency, and Small Business Administration—also implemented Merit Pay in October 1980. These agencies are shown separately, because the number of respondents was sufficiently large to allow for statistically reliable comparisons.

CHART 28

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF A PERSON BEING DENIED A JOB OR JOB REWARD ON ACCOUNT OF POLITICAL AFFILIATION. (Q35g.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

SES respondents GS 13/15 respondents



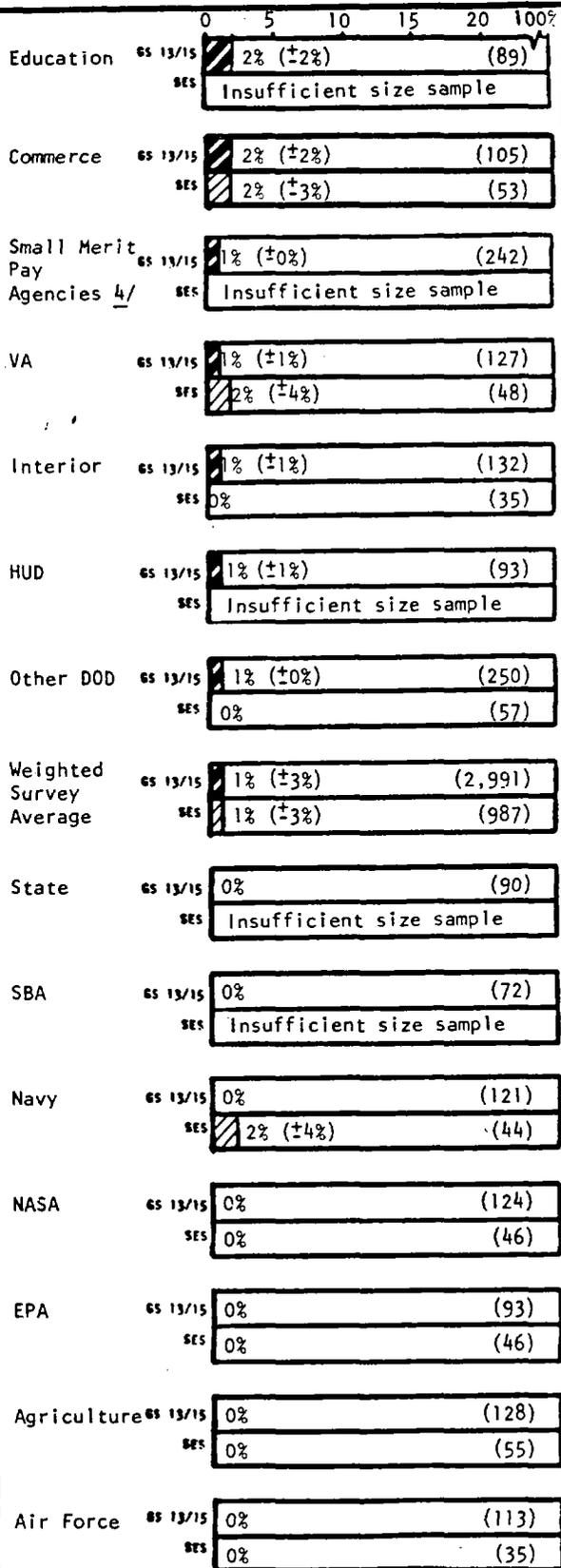
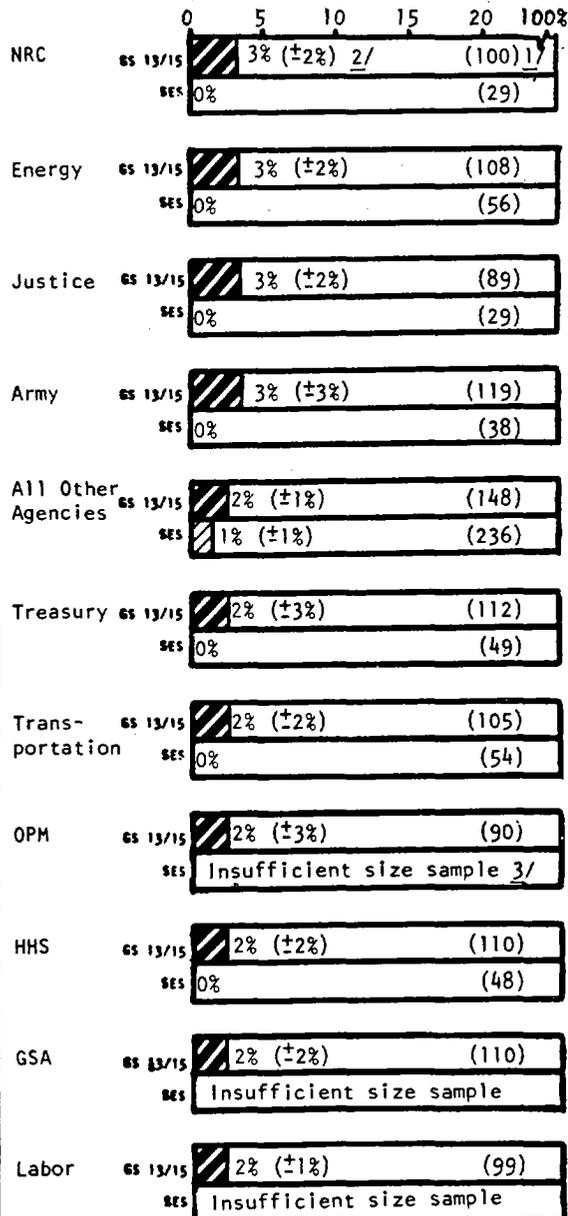
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CHART 29

