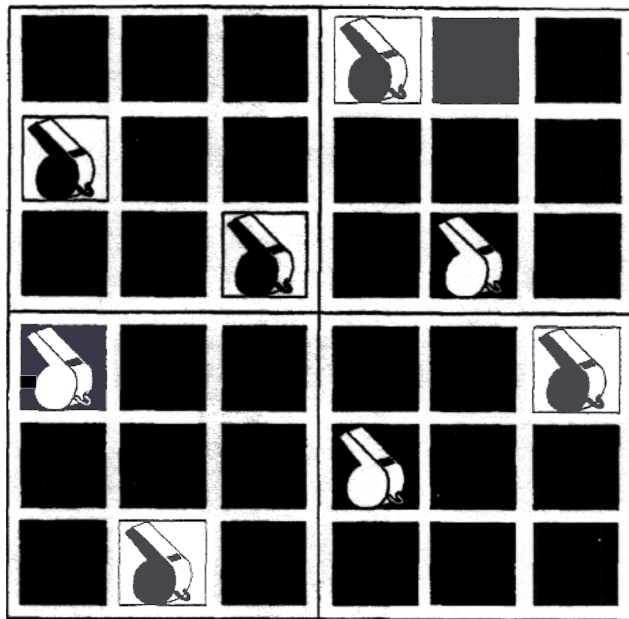


## **Appendix B**

**Excerpts from U.S. Merit Systems Protection Board Report,  
“Whistleblowing in the Federal Government: An Update,”  
October 1993**



# WHISTLEBLOWING in the Federal Government: An Update



A Report to the President and the  
Congress of the United States by the  
U.S. Merit Systems Protection Board



U.S. MERIT SYSTEMS PROTECTION BOARD  
Washington, D.C. 20419

October 1993

The President  
President of the Senate  
Speaker of the House of Representatives

Sirs:

In accordance with the requirements of the Civil Service Reform Act of 1978, it is an honor to submit this Merit Systems Protection Board report titled "Whistleblowing in the Federal Government: An Update."

Identification and reporting of illegal or wasteful activities is integral to the goal of improving the efficiency and effectiveness of the Federal Government. This report discusses Federal employees' observations and reporting of those activities, and compares current findings with those from MSPB's 1983 study of whistleblowing. Additionally, the report examines what happens to employees who report illegal or wasteful activities, and explores what Federal agencies have done to encourage employees to report fraud, waste, and abuse.

We are encouraged to find an increase in the percentage of employees who are willing to report the illegal or wasteful activities they have observed. Unfortunately, there is also a slight increase in the percentage of employees who say they have experienced reprisal or threats of reprisal for reporting. This report discusses the implications of these findings and offers recommendations for improvement.

We believe you will find this report useful as you consider issues regarding the efficient and effective management of the Federal civilian work force.

