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Report to Rep. Gladys Noon Spellman, Chairman, House Committee on Post Office and Civil Service: Compensation and Employee Benefits Subcommittee; by Elmer B. Staats, Comptroller General.

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Executive Order 9830, sec. 01.3(d). F.P.M. Supplement 752-1,
sec. S3a(5). F.P.M. ch. 339, sec. 1-3. F.P.M. Supplement
831-1, sec. S10-10.

Information was obtained from 32 Federal agencies and the Postal Service regarding 2,518 cases in which employees were requested to take fitness-for-duty examinations since July 1, 1973, in order to determine the extent to which Federal agencies have required employees to be examined and the ways this practice has been applied. Findings/Conclusions: No statute or Executive order specifically authorizes a Federal agency to require that an employee take an examination to determine his or her fitness for duty. Authority is implied, however, in laws which require that a person being removed from the competitive service be given a notice and letter of charges and which authorize an agency to apply for the retirement of employees for disability. The Civil Service Commission has published regulations and guidelines in the Federal Personnel Manual which not only recognize the authority of the agencies to require employees to take fitness-for-duty examinations, but also are intended to protect the employees. Most agency replies indicated that the primary purposes of fitness-for-duty examinations are to insure that the agency's goals and objectives are carried out and to aid the employee who may be ill or troubled. Many agencies require periodic examinations for certain positions. Most agencies provide assistance to employees who do not perform adequately because of physical or mental problems. (SC)

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**REPORT OF THE
COMPTROLLER GENERAL
OF THE UNITED STATES**

*Released
6/23/77*

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02266



**Extent Of Use And Application Of
Fitness-For-Duty Examinations
By Federal Agencies**

Civil Service Commission

This report provides information on the extent to which Federal agencies have required employees to be examined to determine their fitness for duty and the ways this practice has been applied.

Information was obtained from 32 Federal agencies and the Postal Service regarding 2,518 cases in which employees were requested to take fitness-for-duty examinations since July 1, 1973.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20543

B-179810

The Honorable Gladys Noon Spellman
Chairman, Subcommittee on Compensation
and Employee Benefits
Committee on Post Office and Civil Service
House of Representatives

Dear Madam Chairman:

This is in response to the former Chairman's September 1, 1976, letter requesting that we obtain information on the extent to which Federal agencies have required employees to be examined to determine their fitness for duty and the ways this practice has been applied.

We reviewed pertinent statutes and regulations and discussed this matter with Civil Service Commission and agency officials. To find out how fitness-for-duty examinations have been used since July 1, 1973, we sent questionnaires to 32 agencies and the Postal Service. The appendixes and exhibits summarize our findings.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James B. Stroh".

Comptroller General
of the United States

AUTHORITY FOR AND CONTROLS OVER
FITNESS-FOR-DUTY EXAMINATIONS

AUTHORITY

No statute or Executive order specifically authorizes a Federal agency to require that an employee take an examination to determine his or her fitness for duty. Authority is implied, however, in title 5, U.S. Code, at section 7501(b) and 7512(b) which require that a person being removed from the competitive service be given a notice and letter of charges, and at section 8337, which authorizes an agency to apply for the retirement of employees for disability:

Section 7501

"(A) An individual in the competitive service may be removed or suspended without pay only for such cause as will promote the efficiency of the service.

"(b) An individual in the competitive service whose removal or suspension without pay is sought is entitled to reasons in writing and to-

(1) notice of the action sought and of any charges preferred against him;

(2) a copy of the charges;

(3) a reasonable time for filing a written answer to the charges, with affidavits; and

(4) a written decision on the answer at the earliest practicable date."

Section 7512

"(a) An agency may take adverse action against a preference eligible employee, or debar him for future appointment, only for such cause as will promote the efficiency of the service.

"(b) A preference eligible employee against whom adverse action is proposed is entitled to-

(1) at least 30 days' advance written notice, except when there is reasonable

cause to believe him guilty of a crime for which a sentence of imprisonment can be imposed, stating any and all reasons, specifically and in detail, for the proposed action;

(2) a reasonable time for answering the notice personally and in writing and for furnishing affidavits in support of the answer; and

(3) a notice of an adverse decision."

Section 8337.

"(a) An employee who completes 5 years of civilian service and is found by the Civil Service Commission to have become disabled shall be retired on his own application or on application by his agency."

