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Corporate Ombudsman Association handbook 1987

MARY ROWE

Corporate Ombudsman

ASSOCIATION

# OMBUDSMAN HANDBOOK

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# THE OMBUDSMAN HANDBOOK

PUBLISHED UNDER THE AUSPICES OF THE

CORPORATE OMBUDSMAN ASSOCIATION.

Compiled by James B. Hendry
Formerly Ombudsman, The World Bank

Permission Granted
by Hendry (+ UTC)
in 2001 before Jim's death

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TMRowe
2001

(I was a co-author
with 4 others - MER)

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# PREFACE

The appearance of this Ombudsman Handbook marks the achievement of an important objective for the Corporate Ombudsman Association. Interest in the role of ombudsman in a private sector setting has grown steadily in North America in recent years, along with the number of practitioners, but there has been no ready source at hand to help in responding to questions such as what does an ombudsman do, where is one used, what issues does an ombudsman face, how does an ombudsman office get started, or where can one find more information? This Handbook provides answers to these and other questions in one convenient package, and in this way serves as a major component in the out-reach activities sponsored by the Association. Although this is our first effort to answer questions and provide a comprehensive picture of how an ombudsman functions in a corporate setting, the Association intends to re-issue the Handbook from time to time in the future. As our experience grows, and as the role of ombudsman evolves in response to new challenges and new problems, the "snapshot" of our profession will have to be up-dated. For now, however, we are pleased to bring you this overview of the present state of our art, and we hope readers will find it useful, interesting and informative.

Material in the Handbook is drawn from the experiences of many of our members, but special acknowledgement is due to those who have been most closely engaged in putting it together. The Association is very appreciative to Jim Hendry, former Ombudsman at the World Bank and now retired, for writing the text and compiling the material which appears in the Appendices, and to the research team of Prof. Mary Rowe, first president of the Association and Assistant to the President of MIT, Prof. Lee Robbins of Temple University and Prof. Jim Ziegenfuss of Penn State University, whose work provides much of the factual information about the profession, its practitioners and its impact. Special thanks are due the attorneys, Jim Simon of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo and Jerry Weinstein of Palmer and Dodge, whose writings and presentations to our annual conferences provide the basis for the chapter on Legal Issues. We are also grateful to Virg Marti of McDonnell Aircraft for preparing the material on starting up an ombudsman office, and to Tony Perneski of A.T.&T. for his work on cost-effectiveness. To the people at General Telephone of California, in particular Jim Webb, Marcina Thompson and Georgia Byers, goes our appreciation for producing and distributing a draft of the Handbook in time for the Association's conference in May 1987. Finally, we are most grateful to United Technologies Corporation for the generous support which has made publication of this current version possible.

Carole M. Trocchio, President
Corporate Ombudsman Association, Inc.

# CHAPTER I

## THE WHYS AND HOWS OF OMBUDSMANRY

Introduction . The notion of preparing a Handbook about the institution of ombudsman has been discussed with a growing sense of urgency at recent annual meetings of the Corporate Ombudsman Association (COA), and whenever members have come together on other occasions. The reasons are threefold. First, those who already serve as ombudsmen feel a need for a single source of information about their unusual and little-known calling to give to senior managers and colleagues, as well as to share among themselves. Second, officers of the COA receive frequent requests from corporations who are considering introducing an ombudsman-like function into their organizations and are looking for answers to questions about what this entails and what the experience of others has been. Finally, by pulling together what is known about this field, those who are practitioners may be taking a step toward fixing their own identity in a relatively new and enormously interesting profession.

As the reader will see, this Handbook is essentially made up of two components. One, the main text, seeks to provide a broad-brush survey of the main aspects of ombudsmanry and answer the kinds of questions most likely to arise about the subject. The other, the appendices, provides readings, bibliographies, and other materials to supplement the text for those wishing to go into certain aspects in greater depth. There is some cross-referencing between the two parts of the Handbook, but each is designed for browsing as a reader's interest and inclination dictate. It is the intention of the COA that up-dating materials will be compiled from time to time as new, and/or better, information becomes available; in this respect the present volume represents the start of a process of information gathering and dissemination.

The institution of ombudsman is a growing one -- about two hundred corporations in North America now have someone who acts as an ombudsman -- but it is a concept which is not widely understood, and indeed, many even have trouble

pronouncing it. An obvious starting-point is therefore to clear some of the terminological underbrush and identify what it is one is talking about. The word "ombudsman" is Scandanavian in origin and refers to someone who is a representative, agent, or authorized person who safeguards and serves the interests of a particular group. With the changes in usage in recent years many people have become uncomfortable with titles which include "man" in them. This has given rise to the use of several alternatives. Some simply keep the protector or representative part of the term, i.e., the "ombud," to describe the function; some couple this with more neutral-sounding terms such as "ombudsperson" or "ombuds office;" some call it something else entirely, such as liaison officer, work problems counselor or personnel communications officer; some, of course, still use "ombudsman," as will be the case in this Handbook.

The functions of an ombudsman have been carried out in a variety of guises over the years -- in the rabbinical courts, as court jesters, or as general troubleshooters. Although most associated with Scandanavia, where it has an honorable history, the first ombudsman (in the classic mold) did not appear in Sweden until the beginning of the nineteenth century. Most commonly, the ombudsman in Scandanavia was appointed by Parliament to ensure that the laws and statutes were properly applied and to guard against abuses, malpractice, or error by officials designated to administer the laws; the person holding the office has sometimes been referred to as the "watchman of the watchmen." In this statutory form the institution of ombudsman has been widely adopted in Europe, North America, New Zealand and Australia, albeit with local differences in powers and scope. But it was really the reputation of the ombudsman as a fair-minded, neutral, and powerful source of assistance to those coping with bureaucracy in some form or other that caught the imagination and raised the prospect that the institution could be adapted to new environments and new purposes. Though not the Robin Hood or knight-errant projected in some popular portrayals, the ombudsman clearly has been someone to reckon with.

This transition to new settings was spurred by an extremely thoughtful and provocative article by Isidore Silver on "The Corporate Ombudsman" that appeared in the May-June 1967 issue of The Harvard Business Review (reprinted in Appendix A). The problem, as addressed in the article, was to find some way to provide justice for corporate employees by opening a channel to review management decisions affecting them. This would be convincing only if the review could be truly impartial, and undertaken with the full authority of the top management of the corporation; seen in this light, the traditional concept of an ombudsman offered a role that might provide just what was needed. But Silver emphasized that corporate injustice was not the primary reason for having an ombudsman; it was also a preventive medicine that would often be more vital than harsh cures. Citing another authority on the subject, "The ombudsman was created not to clean up a mess, but, rather, simply to provide insurance against further messes." In the evolution of the ombudsman function since that time, it has become, in fact, a concept that deals with a broader set of issues than a legalistic approach to corporate justice.

What Does An Ombudsman Do? In the years since the appearance of Silver's article, major corporations throughout North America have been introducing the ombudsman function into their organizational structure in one way or another. Where it has been most successful, it has been due in large part to the strong commitment of top managers, and in particular the Chief Executive Officer (CEO), to the maintenance of an equitable and workable balance among an organization's constituent groups.

In essence, the ombudsman is appointed to act as an impartial source of assistance in the resolution of both an organization's internal problems and those of its people. To provide that assistance the ombudsman must enjoy the fullest support and confidence of the CEO. The ombudsman is thus not just another corporate functionary, but someone with a broad mandate to look into any situation presented, to review any pertinent documents, to meet with and discuss the situation with anyone having knowledge of the matter, and to give advice and opinion as his or her

judgment and conscience dictate. The ombudsman is "of" the corporation, but not "in" its line or staff management; in the view of many, the ombudsman serves as the conscience of the organization. Researchers who have been studying the activities of the ombudsman have defined the role as "...a neutral member of the corporation who provides *confidential* and *informal* assistance to employees in resolving work-related concerns and is *outside* the normal management control structure."