Respectfully,

Ben L. Erdreich  
Chairman

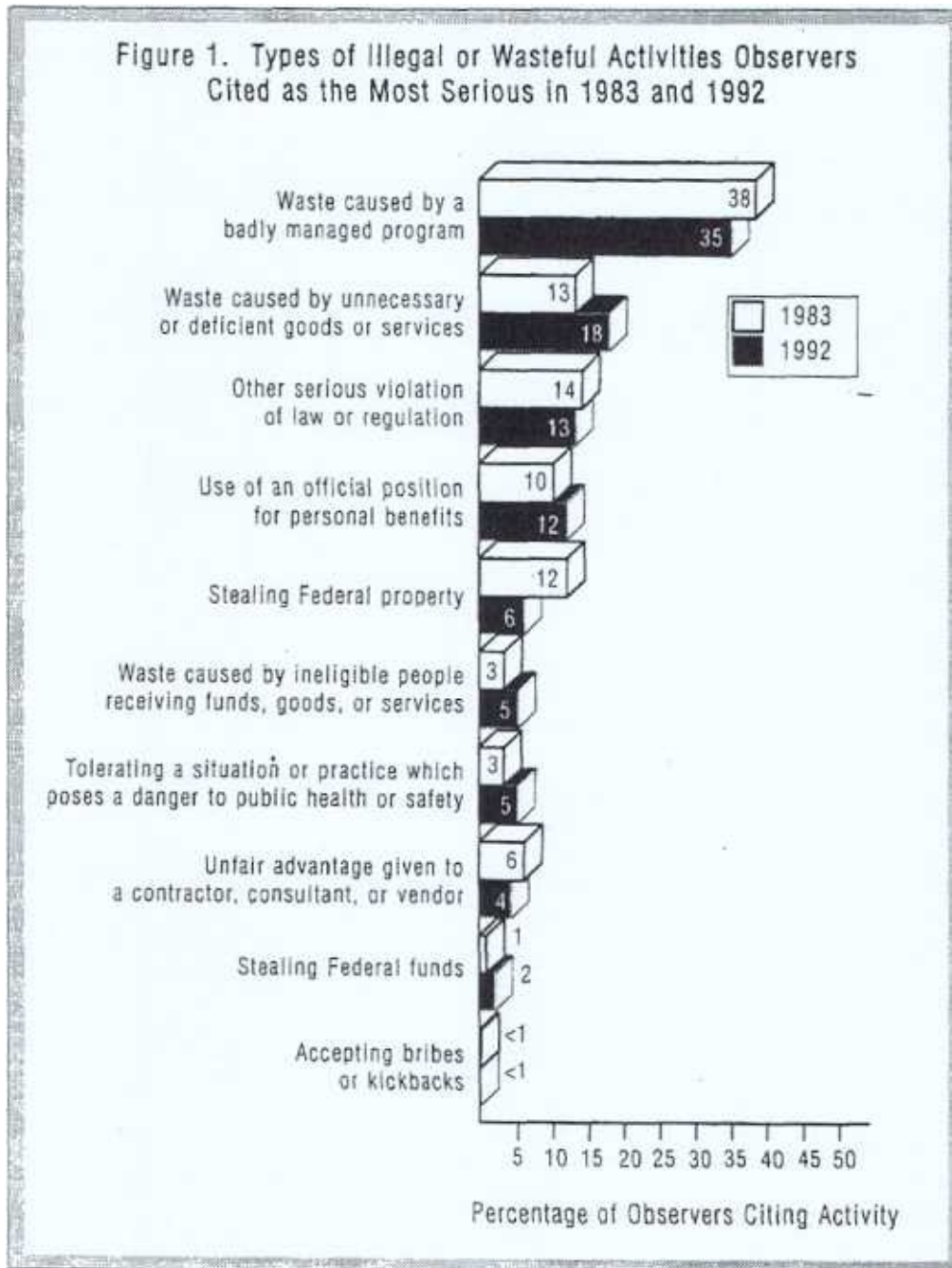
Jessica L. Parks  
Vice Chairman

Antonio C. Amador  
Member

## Observations of Illegal or Wasteful Activities

**What Types of Illegal or Wasteful Activities Were Seen?** As can be seen in figure 1, among the 1992 survey group the activity most frequently cited as the most serious illegal or wasteful activity observed was "waste caused by a badly managed program," cited by 35 percent of observers. In

1983, this was also the most frequently cited activity, seen by 38 percent of observers. "Waste caused by unnecessary or deficient goods or services" and "other serious violation of the law or regulation" were also at the top of the list of activities seen by observers responding to our