Authority also is implied in Executive Order 9830, section 01.3(d):

"The head of each agency shall remove, demote, or reassign to another position any employee in the competitive service whose conduct or capacity is such that his removal, demotion, or reassignment will promote the efficiency of the service."

CIVIL SERVICE COMMISSION CONTROLS

The Civil Service Commission (CSC) has published regulations and guidelines in the Federal Personnel Manual (FPM) which not only recognize the authority of agencies to require employees to take fitness-for-duty examinations but also are intended to protect the employees. For instance:

--FPM Supplement 752-1 provides, in part, at section S3a(5):

"(c) The agency has authority to direct an employee to take a fitness-for-duty examination. This authority is clearly implied by the language of section 01.3 of Executive Order 9830. Section 01.3 provides that 'the head of each agency shall remove, demote, or reassign to another position any employee in the competitive service whose conduct or capacity is such that his removal, demotion, or reassignment will promote the efficiency of the service.' The word capacity includes

physical and mental capacity. The authority to require a fitness-for-duty examination is also implied in those sections of title 5, United States Code, which require that a person being removed from the competitive service be given reasons for the removal and in that section which authorizes agencies to apply for the retirement of employees on disability. To comply with the requirements of this Executive order and law, an agency that has a question about the physical or mental capacity of an employee should have a medical report from a physician who has examined the employee.

"(d) If the employee refuses to submit to a medical examination, he may be removed for refusing (see *May v. USCSC* and *Yates v. Manale*). An agency, however, could not justify on appeal an adverse action against an employee who refuses to be examined by an agency-designated physician but who is willing to be examined by a physician of his choice selected under the provisions of subchapter 1 of FPM chapter 339 (paragraph 1-3c)."

--FPM chapter 339 provides, in part, at section 1-3:

"b. General agency responsibility. When an employee no longer can perform the duties of his position efficiently and safely because of his physical or mental condition, the agency may separate him on the basis of disability. This separation for disability is, in most instances, subject to the provisions of Part 752, Adverse Actions by Agencies, of the civil service regulations and the instructions relating thereto in Chapter 752, Adverse Actions by Agencies, of this manual. In view, however, of the policy of the executive branch on utilization of employees who are handicapped or who develop handicaps (see subchapters 4 and 8 of chapter 306) every reasonable effort should be made to reassign the employee to duties he can perform efficiently and safely, or to take steps to protect his rights under subchapter III of chapter 83, title 5, United States Code, before taking action to separate him for disability. Specifically, the following alternatives should be considered:

(1) A liberal grant of leave without pay when paid leave is exhausted and the disability is of a remediable nature and likely to respond to treatment and hospitalization. Many mental and emotional disorders, formerly considered completely disabling, now fall in this category in view of the dramatic medical advance made in treatment and rehabilitation of these conditions in recent years.

(2) Judicious reassignment to a position with less rigid physical requirements including job engineering when possible to utilize the remaining unimpaired assets of the handicapped employee.

(3) Encouraging the employee who cannot be salvaged but who meets the service requirement for disability retirement (five or more years of civil service employment) to file, or filing application on his behalf particularly if his disability is one which impairs his judgment and ability to make decisions."

--FPM Supplement 831-1 provides, in part, at section S10-10:

"a. Procedural responsibilities of agency when it considers acting upon deficiencies /sic/ in an employee's service caused by a possible health problem. (1) Procedures. An agency should follow the procedures prescribed by the regulations if the deficiencies in an employee's service, conduct, or attendance are such that removal may be necessary to promote the efficiency of the service, or if the employee's behavior or physical condition is such that it presents a significant disruptive influence or risk to the safety of others in the work environment. These procedures are of two types: Those that are required and those that are recommended as good personnel practices. The required procedures must be observed in every case. The Civil Service Commission will remand to agencies without action any agency-filed disability retirement case which indicates lack of conformance with required procedures. Failure of an agency to follow recommended procedures will not be cause for remanding or, in itself,

a basis for denial of the application. An employee has the right to be represented at any time during these procedures."

Fitness-for-duty examinations are of various types. Those which are broadly implied, but not specifically addressed by CSC in those parts of the FPM dealing with inefficiency due to disability, include periodic examinations required for Federal motor vehicle licensure or for continued employment in certain hazardous areas or positions, such as firefighters and air traffic controllers. Examinations given (1) prior to an employee's returning to duty following a serious illness or injury or (2) as a result of poor job performance or absence from duty are covered in the FPM.