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF A PERSON BEING DENIED A JOB OR JOB REWARD ON ACCOUNT OF MARITAL STATUS. (Q35f.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

 SES respondents  GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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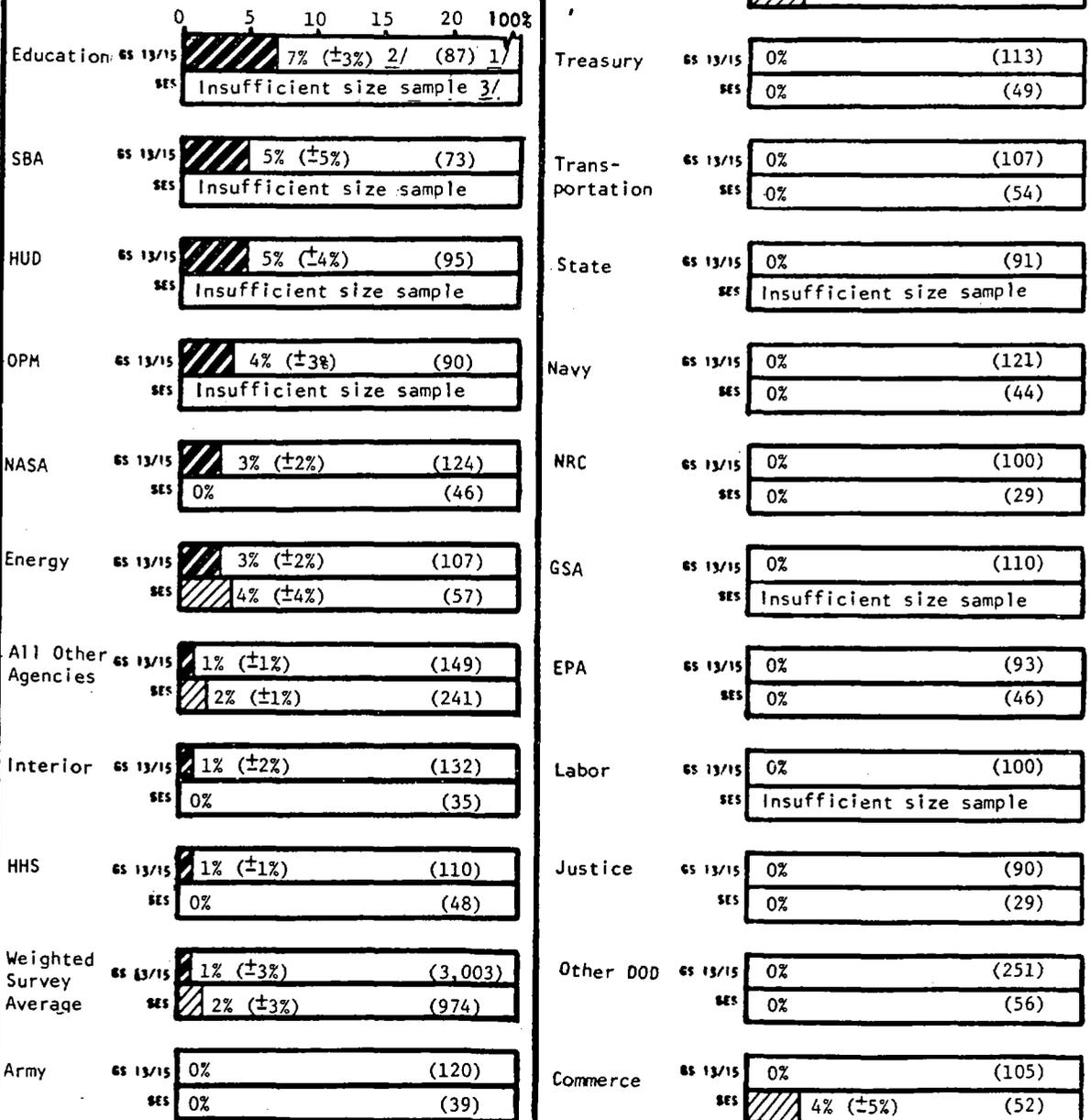
4/ This category—Small Merit Pay Agencies—combines the responses from the five smallest agencies implementing Merit Pay in October 1980: Civil Aeronautics Board, Commission on Civil Rights, Farm Credit Administration, Selective Service System, and U.S. Metric Board. Three other agencies—Office of Personnel Management, Environmental Protection Agency, and Small Business Administration—also implemented Merit Pay in October 1980. These agencies are shown separately, because the number of respondents was sufficiently large to allow for statistically reliable comparisons.