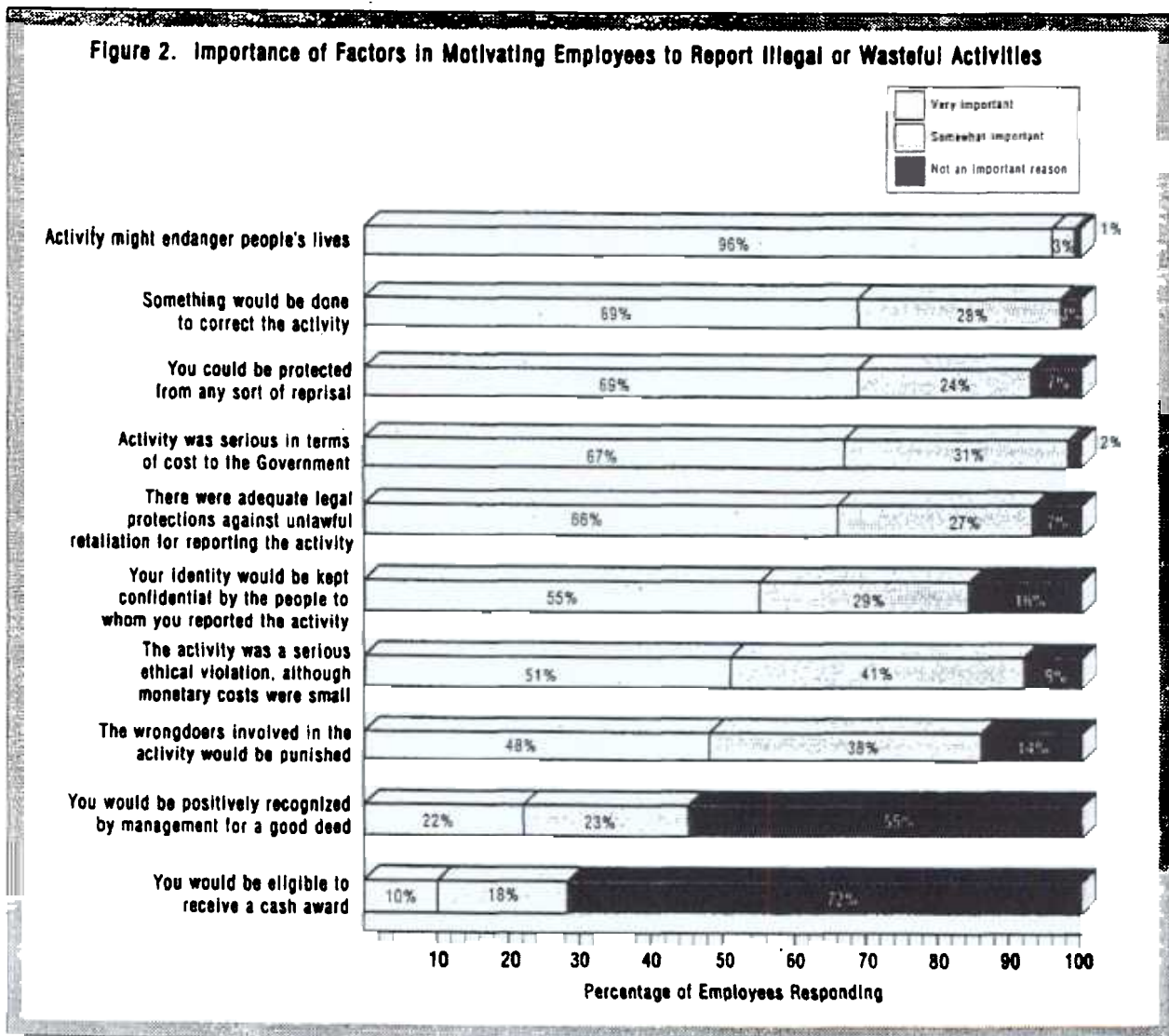


## Employees' Reporting of Illegal or Wasteful Activities

Why did half of our 1992 observers report problem activities when fewer than one-third of the 1983 group were willing to? It is likely that some of the changes that have occurred in the Federal workplace over the past decade contributed to the willingness of employees to report illegal or wasteful activities. For example, the passage of the Whistleblower Protection Act (WPA) in 1989 may have sent the message to Federal employees that it's important to share information about problems they see. Employees who observe illegal or wasteful activities may feel more comfortable disclosing information about those activities with the additional protections provided by the WPA. Also, many agencies have recently initiated programs designed to encourage employees to identify

problems and help devise solutions, and these may have helped create climates more conducive to sharing information about illegal or wasteful activities. As employees have become more "empowered," they have probably begun to feel more confident about raising issues with their superiors that they previously would have been reluctant to discuss. Perhaps the old atmosphere of "don't rock the boat" is now being replaced with that of "everybody grab a paddle."