Agency's role

When an agency considers acting on deficiencies in an employee's service caused by a possible health problem, the agency is required to establish a prima facie case in record evidence that the employee's service is not useful and efficient and that the apparent cause is a mental or physical illness or injury not of a transient nature. The available evidence should be such that it will warrant consideration of the employee's removal from the service under adverse action procedures if medical findings do not support disability retirement. (FPM Supp. 831-1, subch. S10-10a(3).)

An agency usually considers action to remove an employee from his position as a result of supervisors' observations of the employee's job performance, absence from duty or knowledge of illness, accident, or hospitalization. In view of the executive branch policy on utilization of employees who are handicapped or who develop handicaps, CSC has directed agencies to make every reasonable effort to reassign the employee to duties he can perform efficiently and safely, or to take steps to protect his rights before taking action to separate him for disability. Specifically, the following alternatives should be considered:

- A liberal grant of leave without pay when paid leave is exhausted and the disability is of a remediable nature and likely to respond to treatment and hospitalization.
- Judicious reassignment to a position with less rigid physical requirements, including job engineering when possible.
- Encouraging the employee who cannot be salvaged and has 5 or more years of civil service employment to

file for disability retirement, or filing on the employee's behalf if his disability is one which impairs his judgment and ability to make decisions. (FPM ch. 339, subch. 1-3(b).)

CSC recommends that the agency have a counseling session with the employee to discuss the problem and to inform the employee thoroughly of the advantages and disadvantages of various alternatives open to him before any formal action is initiated. One of the primary purposes of the counseling session is to explore with the employee the possibility of reassignment to another position or retraining for another type of work. (FPM Supp. 831-1, subch. S10-10a(4).)

If the counseling session does not make an alternative course of action possible, the agency may direct the employee to report for a fitness-for-duty examination. Each order to report for an examination must be in writing, include a statement of the reasons for the examination, provide instructions on how the employee may participate in the selection of the medical examiner, if he desires; and explain the employee's right to be represented. (FPM Supp. 831-1, subch. S10-10a(5).) An employee who refuses to submit to a medical examination may be removed for refusing. (FPM Supp. 752-1, subch. S1-3a(5)(d).)

Normally a Federal medical officer should conduct the fitness-for-duty examination. If the employee refuses a physical examination by a Federal medical officer or other agency-designated physician, the examination may be conducted by a physician of the employee's choice, provided (1) the agency determines that the medical examination is necessary primarily for the benefit of the Government; (2) the physician is board-certified in the appropriate medical specialty, and acceptable to the agency; and (3) the physician submits a complete report of the examination directly to the agency. Comptroller General decision B-155489, dated December 10, 1964, ruled that under these conditions agencies have authority to pay for such medical examinations and that there should be no cost to the employee or CSC. (FPM ch. 339, subch. 1-3c.)

An employee may not be ordered to report for a psychiatric examination unless a majority of a panel of at least three agency officials agrees that the circumstances warrant such action. If the majority of the panel agrees that an examination is indicated, such an examination will be ordered in accordance with the procedure for physical examinations. In addition, a representative must be selected by the employee or appointed by the agency to receive copies of all notices, determinations, decisions, or

other written communications issued to the employee under these procedures.

If the employee objects to the medical examiner named by the agency, he will be asked to submit the names of three to five board-certified psychiatrists to whom he would be willing to report. The agency will then select a medical examiner from the list and arrange for an examination. All available information pertinent to the employee's possible health problem is presented to the examiner to serve as background for the examination. (FPM Supp. 831-1, subch. S10-10a (5)(b)(iii).)

The agency is required to decide, on the basis of all available evidence, whether deficiencies in the employee's service are caused by illness or injury. If not, adverse action procedures may be instituted. If the agency decides that deficiencies in the employee's service are established and are caused by disease or injury, it then must notify the employee of this tentative determination that he or she meets all requirements to be retired on disability. The notice must (1) be in writing, (2) give reasons for tentative determinations, (3) include an explanation of the employee's right to reply and the name of the official designated to receive the reply, and (4) advise the employee of his right to review the case file and to obtain copies of the medical findings at no expense. (FPM Supp. 831-1, subch. S10-10a(7).)

