

THE INVESTIGATION PROCESS UNDER THE EU WHISTLEBLOWER DIRECTIVE

Ethisphere Driven Data: Europe Ethics & Compliance Forum

ERICA SALMON BYRNE
Executive Vice President and
Chair of the Business Ethics Leadership Alliance
Ethisphere





135 companies

22 countries

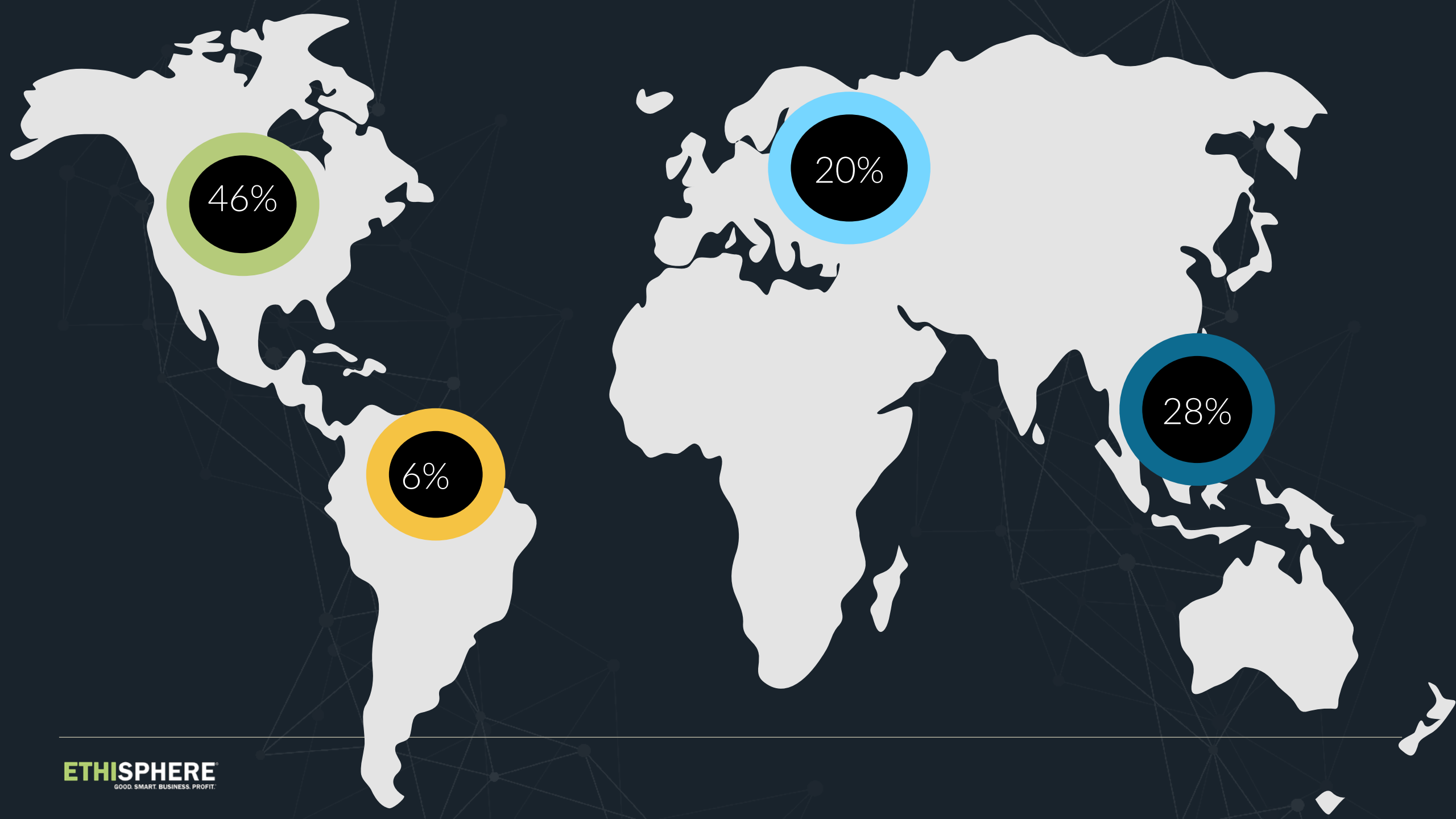
47 industries

OUR CULTURE DATA