**What Motivated Employees to Report?** To encourage all employees to report illegal or wasteful activities they might see, we need to understand what actually motivates employees to report these activities. We had several ways of exploring

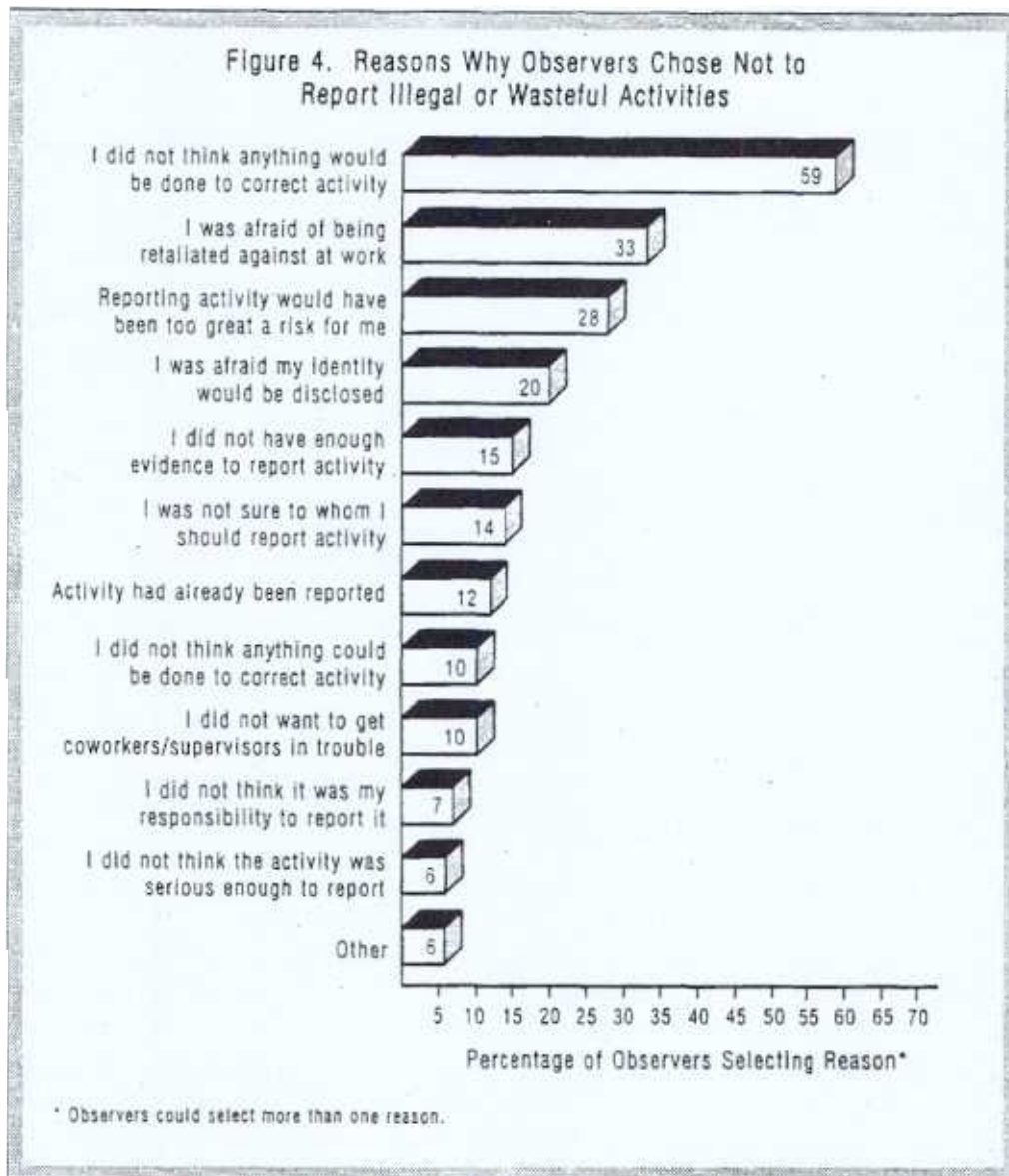


## Employees' Reporting of Illegal or Wasteful Activities

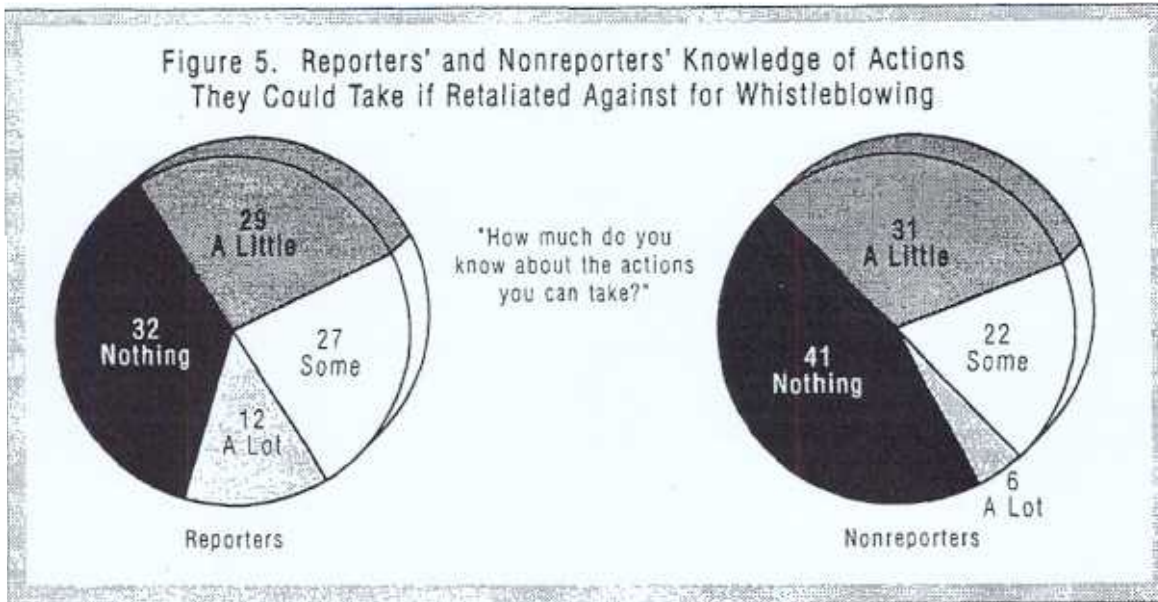
A final way we explored what motivates employees to report illegal or wasteful activities was to look at why some observers chose not to report what they had seen. We asked observers who didn't report the illegal or wasteful activities they had seen the reason(s) why they chose not to report. As can be seen in figure 4, the most frequently cited reason for not reporting illegal or wasteful activities was the belief that nothing would be done to correct the activity. This was

also the most frequently cited reason for not reporting these activities by respondents to our 1983 survey. It is somewhat discouraging to note that among those who chose not to report, there was still such an apparent lack of confidence in the good will of those receiving the reports.