After alternatives have been explored, including consideration of the employee's answer to the agency's tentative determination, the agency must give written notice to the employee of its decision to take no action, to reassign, or to file application for his disability retirement. If it is decided that the employee should be retired, the agency will file an application with CSC for his disability retirement and transfer the entire file. The agency must certify that there is no suitable vacant position for which the employee is qualified and which he is willing to accept in lieu of retirement. (FPM Supp. 831-1, subch. S10-10a(9).)

The agency is required to retain an employee on active duty status pending decision of CSC's Bureau of Retirement, Insurance, and Occupational Health on an agency application for disability retirement, except that the agency may place the employee on leave on the basis of medical evidence that retention would result in damage to Government property or injury to the employee, fellow workers, or the general public. (FPM Supp. 831-1, subch. S10-10a (6).)

CSC's role

CSC reviews the case file upon receipt of an agency-filed application for disability retirement. If the agency did not observe the required procedures, CSC may return the entire case file and notify the employee. If the case file conforms with required procedures, CSC notifies the agency and the employee of receipt of the application.

When all evidence is evaluated, CSC's Bureau of Retirement, Insurance, and Occupational Health makes its decision and notifies the agency and the employee. The party adversely affected may appeal within 15 days and request a hearing. (FPM Supp. 831-1, subch. 10-10b.)

According to a CSC official, certain safeguards are available to the employee in the case of agency-filed applications for disability retirement. If the agency submits insufficient medical evidence to establish without a doubt that the employee is disabled, CSC will request further examination. The employee is given a choice from a list of three appropriate board-certified specialists. If none is satisfactory, the employee may submit the names of three to five board-certified specialists from which CSC will choose one. Even when the medical evidence submitted by the agency is sufficient for making a determination, the employee is asked whether he wishes further examination. The employee also is allowed to submit further medical or other evidence in his behalf. As a result of evaluation of the medical evidence, the agency-filed application may be dismissed, rejected, or allowed.

A dismissal occurs when the application contains insufficient medical evidence and CSC is unable to obtain further consultation. If the application is rejected, i.e., the employee is found "fit for duty," any inefficiencies would be considered nonmedical and handled under adverse action proceedings; the agency would have reconsideration and appeal rights to the Director, Bureau of Retirement, Insurance, and Occupational Health.

When an application is allowed, i.e., the employee found "not fit for duty," the medical officer determines whether recovery from the disability condition can be expected. The annuity is granted on a permanent basis if no recovery is expected. When there is a possibility of recovery, the allowance is on a temporary basis, and the annuitant will be subject to periodic reexaminations. The employee found "not fit for duty" is customarily given 14 days in which to apply voluntarily for disability annuity and, failing to do so, is notified that the agency will apply for one in

his behalf. The employee has the right to request reconsideration of the "not fit for duty" finding to the Bureau of Retirement Insurance, and Occupational Health. If the allowance is sustained at this level, the employee is granted further rights of appeal to the appropriate Federal Employees Appeal Authority. If the employee whose application is allowed does not have 5 years of creditable Government service, he could be separated medically under adverse action proceedings.

In fiscal year 1975, of the 45,455 disability claims filed, 282 were agency-filed. Of these, CSC allowed 194, rejected 56 and dismissed 32 for lack of medical evidence. In fiscal year 1976 there was a total of 269 agency-filed claims. CSC allowed 187, dismissed 25, and rejected 57. Records are not kept of the numbers and types of disabilities for which agency-filed claims are submitted. An official of the Bureau of Retirement, Insurance, and Occupational Health estimated that about half of those filed in fiscal year 1976 were psychiatric disabilities.

Proposed changes

The Commission is considering changes in FPM chapter 339 and FPM Supplements 752-1 and 831-1 to (1) make fitness-for-duty and agency-filed disability retirement procedures coincide and (2) place the medical portion of fitness-for-duty procedures in the appropriate medical qualifications chapter, i.e., chapter 339.

Our questionnaire asked agencies to evaluate the proposed CSC changes. Fifty-six percent of the agencies were in favor of the changes, stating that they would clarify and/or simplify the regulations.

FEDERAL AGENCY USE OF
FITNESS-FOR-DUTY EXAMINATIONS

To find out how extensively Federal agencies have used fitness-for-duty examinations, we canvassed 40 agencies having 2,000 or more paid civilian employees, according to CSC's September 1976 release on Federal Civilian Manpower Statistics.

Of the 40 agencies canvassed, 32 agencies and the Postal Service acknowledged that they had used fitness-for-duty examinations since July 1, 1973. We sent questionnaires to these agencies and received 27 replies, an 80-percent response. One reply was received too late to be included in our analysis. (See exhibit A.)