CHART 30

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF AN EMPLOYEE ACTIVELY SEEKING PARTISAN POLITICAL OFFICE OR RAISING FUNDS ON BEHALF OF A PARTISAN POLITICAL CANDIDATE. (Q34c.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

 SES respondents
  GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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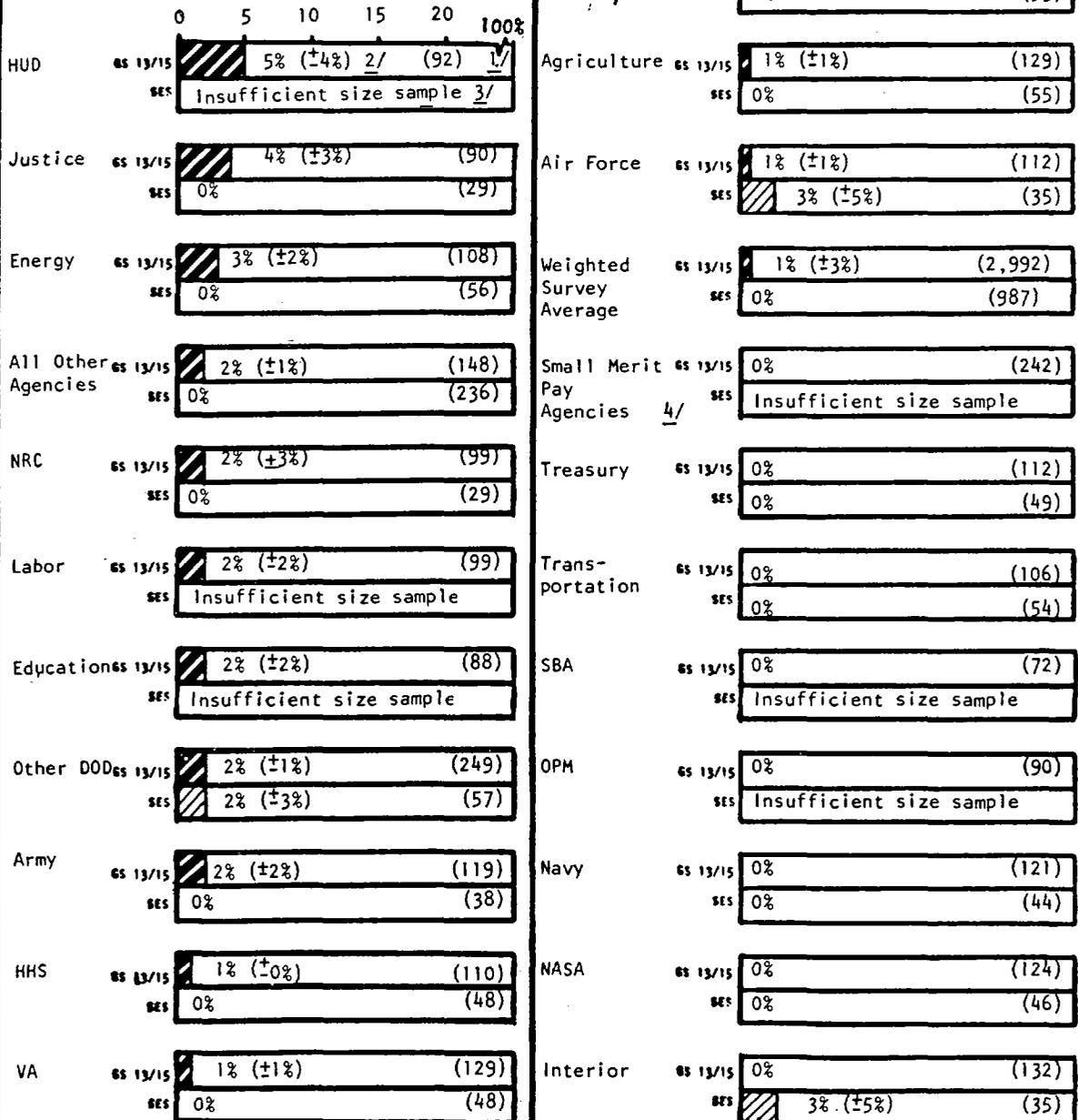
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CHART 31