This lack of confidence became obvious when we compared the percentage of observers who said they didn't report because they felt nothing *would*



## Employees' Reporting of Illegal or Wasteful Activities

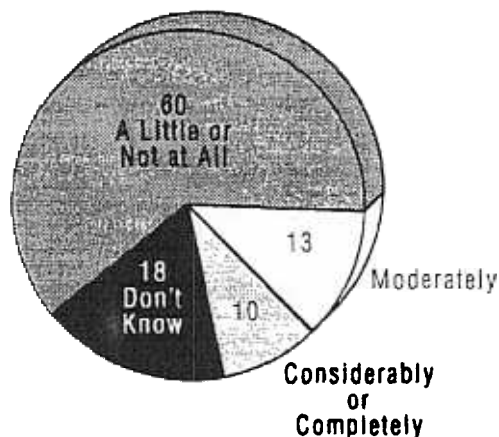


report what they had seen. Figure 5 compares the extent to which reporters and nonreporters were knowledgeable of the actions they could take.

When asked whether their agencies had specifically informed them of their rights should they ever be retaliated against for whistleblowing, a sizable majority (87 percent) of observers said "no." Although one might expect that observers who chose to report the illegal or wasteful activity

they had seen would have been more likely to receive information from their agencies concerning their protections against retaliation than those observers who chose not to report, this was not the case—there was no appreciable difference between the two groups. Based on the observers' survey responses, it does not appear that agencies have "gotten the word out" about protections afforded by the 1989 Whistleblower Protection Act.