Our questionnaire consisted of two parts. Part I related to CSC guidelines and agency policies for using fitness-for-duty examinations. This part also asked the agencies to report the total number of employees requested to take fitness-for-duty examinations since July 1, 1973. Part II asked for information on employees other than those requested to take examinations routinely for continued employment, unless the routine examination resulted in an employee's being declared unfit for duty.

Analyses of agency responses follow.

GUIDELINES AND POLICIES

Agency reaction to CSC guidelines

Most agency replies indicated that the primary purposes of fitness-for-duty examinations are to (1) insure that the agency's goals and objectives are carried out and (2) aid the employee who may be ill or troubled.

Most agencies rely exclusively on CSC guidelines in administering fitness-for-duty examinations. A few agencies have established their own guidelines which, in effect, restate CSC requirements. Most replies indicated that the current guidelines are fairly clear and complete, but many of the agencies rated the guidelines as being rather complicated, and some suggested changes. In most cases they commented favorably on CSC's July 1976 proposed changes to the guidelines.

Most agencies stated that CSC guidelines are fairer to the employee than to the employer. Most indicated that they use fitness-for-duty examinations at about the right frequency.

Agency policies

Many agencies responding to our questionnaire require periodic examinations for certain positions, including motor vehicle licensure, air traffic controllers, painters, asbestos workers, pilots, crane operators, firefighters, guards, cooks, printers, and explosive handlers. No agency reported positions in which employees were exempted if circumstances indicated examinations were warranted.

Eighty-five percent of the agencies said they have resident medical officers. About half the agencies have resident medical officers who are general practitioners; and half have specialists in areas such as cardiology, internal medicine, occupational medicine, and preventive medicine.

About 44 percent of the agencies said they use specific standards to determine an employee's physical or mental fitness for a particular job specialty. Another 30 percent sometimes use specific standards.

Most agencies provide assistance to employees who do not perform adequately because of physical or mental problems. Nearly all agencies have established special rehabilitation programs for employees with problems such as alcoholism and drug addiction. Most agencies said they try to reassign employees judged unfit for duty to other duties within the agency for which they are fit or help them obtain outside employment. Some rehire former employees previously declared unfit and subsequently restored to health.

Most agencies do not place examination requests or results in employees' official personnel folders, but many do place this information in the employees' medical files.

STATISTICAL DATA ON USE OF FITNESS-FOR-DUTY EXAMINATIONS

The agencies which responded to part II of our questionnaire furnished information on 2,518 cases in which employees were requested to take fitness-for-duty examinations. (See exhibit A.) This is not a complete inventory; in some agencies this information is not recorded in a central data file and must be obtained from field installations or activities.

When the Department of Defense and the Veterans Administration informed us that it would require many months of effort and considerable cost to review personnel records to identify and accumulate information on all cases in which employees were requested to take fitness-for-duty examinations, we agreed that they report on a sample of such cases.

The following exhibits, where indicated, analyze information furnished on 2,464 cases (54 cases reported by the Department of the Interior were received too late to be included). In some cases agencies did not respond to certain questions; in other cases agencies furnished more than one response.

How the practice was applied

Employees requested to take fitness-for-duty examinations represent a broad range of grade levels, ages, and occupational series. Employees of nearly all General Schedule (white collar) and a number of Wage Board (blue collar) grade levels were asked to take examinations.

Of the employees for whom the agencies furnished information, the largest concentration, 19 percent, were at the GS-4 and GS-5 grade levels. About 66 percent were employed in more than 300 different occupational series. Over 12 percent of the employees occupying white collar positions were in the general clerical and administrative and clerk-typist series. The blue collar workers with the largest number of employees examined were of the janitor occupational series.

The average age for all employees requested to take examinations was approximately 45, ranging from a minimum age of 19 to a maximum age of 69. Employees of the Drug Enforcement Agency had the lowest average age, 32, and employees of the Securities and Exchange Commission had the highest average age, 54.

The length of service for employees requested to take examinations averaged 15 years, ranging from a minimum of 1 year to a maximum of 47 years. Eighty-three percent had 5 or more years of creditable Government service and qualified for disability retirement at the time they were requested to be examined.

Seventy-six percent of the employees requested to take examinations were male. This is higher than the 67-percent male population in the entire civil service work force.