While the commitment of management and the delegation of broad powers to the ombudsman are essential, the confidentiality of the office in its dealings with staff is equally critical. Keep in mind what is involved -- a staff member seeks help on a problem that is very important to him or her. It may affect whether the staff member is terminated or his career derailed, or there may be problems of a most serious personal nature. The staff member frequently does not know where to turn for help -- he or she may fear that a manager will take reprisals, that personnel officers cannot be trusted to keep the matter confidential, or that it is too embarrassing to discuss with friends or colleagues. In this emotionally charged kind of situation, the office of the ombudsman becomes a place to turn precisely because it is understood that anything discussed will remain completely in confidence. In many cases a staff member does not want the ombudsman to do anything, but does want someone to listen to the problem, explore what options are available, and then say nothing further to anyone about it. Just talking about a problem can be a therapeutic experience, and the staff member often returns to the job less preoccupied and more productive than before. But even in those cases where the ombudsman does come to play some active role, the aspect of confidentiality is equally important. Not only do the same reasons make alternative sources of assistance unappealing, but confidentiality is essential to any frank and open discussion of what future action might be taken. The upshot of both, however, is that no ombudsman will continue to draw clients if staff members believe confidences will not be respected, and if there are no clients there is no role for an ombudsman.

What Are The Functions Of An Ombudsman? As indicated above, a large part of the job is to listen -- very attentively, very sympathetically, and very objectively. Not only is this necessary where someone is simply looking for a respectful hearing of the problem at hand, but careful listening is essential to get the story straight. Ombudsmen report that anywhere from one-third to one-half their office time is spent just in listening.

The "merely listening" type of contact is usually accompanied by a certain amount of counseling and/or problem solving. Many people want to work out problems on their own, but welcome a chance to explore, in confidence, the options open to them. Because an ombudsman should be knowledgeable about the organization and skilled in solving problems, he or she is frequently aware of options the staff member does not know about, and should have some sense of how similar problems have worked out elsewhere in the organization. The listening function also gives a staff member a chance to vent feelings of anger or frustration, or to communicate information about activities in the organization that may range from the immoral through the unethical to the illegal. In the last case, however, an ombudsman may not be able to remain silent -- a point discussed further below.

There are also cases where something more than listening will be needed, and here an ombudsman has a variety of approaches from which to choose. After obtaining approval of the staff member to talk with anyone who might be helpful in resolving the case, the ombudsman may look for some further perspective on things by talking with personnel officers, with Employee Assistance Program (EAP) people, or with the first-line supervisor concerned. This is sometimes referred to as the "investigative function." A review of the staff member's file may be a first step in this process. Once the dimensions of the problem become better established, and the facts clarified, the ombudsman may begin to see aspects that could become the basis for "brokering" a solution (via "shuttle diplomacy" or mediation), thus leaving all sides with some satisfaction at the outcome, but perhaps with no clear "winners" or "losers." The situation becomes defused and everyone goes back to his or her main

tasks; it has been done quietly, informally, without confrontation, and at the lowest possible level of intervention.

Not everything can be handled so conveniently, of course, so other approaches will also be needed. Most organizations have some established procedures for resolving problems formally and informally, usually involving a process of appealing the case to ever higher levels of management for review and decision. Where an ombudsman can be very helpful -- and indeed it is one of the major functions of an ombudsman -- is when the normal problem-resolution process has broken down or is not working properly . By virtue of the ombudsman's role in the organization it becomes possible for him to get the process back on track by going to the next-in-line managers, who have responsibility for resolving problems equitably and speedily. An ombudsman is almost never expected, nor empowered, to make binding decisions on how a problem should be resolved, but is expected to persevere in seeing that a resolution process is followed as fully and fairly as possible. In doing this an ombudsman may urge senior managers to look into a problem, or may alert even more senior levels that intervention has been requested. An ombudsman may offer good offices to see that a full exchange of views and evidence takes place. This could be simply serving as a neutral observer when meetings take place, or it could involve an active mediation role. Once a case has been escalated as high as possible, and a decision has been made, the ombudsman's involvement is ended. The ombudsman may not like the way the problem has been resolved, but if all the facts have been taken into account, and the staff member has had an opportunity to present his or her side of the story fully, there is usually nothing further to be done by an ombudsman.

<u>The Importance of Providing "Feedback."</u> People do not often come to an ombudsman because their careers are going swimmingly, or because they are elated with their supervisors or delighted with their latest merit increases. They are more likely to come, instead, because they have run into problems. An ombudsman thus sees a biased sample of the work force, but this also affords a unique

opportunity to observe what is going awry in an organization. One of the important services an ombudsman can perform is to analyze these perceptions, distill whatever significance or trends they reveal, and present them to top management. This can be done through written reports, annually, semi-annually or as appropriate, but is more often accomplished by one-on-one meetings with key managers, from the CEO on down. The feedback function can focus on policies that seem ineffective or misdirected, can suggest areas for improvement and review, and can highlight areas of major employee concern. It can also suggest what appear to be promising new initiatives or alternative policies.

Since most organizations usually have some kind of problem-resolution arrangements in place, and certainly would have a personnel department and possibly some other employee-assistance facilities, one might ask why they should even consider an ombudsman. It has been the experience of professionals in the field that even when such existing facilities are working well, an ombudsman is apt to get more and different problems than the more traditional employee-assistance units. The neutral and confidential nature of the ombudsman office enables it to serve as something of a safety valve, attracting cases that might otherwise have remained unaired and unrecognized. It also seems true that if additional channels of communication are added to an organization, there will be more problems coming to the surface -- or coming to the surface earlier -- as a result. Managements are therefore finding that it is not only cost-effective to introduce such an institution (more on this point later in the Handbook), but also is generally viewed by staff as a humane policy, indicative of genuine concern for the rights and responsibilities of employees.

What Kinds of Problems Come to an Ombudsman? As one might expect, a very high proportion of the cases involve the career concerns of staff members -- performance evaluations and rewards; promotions and demotions; career development; terminations; transfers and reassignments; disciplinary measures; probation; job grading; job security; and retirement. It should be emphasized at this

point that managers are included among the staff members in this context, for they too face the same kinds of problems in their careers. Managers may also want to discuss with an ombudsman alternative ways of handling a problem before making a decision. Another set of issues is closely related to how one is faring in a career, but comes packaged in different forms -- discrimination and harassment; ethical problems or whistleblowing; personality conflicts; personal health; working conditions; substance abuse; unusual behavior on the part of supervisors and colleagues. Just how a particular case is classified is a somewhat arbitrary decision. For example, a person may receive a poor performance evaluation because of personality conflict with a supervisor, or may be in danger of termination because of substance abuse. Some people prefer to classify problems from the point of view of the personnel activity involved; others are more interested in the underlying nature of the problems. There is no "proper" way, but together they give an idea of the range of matters that come to an ombudsman on a day in, day out basis.

Much of the interest being shown in bringing an ombudsman into an organization reflects awareness by senior managers that, where part of the work force is unionized, the non-unionized employees usually have, or believe they have, a less structured and effective system for addressing their grievances. The ombudsman becomes a visible step toward removing this deficiency. If a part of the work force is unionized, the jurisdictions are usually quite clear -- for matters arising under the contracts, union members use the grievance procedures established under the prevailing union contracts; non-union employees use other procedures, of which the ombudsman becomes an important part. There appear, however, to be many situations where union members, including shop stewards or other union officials, have sought the assistance of an ombudsman for problems not covered by the contractual grievance procedures, and the ombudsman has made the office as available as it is to any other staff member. In short, the union grievance procedure and the ombudsman are not competing systems but alternatives available to different kinds of employees, and/or for different problems. Where they exist side by side, they

have proved to be compatible and to some extent mutually reinforcing systems for treating problems and resolving disputes.