1.5M responses

150 surveys

8 + 2 pillars



WHAT THE DATA TELLS US

93%

willing to report

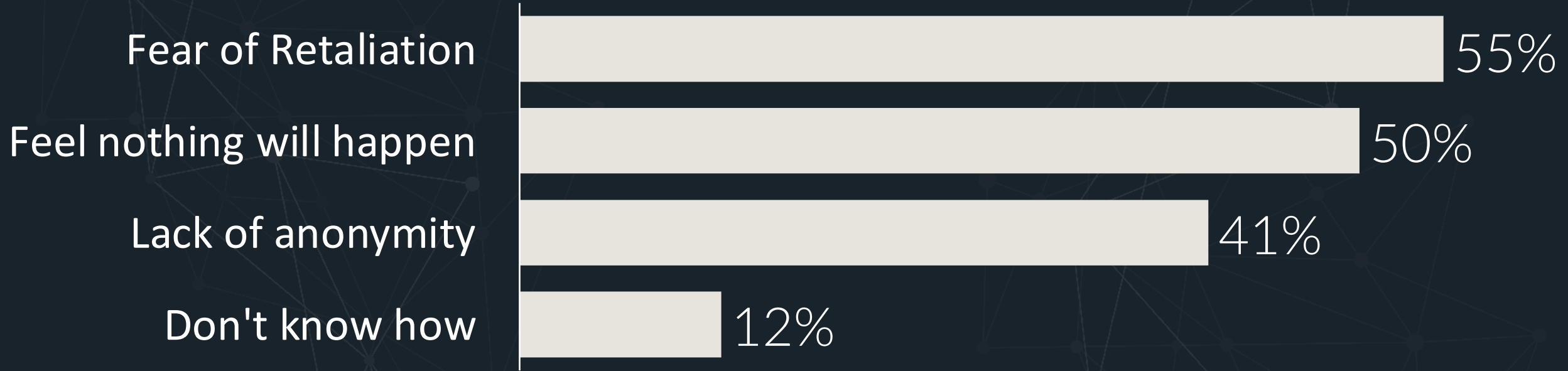
58%

actually report

Employees often feel empowered to raise their hand, but in the moment fail to do so



WHAT THE DATA TELLS US



WHAT THE DATA TELLS US

Is the non-retaliation policy enforced?