Of the cases of employees requested to take examinations for which race was reported, 25 percent were black and 73 percent were in a predominately white category. This differs from their ratios of 14 percent and 80 percent, respectively, of the civil service work force. (See exhibit B.)

Reasons for and types of examinations; results and appeals

Information furnished by the agencies showed that in 80 percent of the cases the employee's name was submitted by his supervisor as a candidate for a fitness-for-duty examination. Explanations of reasons for the examination requests by agencies were generally not specific. Most requests were placed in the employees' medical files but not in their personnel files.

Reasons agencies gave for ordering employees to take examinations, and, for each reason, the types of examinations requested and given, are summarized in exhibit C. Mainly, examinations were physical, psychiatric, and or psychological. More physical and psychiatric examinations were requested than given; however, more psychological examinations were given than requested. In most instances the reasons for ordering examinations seemed to be consistent with the type of examination requested or given.

The agencies reported that 45 percent of the examinations were given by agency medical officers. Ninety-three percent of the psychiatric and psychological examinations were given by psychiatrists and psychologists, respectively, and 7 percent were given by other individuals with related qualifications. Specific tests and measurements, including Bender-Gestalt and Rorschach evaluations, were listed in only a few cases.

Forty-six percent of the physical examinations were given by general practitioners. Internists and orthopedics accounted for most of the 41 percent given by specialists. Physical tests used included bone scan, urinalysis, and X-rays. Tests other than physical, psychiatric, and psychological included hearing and eye tests.

Of the 2,464 employees given examinations to determine their fitness-for-duty, 1,115 were declared fit for duty, 978 unfit for duty, and in 249 cases other actions were recommended. The agencies did not report the actions on 122 employees. About 42 percent of employees given examinations were retained. Thirty-five percent retired on

disability; a large number of these were employees of the Panama Canal Company/Canal Zone Government. Only 1 percent of the cases involved agency-filed disability retirements. One hundred and five cases are still pending. (See exhibit D.)

Fifty-nine employees refused to take examinations to determine their fitness for duty; employees of the Departments of Health, Education, and Welfare and the Treasury accounted for nearly half of these. About half of the individuals who refused to take examinations subsequently retired on disability, or resigned. Nine were retained, and seven were terminated. Six cases are still pending. (See exhibit E.)

Seventy-nine employees appealed actions taken to resolve their cases. CSC upheld agency actions in 32 appealed cases. In 10 cases the employees were reinstated, and 16 cases are still unresolved. Information was not furnished on the disposition of 21 cases.

FEDERAL AGENCIES THAT HAVE USED
FITNESS-FOR-DUTY EXAMINATIONS
SINCE JULY 1, 1973

<u>Agency</u>	<u>Number of examinations reported</u>
ACTION	1
Agency for International Development	3
Agriculture	(a)
Civil Service Commission	1
Commerce	35
Defense (note b)	406
Energy Research and Development Agency	(a)
Federal Deposit Insurance Corporation	(a)
Federal Energy Administration	1
General Services Administration	222
Government Printing Office	64
Health, Education, and Welfare	209
Housing and Urban Development	35
United States Information Agency	(c)
Interior	<u>d</u> /54
Justice:	
Bureau of Prisons	43
Drug Enforcement Administration	9
Federal Bureau of Investigation	38
Immigration and Naturalization Service	(a)
U.S. Marshal Service	(a)

<u>Agency</u>	<u>Number of examinations reported</u>
Labor	40
Library of Congress	(a)
National Aeronautics and Space Administration	50
National Labor Relations Board	2
Panama Canal Company/Canal Zone Government	603
Postal Service	(c)
Securities and Exchange Commission	5
Small Business Administration	(a)
Smithsonian Institution	12
State	8
Transportation	168
Treasury	505
Veterans Administration	<u>e/4</u>
Total	<u>2,518</u>

a/No response.

b/Case information (part II) was provided on a small sampling of fitness-for-duty examinations within the Department of Defense, i.e., for the Departments of the Army, Navy, and Air Force; Defense Logistics Agency; Defense Contract Audit Agency; National Security Agency; Defense Nuclear Agency; Defense Communications Agency; Defense Mapping Agency; Defense Investigative Service; and Defense Intelligence Agency.

c/Responded to part I of questionnaire only.

d/Replied too late for analyses.

e/Response to part II is a limited sample of Veterans Administration fitness-for-duty examinations and includes only those given to employees of VA's central office in Washington, D.C.