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF A PERSON BEING DENIED A JOB OR JOB REWARD ON ACCOUNT OF RELIGION. (Q35c.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

SES respondents GS 13/15 respondents



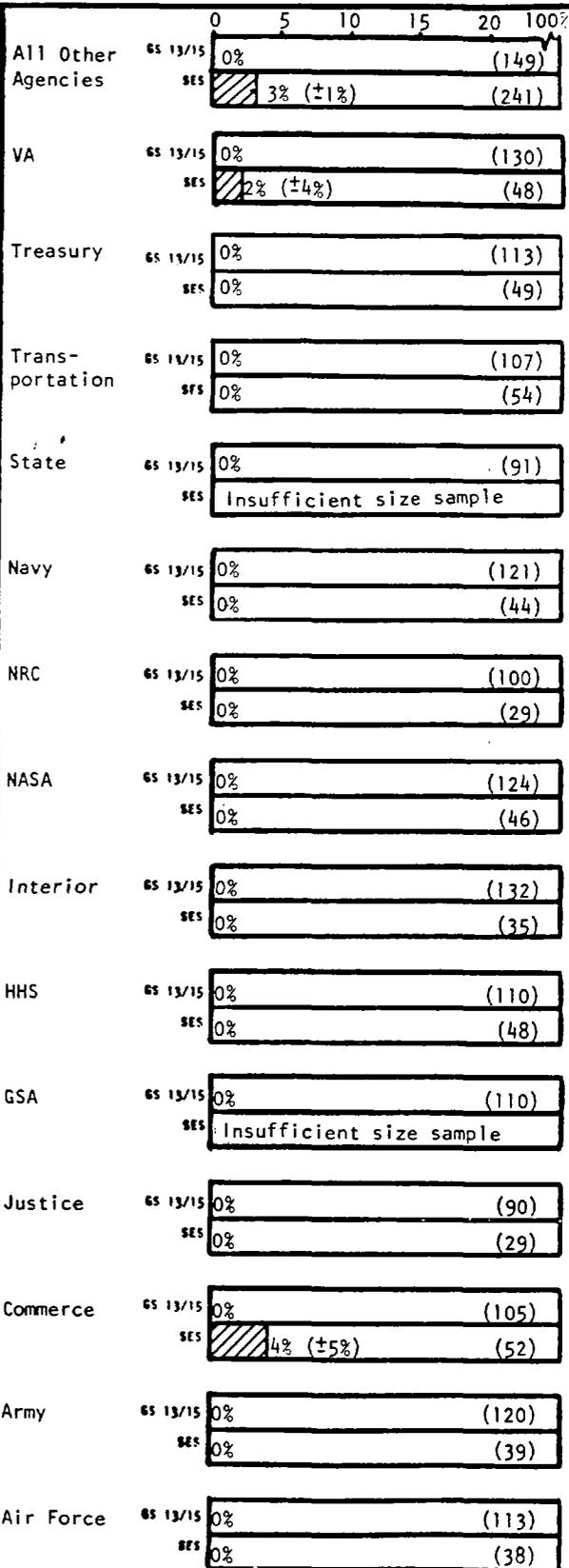
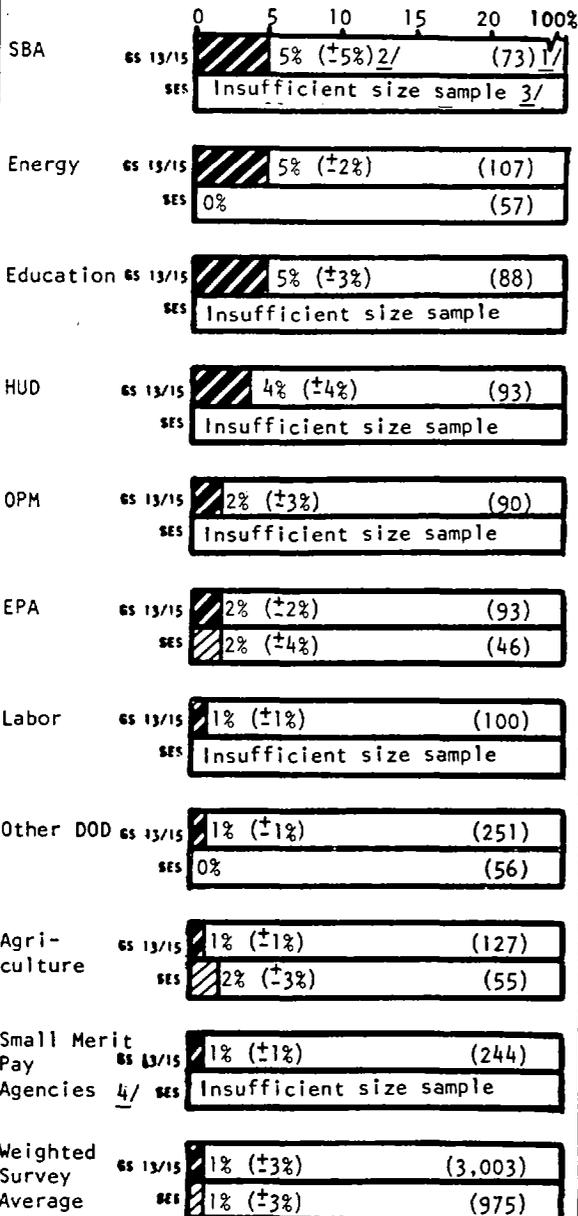
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CHART 32