Figure 6. Extent Observers Believed Their Rights Would Help Them if Retaliated Against for Whistleblowing



When asked to what extent they believed their rights would help them improve their situation to their satisfaction should they be retaliated against for whistleblowing, observers were skeptical. As can be seen in figure 6, the majority either didn't believe their rights would help much or didn't know whether their rights would help. However, the finding that only 23 percent of the observers believed their rights would help them is not entirely surprising,

## Employees' Reporting of Illegal or Wasteful Activities

given the previous finding that only 33 percent of the observers even knew about actions they could take if retaliated against.

One might expect that if observers believe their rights will help them improve their situation if they are retaliated against, they'd be less likely to fear retaliation (and thus more likely to report illegal or wasteful activities). Surprisingly, observers who believed their rights would help them were no more likely to report illegal or wasteful activities than those who didn't believe their rights would help them. However, there was an important exception: observers who believed to a considerable extent that their rights would help them and who were very knowledgeable of their rights, were more likely to have reported an illegal or wasteful activity than other observers. Thus, knowing that actions are available if one is retaliated against may encourage observers to report

the illegal or wasteful activity—and this knowledge becomes an even more powerful motivator if the observers also believe that those rights will help to improve their situation.

**To Whom Were These Activities Reported?** As can be seen in figure 7, other than coworkers, the most frequently cited recipient of the report of illegal or wasteful activity was the observer's immediate supervisor. Given that employees are more likely to have access to their immediate supervisors than anyone outside their workgroups, the immediate supervisor would seem a logical recipient of such information. Also, the sharing of job-related problems with the person in charge of the workgroup is encouraged (at least officially) in most work settings. The occurrence of an illegal or wasteful activity is something that many observers would see as a problem for either the workgroup or the agency as