ANALYSIS BY RACE
OF EMPLOYEES REQUESTED TO TAKE
FITNESS-FOR-DUTY EXAMINATIONS

<u>Race</u>	<u>Employees requested to take examination</u>		<u>Civil service work force (note a)</u>	
	<u>Number</u>	<u>Percent</u>	<u>Total</u>	<u>Percent</u>
Negro	390	24.7	235,582	14.2
Spanish surname	27	1.7	56,677	3.4
American Indian	-	-	15,767	1.0
Oriental	2	.1	16,479	1.0
Other (note b)	<u>1,158</u>	<u>73.4</u>	<u>1,329,318</u>	<u>80.4</u>
	<u>c/1,577</u>	<u>99.9</u>	<u>1,653,823</u>	<u>100.0</u>

a/As of November 1975, latest information available.

b/This category is predominately white.

c/Data was not furnished on 887 cases.

REASONS GIVEN BY AGENCIES FOR ORDERING

FITNESS-FOR-DUTY EXAMINATIONS AND

TYPES OF EXAMINATIONS REQUESTED AND GIVEN

Reason	Frequency of reason (note c)	Type of examination requested (note a)			Type of examination given (notes a and b)					
		Physical	Psychiatric	Psychological	Physical	Psychiatric	Psychological			
Routinely required for continued employment	129	124	9	1	3	137	123	14	0	137
Long illness or serious injury	724	677	58	4	27	766	659	65	6	730
Frequent absences	688	595	133	11	15	754	568	138	19	725
Aberrant behavior	443	221	326	28	22	597	222	304	52	578
Inadequate performance	680	539	193	29	30	791	530	188	40	758
Other	587	537	71	8	20	636	525	76	11	612
Total		2,693	790	81	117	3,681	2,627	785	128	3,540
Percent		73	22	2	3	100	74	22	4	100

a/In some cases, more than one type of examination was requested or given.

b/Approximately 83 types of examinations other than physical, psychiatric, and psychological were given. These include neurological, eye, and hearing tests. Information by reason on other exams given is not available.

c/In some cases, more than one reason was given.

AGENCY DETERMINATIONS AND ACTIONS TAKEN TO
RESOLVE CASES OF EMPLOYEES GIVEN FITNESS-FOR-DUTY EXAMINATIONS

	Employee determine to be			Total	Retained	Reassigned	Retired		Formal	Actions taken to resolve cases			Total
	Fit	Unfit	Other				Disability	Other		Resigned	Pending	Deceased	
			unknown										
Bureau of Prisons	10	18	11	4	43	9	16	6	2	3	7	-	43
Commerce (note a)	12	11	8	4	35	14	15	-	-	2	3	-	35
Defense (note a)	166	158	67	15	406	192	103	9	16	12	31	4	406
Federal Bureau of Investigation	32	2	4	-	38	28	3	-	-	1	-	-	38
Government Printing Office	52	7	-	5	64	49	2	-	1	2	-	-	64
General Services Administration	113	57	27	25	222	121	16	49	10	3	b/9	1	222
Health, Education, and Welfare	83	77	21	28	209	64	19	66	12	10	14	1	209
Housing and Urban Development	15	13	3	4	35	14	1	11	4	1	3	-	35
Labor	22	12	6	-	40	19	2	12	-	2	2	-	40
National Aeronautics and Space Administration	22	16	8	4	50	15	13	14	-	1	5	-	50
Panama Canal Company/ Canal Zone Government	218	381	1	3	603	211	8	372	-	1	1	1	603
Transportation	50	90	24	4	168	35	13	85	5	2	11	-	168
Treasury (note c)	304	118	60	23	505	262	33	195	19	24	14	5	505
	16	18	9	3	46	11	4	18	2	1	5	-	46
Total	1,115	978	249	122	2,464	1,046	145	d/873	70	65	105	13	2,484
Percent	45	40	10	5	100	42	6	35	3	3	4	1	100

a/See note b on exhibit A.)

b/Includes one case that was dropped.

c/The number of cases requested by the following agencies was so small that they were grouped together: Veterans Administration, Agency for International Development, State, Smithsonian Institution, Securities and Exchange Commission, National Labor Relations Board, ACTION, Drug Enforcement Administration, Federal Energy Administration, and Civil Service Commission.

d/Includes one case that was dropped.