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF AN EMPLOYEE BEING PRESSURED TO PARTICIPATE IN PARTISAN POLITICAL ACTIVITY. (Q34b.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

 SES respondents  GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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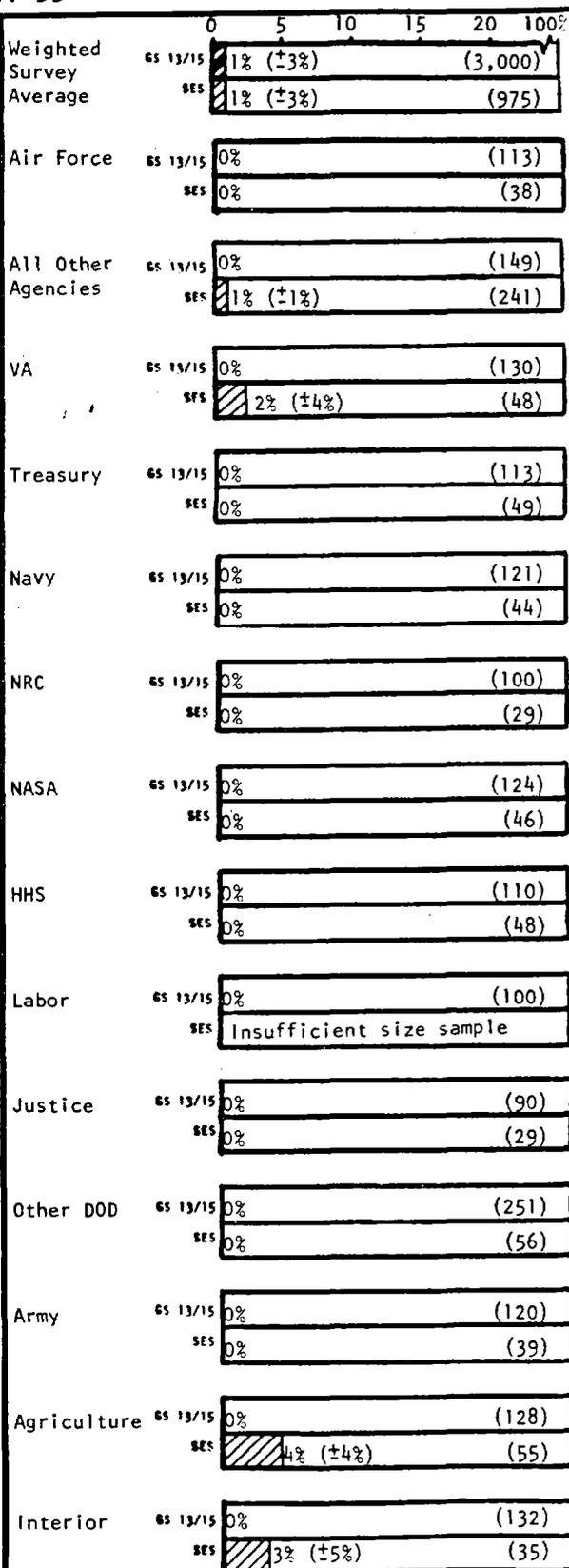
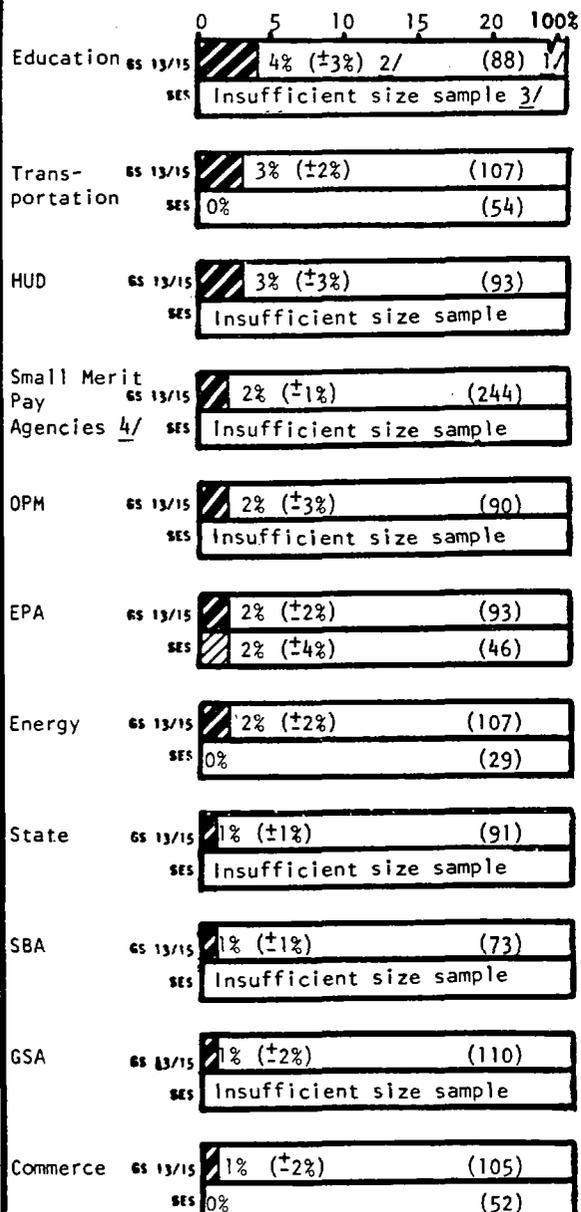
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CHART 33