Just a few words more about the kinds of problems coming in. Many ombudsmen work within quite large organizations, which means that the environment can be impersonal and overpowering to an individual. It is little wonder that both managers and staff at times get the feeling that no one is listening, no one cares, and the bureaucracy just grinds along with little of a personal dimension to it. There is clearly need for a place and a person where one can go to blow off steam or get a sympathetic hearing. Many people simply need to get some accurate information on what to do about a problem, but do not know where to look for it. An ombudsman meets these kinds of needs. An ombudsman may also receive information about the organization involving very serious problems: fraud, embezzlement, or misuse of authority. These "whistleblowing" situations tend to arise because the ombudsman is perceived as a neutral person with whom one may safely discuss such matters without fear of reprisal. Finally, an ombudsman may be among the first to become aware of new kinds of problems in an organization, examples of which include sexual harassment, AIDS, and drug abuse in most recent years.

Where Are Ombudsmen Currently Being Used? It is very difficult to pull together a comprehensive picture on the extent to which something akin to an ombudsman is available in North American organizations of different types. There is no central reporting mechanism, the titles used are not standardized, and the range of duties and responsibilities varies widely. Nevertheless, the best information available indicates that in North America there about 100 ombudsman offices in colleges and universities, another 200 in corporations, and about three dozen in newspapers. Nearly 4,000 hospitals have offices to look into patients' complaints, and a great many businesses have client or consumer complaint offices. Each state has an ombudsman office to deal with problems arising in nursing homes and/or long-term care centers, and there appear to be about 1,500 part-time and full-time people attached to such offices. In addition, there are perhaps two dozen classical,

statutory ombudsman offices in states, provinces, and cities, and scattered practitioners for prisons and other institutions. Some radio and television stations and newspapers also have citizen's complaint or citizen's service contacts, as do some mayor's and governor's offices. Taken altogether, the ombudsman concept seems widespread in its adoption, varied in nature, and growing at a lively pace.

What Are the Professional and Personal Qualifications of an Ombudsman?

Preliminary survey work indicates that most ombudsmen -- probably at least 90 percent -- have worked for their present employer before being chosen to be the ombudsman. This internal selection process means that most are familiar with their companies and with the associated company cultures; it also suggests that they have the trust and confidence of their employers to handle the difficult, and sometimes delicate, problems which arise. About half are women, and a significant minority are black, Hispanic, and Asian. Some come from previous experience in EAP or Equal Opportunity (EO) offices; several have legal backgrounds, some with labor relations, arbitration, or mediation experience; about a quarter have been senior line managers, many personally acquainted with the CEO or other senior executives. The college and graduate school backgrounds of those in ombudsman positions include engineering, economics and management, social work, counseling, liberal arts, divinity studies and law.

As a general proposition, the typical ombudsman seems willing to take high emotional risks, but is not what one could term an entrepreneurial risk-taker. Effective practitioners are excellent listeners, genuinely like people , can see more than one side to a story and seem able to separate the people from the problem. They are comfortable as neutrals, do not leap lightly to conclusions and tend to be analytical and interested in problem-solving. The nature of the position requires that they be tactful and circumspect, and it helps to be willing to work with anyone, no matter how difficult and unpleasant that person may be.

The appointments of those serving as ombudsman also vary. In some organizations it is reserved for those nearing retirement, as an end-of-career

assignment. These usually serve for a guaranteed length of time, with the clear understanding that actions taken as ombudsman cannot affect their further career or tenure in the organization -- factors that impart a large measure of independence and objectivity. Other organizations use people in mid-career, sometimes for a period of time set in advance, but sometimes indefinitely. People in this type of appointment often return to some other assignment in the general area of human relations management or assistance, rather than into line manager positions. Some ombudsman appointments grow out of special relationships with a CEO or other senior manager, and tend to end if that person leaves the organization; others have served successfully with several CEOs before turning the job over to successors. One can see, therefore, that no easy generalization is possible about whether being an ombudsman is a profession toward which one can point a career. The most one can say is that the effective practitioners seem to have certain personal characteristics and ethical values in common, which are recognized and appreciated by senior managers when the time comes to appoint an ombudsman. If that comes close to saying that an ombudsman is "born and not made," then perhaps that is pretty much the way it is.

For those who would like to read further about some of the issues touched upon in this chapter, Appendix A contains three very informative articles: one, already cited, is "The Corporate Ombudsman" by Isadore Silver; the others are "The Corporate Ombuds: A New Approach to Conflict Management" by Lee P. Robbins and William B. Deane, and "The Corporate Ombudsman: An Overview and Analysis" by Mary P. Rowe. Appendix B contains a selective bibliography of books and articles about the institution of ombudsman and how it relates to problem resolution. Finally, Appendix L contains case studies illustrating the kinds of situations dealt with most frequently by ombudsmen.

## CHAPTER II
## ETHICAL ISSUES FOR AN OMBUDSMAN

Some Examples of Ethical Issues. Given the sensitive nature of many of the problems which come to an ombudsman, and the unusual situation of being the "designated neutral" in an organization (usually one in which the ombudsman has served for many years and with extensive personal contacts), it is not surprising that ethical issues tend to arise. To a large extent these are tied to the ombudsman's need to respect, and protect, the confidentiality of information received, as well as to see that certain very serious issues are effectively handled. As noted earlier, the willingness of staff members to use the office of the ombudsman depends on whether the ombudsman is perceived as reliable and able to keep matters discussed in strictest confidence. But confidentiality is not the only aspect which raises ethical issues. It is also important that an ombudsman be perceived as honest and fair, with integrity to withstand pressures from senior management, friends and former colleagues. Finally, within the corporate environment people face many of the same moral and ethical issues which arise in the society at large -- issues such as equal employment opportunity, environmental protection, worker and consumer safety, and a host of questions raised by the technology of the computer age. The ombudsman has a responsibility to draw attention to these moral issues, and to influence management decisions in ways which will take these issues into account. A few examples of typical experiences (and dilemmas) may help illustrate why the COA placed great importance on compiling a Code of Ethics as a guide for all practicing ombudsmen, whether Association members or not.

One problem area concerns situations where the maintenance of full confidentiality can be counter-productive to the resolution of a problem, even downright dangerous in some cases (more on this particular point in the Chapter dealing with legal issues). For example, a person may come to the ombudsman and report instances of harassment, either sexual or cases of just plain meanness, but

then indicate the ombudsman need do nothing other than be aware that the problem exists. This may provide some measure of relief to the staff member, who now shares with someone else information which is painful, embarassing, or emotionally stressful. From the viewpoint of the ombudsman, however, an incident has come to light which spells potential trouble for others in the same work unit, and may ultimately damage the efficiency of the organization, the morale of its staff and its general reputation, plus it may constitute a serious risk of litigation. To keep this information in confidence, as an ombudsman is committed to do, is to handicap the office in terms of considering action which might lead to some constructive resolution of the problem. On the other hand, an ombudsman must also recognize that a situation of harassment poses obvious problems for a staff member. To bring this matter into the open will almost certainly entail unpleasant and unwanted publicity, with the additional risk that reprisals may be attempted by those accused of engaging in harassing activities.

Another fairly common situation will find the ombudsman urging a solution to a problem opposite to that of a senior manager or to current organization policy. If the ombudsman believes his or her proposed solution is constructive and equitable, the follow-up should be carried out as firmly and effectively as possible, and often will require a great deal of tact and quiet diplomacy. But such situations may offer other difficulties as well. For example, the ombudsman's proposed solution may put former colleagues, possibly close friends, in an unfavorable light because their managerial or performance shortcomings will be exposed to others, including their own senior managers, and disciplinary action becomes a possible outcome. If an organization policy is flawed, or is being carried out unfairly, disclosure may bring the ire of a senior manager who is closely associated with the policy. Where the appointment of an ombudsman contains built-in protections, such as secure tenure for the period of the appointment, it is obviously easier to stick to one's principles, but unfortunately such protections are not always present.