DISPOSITION OF EMPLOYEES WHO REFUSED TO
TAKE FITNESS-FOR-DUTY EXAMINATIONS

	<u>Retained</u>	<u>Reassigned</u>	<u>Retired</u>		<u>Disposition</u>			<u>Cases</u>			<u>Other</u>	<u>Total</u>
			<u>Disability</u>	<u>Other</u>	<u>Terminated</u>	<u>Resigned</u>	<u>pending</u>	<u>Deceased</u>				
Bureau of Prisons	-	-	-	2	1	-	-	1	-	-	-	4
Commerce	-	-	2	-	-	-	-	-	-	-	-	2
Defense (note a)	2	-	1	-	1	1	2	-	-	1	-	8
General Services Administration	2	-	1	-	-	1	-	-	-	-	-	4
Government Printing Office	2	-	1	-	1	2	-	-	-	1	-	7
Health, Education, and Welfare	1	-	6	-	-	4	2	-	-	1	-	14
Housing and Urban Development	-	-	1	-	1	-	-	-	-	-	-	2
National Aeronautics and Space Administration	-	-	1	-	-	1	-	-	-	-	-	2
Panama Canal Company/ Canal Zone Government	-	-	1	-	-	-	-	-	-	-	-	1
Securities and Exchange Commission	-	-	-	-	-	-	-	1	-	-	-	1
Transportation	-	1	-	-	-	-	-	-	-	-	-	3
Treasury	-2	1	-2	1	1	3	-	1	1	-	-	11
Total	<u>9</u>	<u>2</u>	<u>16</u>	<u>3</u>	<u>7</u>	<u>12</u>	<u>6</u>	<u>10</u>	<u>1</u>	<u>3</u>	<u>59</u>	
Percent	15	4	b/27	5	12	20	10	2	5	5	100	

a/ See note b on Exhibit A.

b/ Includes 3 agency-filed disability cases.

CASE OF ALLEGED FORCED RETIREMENTSECURITIES AND EXCHANGE COMMISSION

On October 21, 1976, the Subcommittee on Retirement and Employee Benefits, House Committee on Post Office and Civil Service, sent us a copy of a September 23, 1976, letter from Congressman Walter E. Fauntroy to the Chairman, Securities and Exchange Commission (SEC), on behalf of Mr. Octavia Anderson, a constituent.

Mr. Anderson contended that he was being forced out of his position as a GS-7 mailroom supervisor in SEC's Office of Reports and Information Service. Mr. Anderson said that through a series of verbal inquiries, his immediate supervisors had encouraged him to submit a request to retire from Government service.

While this appears not to be a fitness-for-duty case, we contacted Congressman Fauntroy's office to inquire into the matter. That office forwarded to us a copy of the report of SEC's Director of Personnel to the Chairman, SEC, in response to the Congressman's September 23 inquiry.

SEC said the decision to abolish the position held by Mr. Anderson was a proper managerial decision based on the failure of the mailroom to operate efficiently. New equipment was purchased, and procedures were reviewed to recommend changes to correct mailroom inefficiencies. SEC planned to reconstruct the staffing so that any supervisory positions established would require different knowledges, skills, and abilities analogous to those of an operations analyst.

SEC also said that:

- Issuance of the initial letter of notification of the proposed abolishment of the supervisory position complied with civil service reduction-in-force regulations requiring advance notice of at least 30 calendar days.
- The position to be abolished was the only one in its competitive level.
- Mr. Anderson was listed in the retention group applicable to veterans.
- Mr. Anderson had no retreat rights because his former position was also being abolished; however, he had bumping rights to three non-supervisory GS-7 positions

in the mail and files competitive area, and would be offered one of those positions at least 5 days before the date of abolishment of his position.

According to SEC the record showed no evidence of discrimination because of race or color, and any new position established would be filled under merit promotion competitive procedures without regard to race, color, religion, or age. The Director of Personnel said there was no evidence that Mr. Anderson was being forced to retire on disability and that his sick leave record, his own statements about being ill, and the concerns expressed by his daughter gave rise to the possibility of health problems. Alternative courses of action--disability retirement, involuntary retirement, and information regarding an estimated annuity--were discussed with the employee.

On February 2, 1977, we contacted Congressman Fauntroy's office to find out the disposition of Mr. Anderson's case. Ms. Wanda Diggs informed us that Mr. Anderson was no longer with SEC. She was unable to give us any details about the circumstances under which he left the agency.