Yes

No

I reported the misconduct I observed

73%

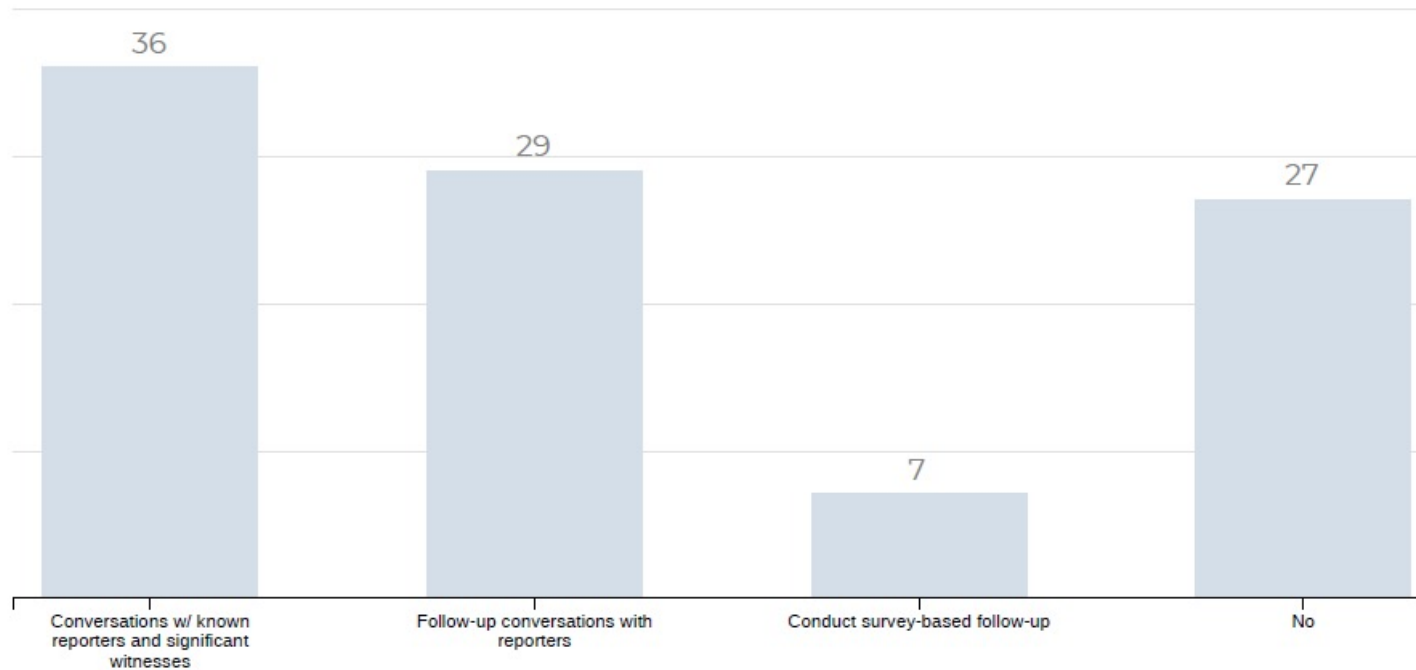
34%

WHAT THE DATA TELLS US

POST-INVESTIGATION PROCESSES

4F.3 Does your organization have a process for gathering feedback from individuals who participated in an investigation after the investigation is closed?

Dataset 1 (*n* = 135)



WHAT THE DATA TELLS US

REPORTER PROTECTIONS

4F.6 Indicate which established procedures your company has to protect employees who report suspected misconduct.

DATASET 1 (n = 136)	
Monitor sick day use	8%
Monitor change in performance evals	35%
Monitor change in job status	50%
Follow-up with reporter to see if felt retaliation	45%
Inform the reporting individual at the time of making the report of the company's non-retaliation policy and what to do if they feel retaliated against	93%
A process to determine whether an employee facing involuntary termination has reported misconduct or been a witness in an investigation of alleged misconduct (please note that the process need not result in the employee not being terminated, but must result in that determination being made in an informed manner given the employee's status as a reporter or witness in an investigation)	48%
Provide contact info for questions/concerns	87%
Other unique procedures to protect employees (Please specify)	37%
None of the above	1%

HOW ARE YOU TALKING TO YOUR MANAGERS ABOUT NON-RETALIATION?

WHAT THE DATA TELLS US

Hotline



HR



My Manager



WHAT THE DATA TELLS US

INVESTIGATION REPORTS

4E.3 How are reports made to managers entered into your tracking system for review and potential investigation?