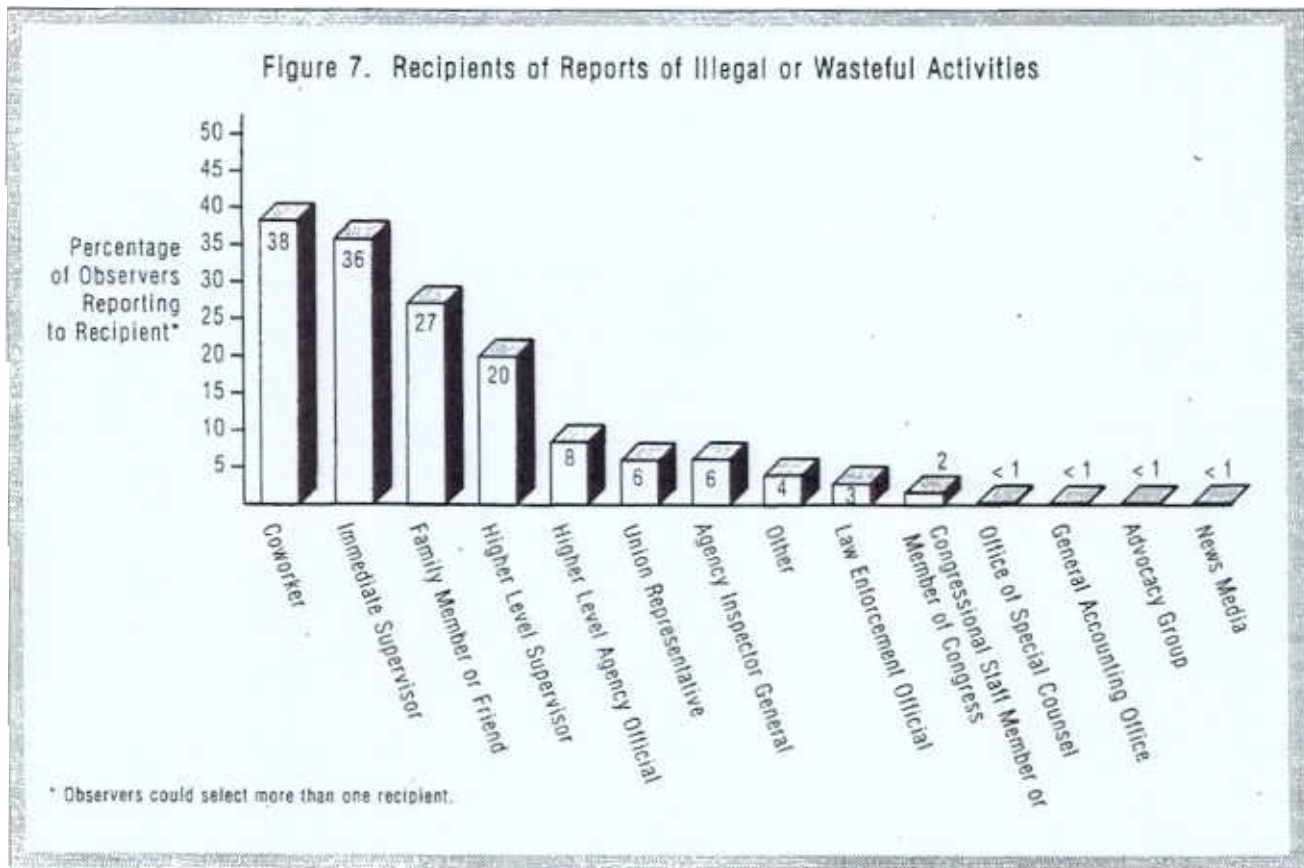


Table 4. Previous Recommendations for Encouraging the Reporting of Waste, Fraud, and Abuse

- Given the limited impact that the current Federal "whistleblower protections" appear to have had relative to the encouragement of constructive employee involvement in identifying or resolving instances of fraud, waste, or abuse, Congress and the Administration should encourage Federal Agency heads to develop or explore alternative or additional methods of achieving that goal.
- Agency heads should periodically assure themselves that there is demonstrable agencywide commitment to a philosophy of open communication throughout all levels of the agency. In essence, each agency should be striving for the development of an "organizational climate" which makes constructive internal sharing of information, especially information about possible waste or inefficiency, the norm rather than the exception. Such a climate would be characterized by the following elements:
  - The active and periodic solicitation of employee viewpoints and knowledge regarding fraud, waste, and abuse;
  - The fair evaluation of employee-supplied information with timely feedback to the involved employees on the results of that evaluation;
  - Consideration, during reviews of each employee's performance, of the degree to which they have become constructively involved in identifying and resolving problems related to fraud, waste, and abuse;
  - Positive and widely publicized recognition of employee contributions to the reduction of illegal or wasteful activities.
- Agency heads should also provide assurance that there will be a prompt and thorough investigation of any allegations or indications of possible reprisal against employees for the legitimate disclosure of information. Should reprisal be found to exist and be documented, of course, prompt corrective action must be taken and the results of that action well publicized to the extent possible.

Source: U.S. Merit Systems Protection Board, "Blowing the Whistle in the Federal Government: A Comparative Analysis of 1980 and 1983 survey findings," October 1984.

whether they had periodically solicited their employees' views (directly) concerning the occurrence and reporting of fraud, waste, and abuse, the majority (16) said they had not. Most of the agencies who did report soliciting employees' views had not specifically surveyed employees concerning fraud, waste, and abuse, but had conducted agency surveys which touched on issues such as waste and inefficiency. A few agencies reported that specific surveys concerning fraud, waste, and abuse had been administered within specific components of the agency or department (but not agencywide).

2. **Open-door policies.** Another mechanism for reporting fraud, waste, and abuse commonly mentioned by the personnel officers was the establishment of an "open-door" policy or

program, in which employees were encouraged to share information about illegal or wasteful activities with supervisors, the Inspector General, or other agency officials. For example, the Department of Veterans Affairs (VA) established a "Tell It To The Secretary Program" which gives employees direct access to the Secretary of Veterans Affairs for reporting problems involving VA operations. As another example, the U.S. Customs Service implemented a cards and letters program whereby employees can voice charges of fraud, waste, and abuse. Also, the Nuclear Regulatory Commission implemented a "Differing Professional Views or Opinions System" in which employees may submit (in writing) a view that differs from the prevailing staff view or official position concerning program operations of