While the office of the ombudsman is open to anyone seeking help, there will

be times when the person who appears is very difficult to deal with. This can be at the level of someone who is personally offensive -- voice and manner hostile and unpleasant, clothes and appearance unsightly, attitude loud and abrasive. It can also be someone who admits to outrageous or repugnant behavior, yet seeks help in dealing with the consequences of that behavior. In all variants of this situation, the ombudsman may find it hard to maintain the sympathetic, objective attitude which all clients have a right to expect. It is only human to experience loss of zeal to uphold another's rights to due process and a fair hearing in the face of grossly unpleasant and/or discreditable behavior, and the conflicting strong emotions that result can pose serious ethical problems.

A more subtle area of ethical distinction involves the fine line between offering advice and suggesting options on the one hand, and taking major responsibility for solving someone's problems on the other. An ombudsman is expected to provide advice, of course, and one of the important bits of advice entails accurate information about the range of options which are available in a particular case. But one of the things an ombudsman usually should not do is "take over" and tell a client what to do, or try to do it for the client. And, it is just as important to maintain an emotionally detached stance in those situations where the ombudsman may be sympathetic, as it is in those cases (as above) where the ombudsman's initial reaction may be quite the contrary. There will be occasions when clients will pursue a course in dealing with their problems that seems almost self-destructive. An ombudsman should do what one can to point out the potential pitfalls in any option being considered, but at some stage it becomes necessary to stand aside and let events take their course (short of situations involving suicide or murder).

The Association's Code of Ethics. As these few illustrations show, an ombudsman faces a variety of situations where the pressures may work against retaining a posture of objectivity and equity. Given the newness of the field of ombudsmanry, the variation in the backgrounds of the people appointed, and the range of responsibilities actually assigned to them, it would be very surprising if

everyone reacted in the same way. Yet, among those currently practicing in the field there is lively interest in how others deal with some of the ethical issues, and in having access to generally accepted guidelines which identify the standards all seek to maintain. Recent annual meetings of the COA have included sessions wholly devoted to questions of ethics, and growing out of these the Board of Directors adopted a Code of Ethics in early 1987. The hope is that this will not only be a workable guide for all who serve as ombudsman, but will also inform the community at large about the ethical stance of ombudsmen as a group.

The COA Code of Ethics, as adopted, contains the following four provisions:

I. The Ombudsman, as a designated neutral, has the responsibility of maintaining strict confidentiality concerning matters that are brought to his or her attention. The only exception, at the sole discretion of the ombudsman, is in the instance of threat to the physical safety of others and/or threat to company assets. This duty to warn, however, shall be initiated only after the ombudsman has strongly counseled with the client involved to encourage the client to personally come forth. In the event the client still refuses, the ombudsman has an obligation to notify the client of the intended breach of confidentiality in this situation. Even then, the ombudsman has the responsibility and obligation to discuss the situation only with those who have a need to know.

II. The ombudsman has the responsibility to insure that any records or files pertaining to confidential discussions with clients are safe from inspection at all times by other employees, including management at all levels.

III. The ombudsman has the responsibility, when recommending actions as a result of impartial investigations, to make recommendations that will be equitable to all parties and

reflect good business practice.

IV. The ombudsman has the responsibility to behave in a professional manner at all times, to maintain the credibility of the ombudsman function.

## CHAPTER III

## LEGAL ISSUES FOR AN OMBUDSMAN

Why Do Legal Issues Arise? There are several reasons why an ombudsman becomes concerned over legal issues. This Handbook is obviously not the place for a scholarly treatment of precise points of law or a thorough review of recent legislation affecting employer/employee relations, but it will try to provide the flavor of recent legal developments which could affect an ombudsman. Some of the issues concern changing interpretations of the responsibilities employers have toward their employees, for as these responsibilities change the risk of litigation also grows -- what start out as internal grievances may become court cases if an employer's actions can be construed as inconsistent with his responsibilities. To the extent that an ombudsman resolves problems informally, without resort to the judicial process, there will be less rancor, less loss of public good will, and certainly less cost.

Another set of issues involves the ombudsman directly, and to some extent grows out of the nature of the position and the conditions required to act effectively as an ombudsman. More specifically, there are questions over the extent to which an ombudsman should maintain the confidentiality of information received from others, and whether there are permissible, indeed mandatory, conditions under which information can or must be divulged to others. Closely allied to this point are questions about the kinds of records an ombudsman should keep, and whether or when such records can be opened to others. The legal status of these issues is quite fluid at the present time, partly because the institution of ombudsman in a corporate setting is so new. With even long-established immunities and privileges being challenged successfully in the courts, implications for the future are most difficult to predict. The sections which follow provide a bit more background for several of these issues.

Evolving Changes in the Doctrine of "Employment-At-Will." The doctrine of "employment-at-will" rests on a conception of the relation between employer and

employee which places them on the same footing, e.g., if an employee is free to leave a job at any time for any reason, an employer is equally free to dismiss an employee at any time for any reason. This view has its origins in the English common law as applied to the employment relationship of master and servant, and was given classic expression in the U.S. in a Tennessee case when the court stated employers could discharge employees "for good cause, for no cause or even for cause morally wrong, without thereby being guilty of an unlawful act per se." Payne v. Western & Atlantic Railroad, 81 Tenn. 507, 518 (1884), overruled on other grounds, Hutton v. Watters, 132 Tenn. 527, 179 S.W. 134 (1915). The rule has always recognized that it would not apply if a contract existed which provided for a fixed period of employment, in which case dismissal without due cause may be construed as breach of contract. As for employers, the doctrine recognizes their responsibility to allocate resources in whatever ways they see as maximizing profits or minimizing costs for their companies; the mirror image of this interpretation is to assume that employees have a responsibility to contract for their labor on such terms and conditions as they find acceptable.

Some recent rulings suggest that the courts are becoming more inclined to carve out exceptions to the traditional rule. In creating these exceptions, the courts have found that implied contracts of various kinds may exist, the actions of an employer may conflict with established public policies, or tort claims may arise as a consequence of employer/employee relations, all of which provide grounds for modifying the "at-will" doctrine. Recent years have also seen the introduction of legislation designed to restrict the "at-will" application, as, for example, in laws which ban discrimination in hiring and firing on racial, religious or gender grounds. A few illustrations will indicate some of the circumstances leading to such modificaton in the courts.

Many organizations issue manuals or handbooks which set forth the broad policies which apply to personnel actions, and these may also spell out the procedures under which people can be hired or dismissed. Where a manual

stipulates the grounds which can lead to dismissal and the procedures to be followed, the issue arises as to whether an implied contract is created, thereby giving employees greater rights than those which would otherwise exist in an "at-will" employment relationship. An increasing number of courts are concluding that a contract may be created by such documents. The Supreme Court of Michigan, for example, held that where an employment handbook guaranteed continued employment in the absence of just cause for termination, this gave rise to an enforceable contractual obligation which required good cause for discharge. This applied, moreover, even though the contract was for an indefinite term. Toussaint v. Blue Cross and Blue Shield of Michigan, 408 Mich. 579, 292 N.W.2d 880 (l980).

Similarly, the Supreme Court of Minnesota ruled that an employee manual constituted a valid binding contract. The case involved an employee who was summarily dismissed without following, or even mentioning, the disciplinary procedures spelled out in a handbook. The court found the procedural restraints on termination contained in the handbook constituted an offer of a unilateral contract. By continuing to work after the handbook was issued, the employee indicated acceptance of the contract offer and also afforded the consideration necessary to make it binding. Pine River State Bank v. Mettille, 333 N.W. 2d 622 (Minn. l983).

In some other cases, a combination of handbooks and other written and oral policies were considered sufficient to constitute legally enforceable contracts. For example, in one such case there was a combination of four factors: (a) an employee was induced to leave another employer with a promise that discharge would not be made without cause, (b) the employee was assured that employment would be subject to the provisions in a handbook to the effect that dismissal would be for just cause and only as a last resort, (c) the employee had rejected other offers of employment in response to these assurances, and (d) the employee, in his role of supervisor, had been instructed to proceed in strict accordance with the provisions of the handbook when he had recommended that some of his subordinates be

dismissed. Weiner v. McGraw-Hill, Inc. 57 N.Y. 2d 458, 443 N.E. 2d 441, 457 N.Y.S. 2d 193 (1982). These factors, taken together, constituted a contractual obligation to dismiss an employee only for good cause.