RESPONDENTS CLAIMING TO HAVE OBSERVED, DURING THE 12-MONTH PERIOD, EVIDENCE OF AN EMPLOYEE BEING PRESSURED TO CONTRIBUTE TO A POLITICAL CAMPAIGN. (Q34a.)

Based on responses:
 "Yes, more than one instance" or
 "Yes, one instance"

SES respondents GS 13/15 respondents



1/ The number in parentheses indicates the total number of respondents from the agency who answered this question.

2/ The number in parentheses indicates the possible error range, at the 95% confidence level, for the associated figure. In other words, based on a sample of this size, one can say with 95% confidence that the error attributable to sampling and other random effects could be up to this many percentage points in either direction, but there is less than 5% chance that the "true" figure lies outside the indicated bracket. Due to the error ranges shown, differences between closely ranked agencies may not be statistically significant.

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APPENDIX B
RELEVANT QUESTIONS

QUESTIONS FROM SES AND MID-LEVEL SURVEYS

27. In your opinion, how adequate are the protections presently available to persons attempting to expose wrongful practices within Government operations (e.g., fraud, waste, mismanagement, prohibited personnel practices)?

- 1 Very adequate
- 2 Adequate
- 3 Inadequate
- 4 Very inadequate
- 5 Not sure

29. Have you heard about the *Merit Systems Protection Board*, and how much do you know about what it is supposed to do?

- 1 I have never heard of the organization.
(Skip to Question 31.)

I have heard of the organization, and:

- 2 I have no idea of what it is supposed to do.
- 3 I have only a vague idea of what it is supposed to do.
- 4 I have a pretty good idea of what it is supposed to do.
- 5 I have a very good idea of what it is supposed to do.

30. How confident are you that the *Merit Systems Protection Board* would judge your case fairly and equitably if you were to appeal a personnel action affecting you?

- 1 Very confident
- 2 Confident
- 3 Less than confident
- 4 Not at all confident
- 5 Not sure

31. Have you heard about the *Office of Special Counsel* within the Merit Systems Protection Board, and how much do you know about what it is supposed to do?

- 1 I have never heard of the organization.
(Skip to Question 33.)