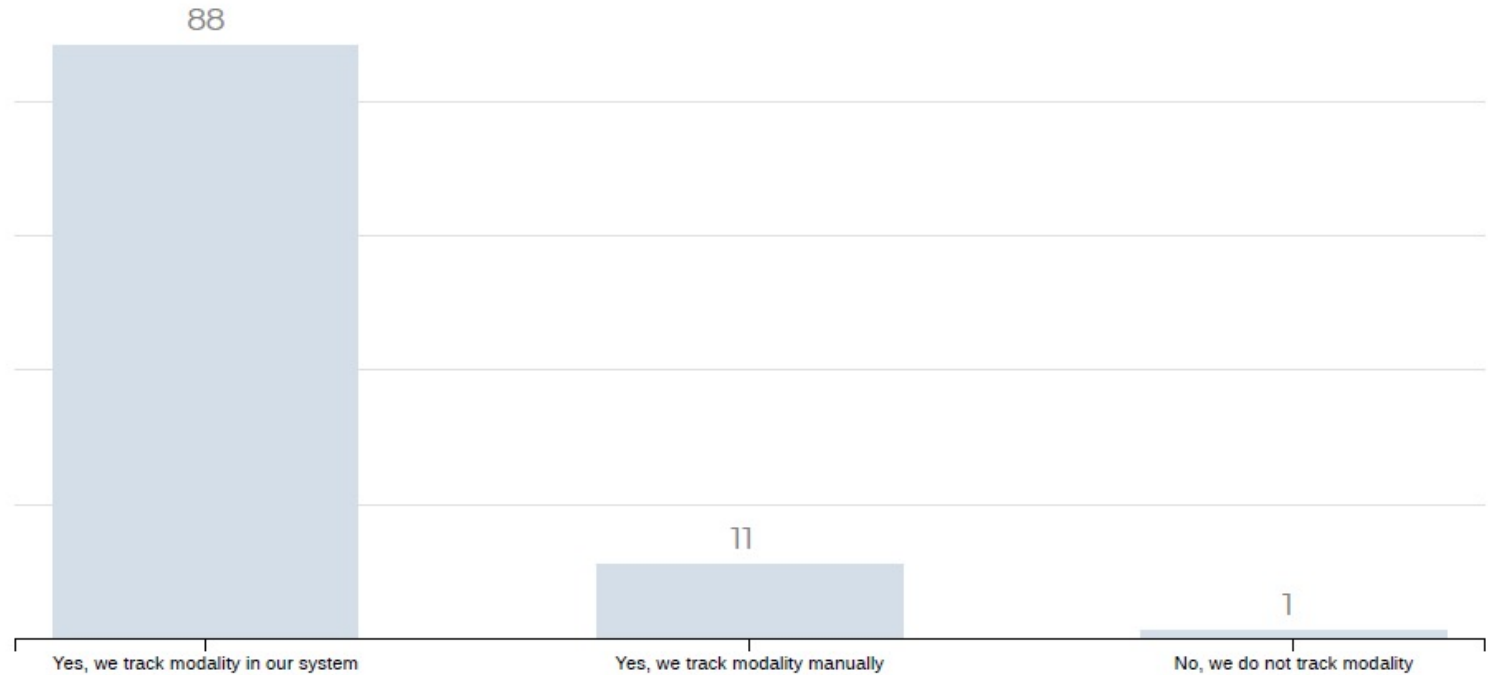
DATASET 1 (n = 102)	
Managers can create reports on behalf of the reporting employee (a "proxy report")	72%
Direct line of comms between manager and HR	73%
Direct line of comms between manager and E&C team	93%
Direct line of comms between manager and ombuds	21%
None of the above	0%

WHAT THE DATA TELLS US

INVESTIGATION TRACKING

4E.4 Does your company track the modality through which a report is received (e.g., direct report to a manager, direct report to HR, submission through the hotline, etc.)?

Dataset 1 ($n = 136$)



WHAT THE DATA TELLS US

81%

believe
concerns are
investigated

72%

believe
discipline
occurs

31%

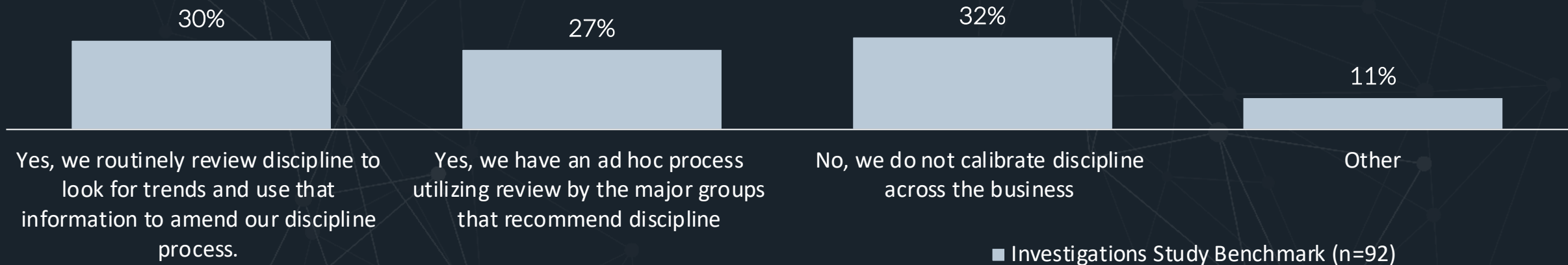
believe rules
and discipline
aren't equally
applied

WHAT THE DATA TELLS US

POST-INVESTIGATIONS PROTOCOLS

Review Disciplinary Process to Ensure Calibration Across the Organization

“Does your organization have a process for calibrating substantiated allegation disciplinary action?”



THANK YOU