Another stream of interpretation grows out of consideration of whether a termination carried out in "bad faith" was a breach of an "employment-at-will" contract. The Supreme Judicial Court of Massachusetts found that an employee's contract with his employer contained an implied covenant of good faith and fair dealing, and that a termination not made in good faith was a breach of the contract. Fortune v. National Cash Register Co. 373 Mass. 96, 364 N.E. 2d 1251 (1977). The court found that good faith and fair dealing were pervasive requirements in the law, and that parties to contracts or commercial transactions were bound by that standard. The Supreme Court of New Hampshire went even further in this respect by finding there was an implied covenant of good faith in every "employment-at-will" contract." Monge v. Beebe Rubber Co. 114 N.H. 130, 316 A. 2d 549 (1974).

The effect of this narrowing of the "at-will" doctrine has been to spur interest in some organizations to develop defensive strategies which eliminate any reference that implies job security or prescribes procedures and grounds for dismissal. Some of the elements in these strategies include: emphasizing, at hiring interviews and in writing, that employment is at will and termination is at the employer's will; removing sections dealing with job security from handbooks; informing employees that continued employment depends on a combination of company profitability, good unit performance, and good individual performance; requiring supervisors to keep defensive records in anticipation of litigation. The clear intent of such a defensive strategy is to prevent any court from finding the type of implied contract which would nullify the "at-will" doctrine in its traditional form. The issue this may raise for an ombudsman is that it may thereby blur the procedures and guidelines governing terminations which otherwise provide the basis on which an ombudsman relies when trying to resolve disputes. If there are no admitted ground rules by which an organization makes critical decisions such as terminations, there are less clear

standards of fair play and equity to which an ombudsman can appeal.

Several jurisdictions have held that the "employment-at-will' doctrine will not apply in cases where an employee is dismissed because he or she refused to behave in a manner contrary to established public policy. Examples include an employee discharged for refusing to give false testimony before a state legislative committee, Petermann v. International Brotherhood of Teamsters, Local 396, 174 Cal. App. 2d 184, 344 P. 2d 25 (1959); in another case an employee was dismissed because he sought to alert his employer concerning violations of state and federal consumer protection laws, Harless v. First National Bank, 246 S.E. 2d 270 (w. Va. 1978). In the first case, the employee was discharged for reasons which violated the state's public policy, as expressed in the penal code, which made both the commission of perjury and its solicitation illegal. In the second case, the court found that the consumer protection laws were an expression of legislative intent to protect users of consumer credit, and this public policy would be frustrated if employees could be removed for trying to ensure their employers complied with the law. Some other jurisdictions have found that exceptions to the "at-will"rule could be based on non-specific, general notions of public policy. Thus an employee who helps local law enforcement officials by providing information about a fellow employee in a criminal case is simply assisting in the enforcement of the state's criminal code. Helping the law in this way cannot be construed as proper grounds for losing one's employment. While there are many variants to this kind of exception, it should also be noted that a few jurisdictions have refused to recognize any public policy exceptions at all.

The public policy exceptions to the "at-will" rule are less likely to lead to the kinds of defensive legal strategies noted above in connection with implied employment contracts, and to that extent are less apt to change the company environment in which an ombudsman works. What may happen, however, is that an ombudsman will be sought out in "whistle-blowing" situations when an employee feels it necessary to discuss the problem with someone. Most employers will attempt to address the concerns of a "whistle-blower" in a reasonable manner, but if an

employer chooses instead to retaliate against the "whistle-blower," the latter may go to court for protection. In such situations, effective intervention by an ombudsman can afford protection to an employee, while working to rectify the underlying problem.

Yet another area where some courts have shown willingness to limit the "at-will" doctrine lies in employer conduct in disciplining or discharging an employee that tortiously harms the employee. Such harm can occur in many different ways. Some of the examples include emotional distress resulting from the manner in which a termination was carried out, and defamation in connection with the termination based upon abusive language or excessive discussion of the termination by the employer, or negative references given to potential employers. Another set of examples includes claims that the reason for a dismissal is refusal by an employee to accept infringements on his or her privacy by the employer. Such things as questionnaires which probe embarassing and/or deeply personal matters, personality or medical testing, surveillance activities by an employer at work and at employees' homes, searches of one's person or effects, or using off-duty behavior as a basis for disciplinary action -- all have served as a basis for tort claims, and in some jurisdictions and under certain circumstances courts have allowed them. A discharged employee who suffers emotional harm,and can relate this to discrimination on the basis of sex, race, religion or age, may have an even stronger case. The implications of this evolving line of interpretation for an ombudsman are much as in the previous example -- the avoidance of costly litigation can be realized by timely, tactful and constructive participation in the dispute-resolution process. The "early warning" advantage which an ombudsman can have often helps to defuse a situation before it reaches the confrontational stage, particularly in cases of hasty and ill-considered dismissal actions.

An Ombudsman's Duty to Warn. The need for an ombudsman to maintain strict confidentiality has been emphasized throughout the earlier parts of this Handbook, but some recent court rulings indicate this is subject to some limitations. Specifically, if an ombudsman receives information that some third party is likely to

receive severe physical harm, or the organization is about to sustain serious financial loss due to the actions of someone, should confidentiality be observed? The traditional rule governing when someone has a legal duty to warn another person of a pending criminal event has been that no one has a duty to control another's conduct. Exceptions to this would be in cases where a special relationship exists between the person having knowledge and either the party whose conduct needs to be controlled or the potential victim. Given the role of ombudsman as advisor and confidant, the closest analogy would appear to be the psychotherapist-client relationship, which in turn has evolved from the doctor-patient relationship. In the latter situation, courts have often found that doctors may have a duty to protect third persons -- as, for example, if a doctor fails to warn family members or close friends about a contagious illness.

The common law has been substantially modified, however, by the findings in Tarasoff v. Regents of University of CAlifornia, 118 Cal. Rptr. 129, 529 F. 2d 553 (1974), vacated, 131 Cal. Rptr. 14, 551 P. 2d 334 (1976). In this case a young student undergoing psychotherapy told his psychologist he intended to purchase a gun and kill a fellow student. The psychologist alerted police that the student was dangerous, and the police took the student into custody for a period of observation. They subsequently released the student as rational and not dangerous, and shortly thereafter the student did kill the person he had identified to his psychologist.

The case eventually reached the California Supreme Court, which held that the psychologist had a duty to warn the parents of the victim of the danger posed by the student who had been undergoing psychotherapy. In doing so, the court found the situation analagous to the doctor-patient relationship. The court rejected the contention of the defendants, supported by amicus briefs from the American Psychiatric Association, that it was impossible to predict violent acts with any reliability. Rather, the court felt that a psychotherapist's ability to diagnose disorders was comparable to the judgements which doctors regularly make. Moreover, the court found that a patient's right to privacy had to be weighed against the public

interest in maintaining safety from violent assault. In the aftermath of this decision, California courts have been reluctant to extend the coverage of this beyond situations involving readily identifiable victims threatened with specific harm. In other jurisdictions, there has been both some readiness to follow, and some rejection of, the lead of the Tarasoff case.

A special situation may exist if an employee confides to an ombudsman an intent to cause specific harm, either to a co-worker or to him or herself. Under common law an employer has a duty to provide a safe working place for employees. If an employer knows of dangers, of which an employee is ignorant, the employer has a duty to warn the threatened employee, Dooley v. Sullivan, 218 Mass. 597, 106 N.S. 604 (1914).