I have heard of the organization, and:

- 2 I have no idea of what it is supposed to do.
- 3 I have only a vague idea of what it is supposed to do.
- 4 I have a pretty good idea of what it is supposed to do.
- 5 I have a very good idea of what it is supposed to do.

32. How confident are you that the *Office of the Special Counsel* in the Merit Systems Protection Board would protect you from reprisal, if you were to need protection for having disclosed an illegal or wasteful practice?

- 1 Very confident
- 2 Confident
- 3 Less than confident
- 4 Not at all confident
- 5 Not sure

34. During the past 12 months, have you personally observed any events which strongly suggested to you the possibility of any of the following prohibited practices in your immediate work group?

- a. An employee being pressured to contribute to a political campaign
- b. An employee being pressured to participate in partisan political activity
- c. An employee actively seeking partisan political office or raising funds on behalf of a partisan political candidate
- d. A career employee being pressured to resign or transfer on account of his or her political affiliation
- e. An appointment to the competitive service made as a result of political party affiliation
- f. An attempt to get back at someone because he or she disclosed some wrongful activity in the agency
- g. An attempt to get back at someone because he or she filed a formal appeal
- h. An attempt to influence someone to withdraw from competition for a Federal job in order to help another person's chances for getting the job
- i. A selection for job or job reward based on family relationship
- j. A selection for job or job reward based primarily on the "buddy system"
- k. An attempt to get back at someone because he or she engaged in lawful union activity
- l. An employee being pressured by a supervisor for sexual favors

	Yes, more than one instance	Yes, one instance	No
a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

35. During the past 12 months, have you personally observed any events which strongly suggested to you the possibility of any of the following discriminatory practices in your immediate work group?

- a. A person being denied a job or job reward on account of *sex*
- b. A person being denied a job or job reward on account of *race, color, or national origin*
- c. A person being denied a job or job reward on account of *religion*
- d. A person being denied a job or job reward on account of *age*
- e. A person being denied a job or job reward on account of a *handicap unrelated to job requirements*
- f. A person being denied a job or job reward on account of *marital status*
- g. A person being denied a job or job reward on account of *political affiliation*

	Yes, more than one instance	Yes, one instance	No
a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

75. Are you?

- Male
- Female

76. Are you?

- American Indian or Alaskan Native
- Asian or Pacific Islander
- Black; not of Hispanic origin
- Hispanic
- White; not of Hispanic origin
- Other

77. What is your age?

- Under 20
- 20 to 29
- 30 to 39
- 40 to 49
- 50 to 59
- 60 to 64
- 65 or older

QUESTIONS FROM SENIOR PERSONNEL OFFICIALS SURVEY

4. During the past 12 months, have you personally observed any events which strongly suggested to you the possibility of any of the following prohibited practices in your organization? (Please check one box for each item.)

Have you observed the following:

- a. An employee being pressured to contribute to a political campaign.
- b. An employee being pressured to participate in partisan political activity.
- c. An employee actively seeking partisan political office or raising funds on behalf of a partisan political candidate.
- d. A career employee being pressured to resign, transfer, or accept reassignment on account of his or her political affiliation.
- e. An appointment to the competitive service made as a result of political party affiliation.
- f. A selection for job or job reward based on family relationship.
- g. A selection for job or job reward based on personal friendship rather than qualifications.
- h. An attempt to influence someone to withdraw from competition for a Federal job in order to help another person's chances.
- i. An attempt to retaliate against someone because he or she disclosed some wrongful activity in the agency.
- j. An attempt to retaliate against someone because he or she filed a formal appeal.
- k. An attempt to retaliate against someone because he or she engaged in lawful union activity.
- l. An employee being pressured by a supervisor for sexual favors.

	Yes, more than one instance	Yes, one instance	No
a.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5. During the past 12 months, have you personally observed any events in your organization which strongly suggested to you the possibility that a person was being denied a job or job reward on account of their: (Please check one box for each item).

- a. Being a member of a minority group (race, color, national origin).
- b. Being a woman.
- c. Being a non-minority male.
- d. Being over age 40.
- e. Handicap unrelated to job requirements.
- f. Marital status.
- g. Religious affiliation.
- h. Political affiliation.

	Yes, more than one instance	Yes, one instance	No
a.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. In your opinion, how adequate are the protections presently available to persons attempting to expose prohibited personnel practices within the Federal Government? (Please check one box.)

- 1 Very adequate
- 2 Adequate
- 3 Inadequate
- 4 Very inadequate
- 5 Not sure

QUESTIONS FROM FEDERAL WHISTLEBLOWERS SURVEY

11. If a personnel abuse occurred in your organization, how effective would each of the following be in correcting that abuse? (Please check one box for each item.)