One of the key questions in assessing an ombudsman's liability for failing to reveal a confidence is whether the courts would find the ombudsman-employee relationship comparable to the doctor-patient relationship. Given the non-professional status of an ombudsman, it seems unlikely a court would extend the analogy of the doctor-patient relationship to an ombudsman. In fact, courts have been reluctant to impose the duty to warn on laypersons where similar issues have been raised. On the other hand, there is a tendency for courts, in weighing the right to privacy against the public interest in maintaining safety, to come down on the side of public safety. For an ombudsman, at the present, whether to breach confidentiality is as much an ethical issue as it is a legal one. If there is prior knowledge which would lend credence to a threat of bodily harm, it may be ethical to alert an intended victim and/or the police. Before reaching that point, though, ombudsmen would nearly always make extended efforts through counseling to convince the person making threats to go to the authorities on his or her own, and/or seek professional assistance, or find other responsible means of dealing promptly with the problem. This would be analogous to the actions of those who effectively coax a would-be suicide to come in from the window ledge, or an armed person to release hostages and lay down his weapons.

Record-Keeping and the Ombudsman. In light of the above discussion of the issues surrounding confidentiality, a few words on record-keeping are in order. Most ombudsmen keep aggregate data of different kinds, sometimes for sharing with others in an organization, sometimes for their own purposes. Thus, for example, an ombudsman would usually know the number of new cases, the number of pending cases, and the number of closed cases which have come to the office over any given period of time. Many also keep some record of the distribution of their clientele -- by grade or position, sex, and race, for example -- and usually something about the types of problems which people bring to an ombudsman. Aggregate statistics of this kind are impersonal, and nothing in them can be used to identify individuals. They may be forwarded to senior managers from time to time, or even included in reports to staff at large. Confidentiality normally does not pose an issue in relation to such records because they do not reveal anything which is confidential in nature. There is further discussion of data collection in Chapter V and in Appendices C and G.

A second kind of record-keeping can raise questions, however. This type are records in an ombudsman's files which carry details of discussions held with staff members, as well as other materials -- copies of letters, memos and/or documents -- which have been given to the ombudsman for information or for safe-keeping. With a caseload of any size, an ombudsman will need something as a reminder of critical details about a problem, but practice in this respect differs widely. Some ombudsmen take notes during a conversation with a staff member, usually with the approval of that person, but others believe this inhibits open discussion about sensitive matters, Many, therefore, do not take notes in the presence of clients, but may write down the main points of discussion after the staff member has left. These notes can be relatively full recollections of what has been said, but they can also be very sketchy, sometimes almost illegible, cryptic references used later to jog the memory of the ombudsman on key points.

When notes and records of this kind are kept, it is vital they be kept in a secure place to ensure they remain confidential. They are the property of the

ombudsman alone, and are not to be shared with managers or others in any way which could identify the staff member concerned. There have been a very few instances when senior managers have asked for written notes or other records, but ombudsmen have successfully resisted such requests. Although no known instance has yet arisen, an obudsman would refuse to produce records if a subpoena were issued for them. Ombudsmen would argue that their records were subject to privilege of the kind which is available to clergymen, doctors and lawyers vis-a-vis clients, but these arguments have not been accepted. Many ombudsmen, therefore, either do not keep records of their meetings with clients at all, or keep them in some unintelligible form which makes them relatively useless, even if the records were forcibly released under subpoena.

Harassment. Courts have been increasingly ready to find organizations responsible for harassment of employees that occurs at the work place. This includes not just sexual harassment, which seems to attract the largest public attention, but also the probably more frequent sources of harassment such as racial reasons, religious reasons, and just plain meanness. If the harassment is more than a few isolated or trivial occurences, and the responsible managers/supervisors are aware it is taking place but do nothing about it, the organization may well be liable. Since harassment is one of the problems likely to come to an ombudsman, an ombudsman may deter litigation over an instance of harassment by satisfactorily resolving it. As the responsibility of managers in harassment cases becomes more firmly and widely established in the courts, the "early warning" role of ombudsman becomes increasingly valuable.

If an ombudsman is presented with a case of harassment there are a number of ways to deal with it. One is to discuss how individual action might help, and there are several techniques in this respect which seem to work (among them, a letter-writing approach that has been widely discussed among ombudsmen). Another is to pursue the matter with the appropriate managers (which requires permission from the person being harassed before this can be started), and to monitor the

managers' handling of the situation to ensure the harassment stops. Yet another approach is to call in the offender and deal with the problem directly. A more indirect route is to press for the introduction of a firm and comprehensive organizational policy on harassment, and to back this up with meetings to discuss the issue of harassment in work units where harassment is known to be present in some form. The reasoning underlying this approach is that if staff become aware the organization is serious about curtailing harassment, not complacent about it, individuals may think twice about incurring the risk of such behavior.

For those who may wish to read more on some of the legal issues discussed above, there is an interesting paperback entitled: Individual Rights in the Corporation: A Reader on Employee Rights, ed. Westin & Salisbury (Pantheon, 1980). This consists of a collection of articles and studies on issues such as privacy, free speech and wrongful termination. In addition, the Bureau of National Affairs in Washington, D.C. maintains a special data base on employment-at-will cases consisting of a bibliographic data file and a legal decision data file, as well as other services on employment matters. The bibliographic material may be obtained by contacting the Bureau's Research and Special Projects Division.

## CHAPTER IV
## THE COST EFFECTIVENESS ISSUE

Evaluating an Ombudsman's Contribution. Most organizations, and corporations in particular, are concerned about the costs and benefits of any new venture. This consideration is as valid when contemplating the appointment of an ombudsman as it is when weighing some new business venture. It is not sufficient to note that an ombudsman has problem-solving attributes, or a potential for defusing serious confrontations. Starting-up an ombudsman office entails measurable, and usually sizeable, costs, both initially and on a continuing basis. Before incurring such costs, one would like to know the extent to which they will prove justified. This chapter addresses that issue, drawing upon experience generalized from several sources. The details of any particular situation will vary, of course, depending on the levels of salaries and wages in an organization and the actual experience which occurs, but the analytical approach suggested here should be widely applicable.

Available information suggests a typical ombudsman will deal with hundreds of people in a year (roughly two to eight percent of the complement of the organization), which provides the base for making assumptions about the scope for deriving benefits from these contacts. The estimates of costs should be as comprehensive as possible -- the salary and benefits of an ombudsman, the space and equipment the office will use, the support personnel and services which will be available to an ombudsman, and the operational expenses of the office (travel, training, conferences and the like). Estimates prepared for one high-tech corporation placed these at $200,000 per year, but they can range from much lower to at least twice that high, depending on actual salaries and benefits, the quality and amount of services and facilities made available, and the numbers of employees and managers. These costs will be justified if increases in productivity, savings in management time or other expenditures, and the avoidance of litigation and/or other costs more than cover them. Each of these is considered further below.

Productivity Improvements. The impact of an ombudsman can range from nothing (problem is not resolved) to highly positive (a termination is avoided, an employee regains previous levels of productivity, or the morale of a work unit is greatly improved). One dimension of benefits can be derived by making the conservative assumption that an ombudsman will have a positive impact in only one-third of the cases which come to the office, and coupling this with a further assumption about the average effect of the ombudsman's efforts in restoring productivity. In the corporation cited above, the full costs (wages, benefits, operating expense and overhead) were estimated at $l25,000 per employee, and the annual caseload for the ombudsman averaged 200 staff members. If the ombudsman had a positive influence in only one-third of these cases, say 60 people, and their average improvement in productivity as a result was only five percent, the benefit to the corporation from these ombudsman activities would be $375,000 per year, or nearly twice (l.875 times) the annual cost of the ombudsman office. Clearly, the realism of the assumptions determines whether this kind of demonstration is convincing, and the correctness of the assumptions changes with circumstances. These assumptions seem quite modest, however, and even if the annual employee cost were reduced to $100,000, keeping the other assumptions as they are, the benefit to the company from this source alone would still be about one and one- half times the cost for the ombudsman.

Management Savings. Another way to assess the contribution is to estimate the savings in management time that would occur if an ombudsman could defuse a serious personnel problem that would otherwise call for undue managerial attention. It would be reasonable to assume that managers (collectively) might spend about two and one- half days on a serious case such as a difficult termination or a harassment charge. This would be approximately one percent of one manager's annual working time (excluding weekends but including holidays and leave time), and if the average full cost of a senior manager is assumed to be $225,000, the annual savings attributable to an ombudsman would be $2,250 for each case. If half the cases in

which an ombudsman had any impact at all (30 cases) were assumed to be "serious" in the sense used here, the total annual benefits from this source would be $67,500, or about one-third the cost of the ombudsman.

Turnover Cost. The turnover of staff is an element of cost to an organization. There may be some termination payments involved, sometimes as incentive to get someone to leave but usually in accordance with standard company policy. There will also be recruitment costs, the size depending on the difficulty in finding replacements -- jobs calling for professional, high-tech skills will require greater recruitment efforts than less skilled openings. Once new staff have been hired, training and orientation courses will be needed to get the new staff acclimated to the work environment, maybe to learn about new products and new techniques. There can also be some period during which a new employee will be working below his or her potential productivity simply because it will take a while to "break-in." All these factors come with a cost tag, although their size and importance will depend on whether training is in-house or contracted outside, the difficulty of adjusting to a new work situation, or the complexity of the new skills and techniques which have to be mastered. For our purposes here we assume that the total package to replace a staff member (recruitment, training, orientation, "break-in period") would be $25,000, or twenty percent of the average annual full cost for an employee. If two percent of the 200 staff who come to the ombudsman annually (or four staff members) were to change their minds about leaving the organization, or if terminations were avoided, or some combination of both, the annual savings to the company from this source would be $100,000. One corporate CEO put his assessment more succinctly when he stated to the organization's ombudsman: "If you save one valued employee from leaving, you will have saved the costs of recruitment and the loss to project productivity. If you do this you will have made a contribution to the organization's objectives and will have justified the expense of [your] function."

Savings in Legal Costs. Chapter III above dealt with several of the ways that employer/employee disputes can wind up in the courts, and how the presence of an

ombudsman in an organization could sometimes deter expensive litigation. Preparing the defense in an up-coming suit may be done largely by the corporation's own legal staff, but to do so will take them from other parts of their legal work load (taxes, property acquisitions, securities-related problems ). A company may prefer to handle employee suits by hiring an outside law firm, often because the company's lawyers do not have the specialized experience that such practice requires. The costs can then again be high, depending on the length of the proceedings and the amount of research, travel, and consultation that any case involves. No one single assumption will be really satisfactory here, but a round number estimate of $50,000 per case would be a reasonable starting point, bearing in mind that long, drawn-out actions with lengthy court room trials can go much, much higher. If one adds to this the possible fines, court fees and damages awarded to the plaintiff, the potential costs of mis-handling an employee-related issue could quickly move into the $500,000-1,000,000 range. An ombudsman who resolves a problem like this, even once every few years, recovers the cost of the office several times over.

Miscellaneous Sources of Savings. There remain a few other sources of savings and benefits from having an ombudsman. These would include savings from reduced theft, sabotage, vandalism or bodily harm to other employees that can be attributed to the ombudsman's efforts. Another side effect occurs when the "feed-back" which an ombudsman regularly gives to the senior management leads to changes in company policies or procedures for dealing with staff complaints, and this generates some positive impact on productivity and morale. This would be very difficult to estimate with precision, but it is certainly a factor in certain circumstances and deserves recognition as such.

Taking all the above sources of savings into consideration, and they are additive, the institution of ombudsman appears to be a cost effective measure, even under quite conservative and modest expectations. One of the areas where the COA hopes to launch some research, discussed also in Chapter VI below, is on the cost/benefit analysis of ombudsman activities, drawing upon a wider body of

experience than presently available and using more precise data for the estimates. This may be more convincing because of its empirical foundation, but the justification for an ombudsman is expected to stand essentially on the grounds which have been presented here.

## CHAPTER V

## STARTING-UP AN OMBUDSMAN OFFICE

What Not to Do First. When an organization decides to appoint an ombudsman, a number of further considerations emerge having to do with the start-up process. Some of these are of the "nuts and bolts" variety, but some of them concern fundamental issues for the organization. One major U.S. corporation, debating several years ago whether to establish an ombudsman office, commissioned a study of the experience of other companies. Of particular interest were the findings about why some early attempts (during the mid-seventies) to introduce the institution of ombudsman had failed in a few instances. The main reasons included one or more of the following: (a) top management was not committed to the ombudsman concept; (b) the organization's culture was one of pervasive distrust; (c) the ombudsman reported to a lower level manager and was perceived as having little influence; (d) employees received little information about the ombudsman, and therefore had little knowledge about the role and purpose of an ombudsman; and (e) the person selected as ombudsman had few of the skills and personal characteristics necessary for effective performance in that position.

This litany of things not to do provides a first-class starting point, in reverse, for most of the things which must be done. The pitfalls which this study uncovered do not seem surprising when set out in this way, but it is clear that where they occured the responsible people did not really understand much about the ombudsman function. Learning from these long-ago failures is therefore the first step, and translating them into positive actions is the second.

Setting the Framework for Dispute-Resolution. Organizations who successfully use an ombudsman now normally do so within the framework of a well-articulated process for resolving disputes. The ombudsman becomes one of the facilities within that framework, and an important part of the role is to make the established dispute-resolution process work. There are many variants of process, but

there are also strong common elements among the variants.

Among these common elements is the assumption that an employee's first responsibility is to air any problem with a supervisor in frank and honest fashion, and a supervisor's responsibility is to resolve the problem speedily and fairly. If the employee and supervisor cannot reach a satisfactory solution, the next step is usually to raise the problem to the level of supervisor's manager, and to do so in writing. Once again, it is that manager's responsibility to resolve the issue fairly and with dispatch, and there is generally a fixed time within which to do so. A senior manager faced with this situation would often be well-advised to actually meet with the employee and supervisor, either separately or together, but this step may not be required under the process. If an employee still feels the problem is not resolved properly, a written appeal can be made to the next senior level, probably a vice-president or senior vice-president, with time limits again set within which some reply to the employee must be made. If all this fails, most processes provide for a final appeal level -- this could be the CEO or senior vice-president for personnel, or it could be a special board convened for the purpose. In some organizations the appeals board consists of managers only; in others it is more broadly representative of the staff at large. In either case, the ruling of the appeals board or the CEO is the last stage in the process, and the final ruling on the problem made within the organization. As we have seen in Chapter III, however, employees may continue to seek redress for grievances in the courts under certain circumstances.

What an ombudsman does vis-a-vis this process is to see that it works as it should, and encourage the bureaucracy to be responsive to its constituents. The process is important to the ombudsman because it provides an organization-specific, sanctioned set of norms for fair-dealing and due process; the ombudsman is important to ensure that the process will not grow rusty or break down. In many cases, as discussed earlier, this entails merely providing accurate information about what the process involves, or what sources of assistance are available to an employee; at other times, more active intervention may be required. In any event, the

point here is simply that an organization which has not established rules for the equitable resolution of disputes will not provide much scope for an ombudsman to operate as traditionally called upon to do.

Establishing the Ombudsman's Role. The lessons of experience, cited above, bring out clearly that success as an ombudsman depends a great deal on how employees perceive that role in the organization. It is most important that the CEO, and senior management generally, make evident the full support they intend to give an ombudsman and the value they attach to the assignment. This can be done in several ways -- the appointment can be made a presidential one, with the proviso that the ombudsman has access to the CEO at any time on problem matters; senior managers can follow-up by announcing they expect second-line managers to cooperate fully with the ombudsman; the appointment is announced to all staff in a manner which underlines the special relationship with the highest levels of the organization.