	Very effective	Effective	Ineffective	Very ineffective	No basis to judge
a. Your organization's internal personnel management review system.	<input type="checkbox"/>				
b. OPM evaluation and compliance audit system.	<input type="checkbox"/>				
c. An employee "blowing the whistle" to your organization's Inspector General or internal audit head.	<input type="checkbox"/>				
d. An employee "blowing the whistle" to the Special Counsel.	<input type="checkbox"/>				
e. An employee appealing to the Merit Systems Protection Board.	<input type="checkbox"/>				
f. An employee filing a grievance.	<input type="checkbox"/>				
g. An employee filing an EEO complaint.	<input type="checkbox"/>				

2. How adequate is the *protection* the Federal Government now offers to employees who report illegal or wasteful activities within their agencies? (Please "X" ONE box.)

- 1 More than adequate
- 2 About right
- 3 As adequate as it can be
- 4 Could and should be more adequate
- 5 Not sure

8. Have you heard of the following organizations, and how much do you know about what they are supposed to do if they receive information concerning illegal or wasteful activities? (Please "X" ONE box after each organization.)

I never heard of this organization
I heard of this organization but I know nothing about what they are supposed to do
I have a vague idea what they are supposed to do
I have a pretty good idea of what they are supposed to do
I have a very good idea what they are supposed to do

- a. The Office of Inspector General or IG "Hot Line" within your agency. 1 2 3 4 5
- b. The Special Counsel of the Merit Systems Protection Board. 1 2 3 4 5

9. If you were to report an illegal or wasteful activity to the *Office of Inspector General (OIG)* within your agency and request that your identity be kept confidential, how confident are you that the *OIG* would *protect your identity*? (Please "X" ONE box.)

- 1 Very confident
- 2 Confident
- 3 Less than confident
- 4 Not at all confident
- 5 Not sure

40. Are you? (Please check one box.)

- 1 Male
- 2 Female

41. Are you? (Please check one box.)

- 1 American Indian or Alaskan native
- 2 Asian or Pacific Islander
- 3 Black; not of Hispanic origin
- 4 White; not of Hispanic origin
- 5 Hispanic
- 6 Other

13. If you were to need protection for having reported an illegal or wasteful activity, how confident are you that the *Office of the Special Counsel* of the Merit Systems Protection Board would *protect you from reprisal*? (Please "X" ONE box.)

- 1 Very confident
- 2 Confident
- 3 Less than confident
- 4 Not at all confident
- 5 Not sure

PROHIBITED PERSONNEL PRACTICES

The Civil Service Reform Act (Pub. L. No. 95-454, 92 Stat. 111 (1978)) forbids personnel actions based on the following eleven practices:

- 1) Discrimination based on race, color, religion, sex, age, national origin, handicapping condition, marital status or political affiliation;
- 2) Soliciting or considering employment recommendations not based on the individual's work performance, ability, aptitude, general qualifications, suitability, character, or loyalty;
- 3) Coercing the political activity of any person;
- 4) Deceiving or willfully obstructing anyone from competing for employment;
- 5) Influencing anyone to withdraw from competition for any position, whether to help or hurt anyone else's employment prospects;
- 6) Giving unauthorized preferential treatment to any employee or applicant;
- 7) Nepotism;
- 8) Taking or failing to take a personnel action as a reprisal against a whistleblower;
- 9) Taking or failing to take a personnel action as a reprisal for the exercise of any appeal right;
- 10) Discriminating on the basis of personal conduct which does not adversely affect the performance of any employee or applicant or the performance of others, except in case of criminal conviction for the conduct; and
- 11) Taking or failing to take any other personnel action if that would violate any law, rule, or regulation implementing or directly concerning the merit system principles.

For original text see 5 U.S.C. Section 2302(b).

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3) Coercing the political activity of any person;

4) Deceiving or willfully obstructing anyone from competing for employment;

5) Influencing anyone to withdraw from competition for any position, whether to help or hurt anyone else's employment prospects;

6) Giving unauthorized preferential treatment to any employee or applicant;

7) Nepotism;

8) Taking or failing to take a personnel action as a reprisal against a whistleblower;

9) Taking or failing to take a personnel action as a reprisal for the exercise of any appeal right;

10) Discriminating on the basis of personal conduct which does not adversely affect the performance of any employee or applicant or the performance of others, except in case of criminal conviction for the conduct; and

11) Taking or failing to take any other personnel action if that would violate any law, rule, or regulation implementing or directly concerning the merit system principles.

For original text see 5 U.S.C. Section 2302(b).

U.S. MERIT SYSTEMS PROTECTION BOARD
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