But while it is essential to ensure that everyone understands the backing an ombudsman has from top management, it is equally necessary to provide a status for the ombudsman which makes clear he or she is not the company lackey, or simply another tool of management. Sometimes this is done by making clear the ombudsman is not the advocate of either staff or managment, but is expected to ensure that objectives and policies of the organization are carried out as intended. An ombudsman usually appears in the corporate organziation charts as an independent office, reporting either to the CEO directly, or through a senior vice-president. The ombudsman does not have a place in the line organization, nor any formal link to the usual staff functions. The position can therefore be seen only as an independent one, with no obvious points where other parts of the organization could exert special influence.

The terms of tenure given the ombudsman also shape the perception people have of the independence and integrity of the office. A staff member who serves as ombudsman for a period of time, and then returns to a line position subordinate to

people he dealt with during the term as ombudsman, is bound to be regarded with a certain amount of skepticism. And it is true, and only human, that a person in such a situation will have a concern for future career prospects in the organization when trying to resolve a difficult problem, so the skepticism is warranted to some degree. For this reason, some companies focus their selection on people who have a long period of service and are nearing retirement age. The appointment is then made for a fixed time span, usually until retirement would normally occur, and is considered an end-of-career assignment. The "immunity" this provides eliminates the future career problem, and enhances the independence of the office. A small number of organizations have chosen to bring in someone on a fixed-term contract, renewable upon agreement by both parties. This has the advantage of strengthening the neutral image of the ombudsman, both because the newcomer has no personal or professional ties with other managers in the company and because there are no career objectives to be furthered by any actions taken as ombudsman. It has the disadvantages that a newcomer is not familiar from the start with the culture of the organization and the key personalities in it, and if one is concerned about re-appointment at the end of a fixed term there may be subtle pressures to tread softly when sensitive issues are being examined. Most companies, however, follow neither of these approaches, but appoint people in mid-career, or later, who have the personal characteristics one seeks in an ombudsman. Terms may be fixed or indefinite.

Mention has been made of reporting channels, and the advantage of direct access to the CEO. As a practical matter, it may be more efficient to report routinely to the senior vice-president for human resource management on all but the most urgent and sensitive problems. This is because a common practice would be for a CEO to delegate to that senior vice-president the responsibility for handling most problems brought by an ombudsman. This works well provided the CEO is routinely informed about the ombudsman's activities and can intervene personally at any time, but it would be up to the ombudsman to judge when and how to flag issues to the CEO

directly.

The reporting arrangements can be structured any way the participants find most useful -- regular or only when critical issues arise, frequent or infrequent, written or verbal or some combination. Problems will have to be reported fully enough to be comprehensible, but the written or verbal reporting must always observe the confidentiality of the information which lies behind the problem. Much of the routine reporting done by an ombudsman provides a continuing picture of the caseload coming into the office. Organizations find this useful to track the kinds of problem which are turning up, the kinds of staff who experience them, and the units in which they occur. These data can spot trends and patterns which yield helpful insights about the firm. For example, a spurt of new cases about job-grading following on the heels of a company-wide job grading exercise would say something about how that exercise was carried out, and how it was perceived by the staff. Some ombudsmen believe there are pronounced seasonal patterns in their workload -- slumps in the summer months and during the Christmas and New Year holiday period, more vigorous activity at other times; some find the weather could be a significant variable; others do not find their patterns fit any of these. The complexity of the reporting format differs quite widely among corporations, so one of the decisions to be taken concerns selection of the information which would be most useful to an organization; it obviously is not the same for all. One should also bear in mind the ambiguity inherent in any classificaton of problems. For example, a staff member can present the ombudsman with a series of problems, including one complaint that the annual evaluation was unfair, a second that the supervisor is personally antagonistic, and a third that the staff member is concerned about career prospects. Some systems try to identify the core complaints, recognizing this obscures the fact other issues are also present; others will reflect all the complaints, but be aware this overstates the number of complaints relative to the number of people making them. To illustrate how one corporation dealt with this aspect, the data-gathering activities at McDonnell Aircraft (MCAIR) are described in the case study presented in Appendix C. In any event, each

organization must resolve these issues for itself and choose the reporting format which meets the firm's needs for information most fully.

In addition to access to the CEO and other senior manager(s) designated for reporting purposes, an ombudsman must have full access to any individual in the firm, staff member or manager. An ombudsman who finds telephone calls unanswered, or requests for meetings ignored, is not going to be very effective. It is therefore important to be very clear about the access issue from the start, and to act quickly to correct any situation where the ombudsman runs into difficulties in gaining access. Access to records is equally crucial, and these would include the personnel files of all staff, correspondence relating to a staff member or the problem being studied, and any other relevant data (leave records, expense accounts, security reports, and the like). Individual medical records will be an exception to this in most organizations because staff are usually given assurance their medical histories will be held in strict confidence. This is particularly true in the case of medical records concerning psycho-therapy treatments and diagnoses.

Selection Criteria. The criteria for selection have been touched upon earlier in the Handbook, but they also call for some discussion as part of the start-up activities. There are a number of traits that are associated with successful performance in the role. These include all those things that make someone approachable -- a genuine liking for people, a willingness to listen, a sympathetic outlook, a sense of humor, a relaxed and reassuring personality, a strong personal commitment to the ombudsman function. They also include a reputation for fairness , honesty and courage, which implies a period of time with the organization long enough for these traits to become recognized and widely appreciated. There is no hard and fast rule on the question of age. A candidate should certainly be mature in outlook and generally perceived to have that quality. Some organizations prefer senior people, often those who have held responsible managerial positions in the company; others place less importance on these as long as the personal attributes and reputation of the candidate are impeccable. Finally, one is looking for

problem-solving capabilities -- an analytical mind, an ability to marshal information well, and thoroughness in digging out the necessary information -- and strengths in areas such as tactful handling of people, getting them to explore new positions on a problem, and diplomatically dealing with sensitive issues.

What we have been highlighting are essentially aspects of a person's makeup which are given, not learned. There are other attributes, however, which can prove very valuable and which are acquired through experience and training. High on any list of these would be counselling skills and skills in crisis management, and these can be added at any time, even after someone has been appointed as ombudsman. A background in law, particularly with experience in mediation, is useful though not absolutely essential. In certain situations proficiency in a second language can be very helpful, where an important part of the work force does not speak English as a mother tongue. The actual career background of a person seems less a factor in having success as an ombudsman than do the matters of temperament and acquired skills cited here; this widens the field in some respects, but certainly narrows it in others.

Spreading the Word. Once the background of a policy framework is in place, the status and reporting issues resolved, and a person selected to be ombudsman, the next step is to prepare the ground properly. This is an education and public relations phase, but its consequence should not be discounted. Everyone in the organization should become familiar with the concept of ombudsman, know what is expected of him or her, know the personal background and orientation of the appointee, and where to find the office. This is not something which can be done once and then forgotten; it requires continuing effort and can be carried out in many ways and at several levels in the organization. One means, of course, is to have the original announcement come in a personal notice to staff by the CEO. This can be supplemented by interviews in house organs, devoted to explaining what the ombudsman does as well as something about the appointee as a person. Many firms prepare brochures about the ombudsman office, outlining the services available and

how to reach them. Some ombudsmen issue newletters from time to time that recount the general concerns staff have raised and how they have been handled; others make annual reports to staff covering the same material. Another way to accomplish the same purpose is for the ombudsman to meet with groups of staff and managers. This is most effective when the numbers are kept to levels that encourage a question and answer format. Responding to questions that people have tends to be more effective as a communicating means than relying on a formal presentation to large groups. Participation by the ombudsman in managerial training programs is yet another device for educating people about the office and how it functions. After all, the ombudsman deals on a daily basis with the fallout from supervisory and managerial mishandling of human resource problems. Contributing to the training of these people is therefore very much to the point.

Selecting the Office and Support Staff. The final step is selection of the office space an ombudsman will occupy. It should not be too tardy a step, however, because the office and its appointments should be ready for use at the same time announcements are going out to staff. Perhaps the first consideration is its location. This should be sited so that people will have ready access to the office, but not be easily observed coming and going. One doesn't like to feel he or she is running a gauntlet under the eyes of a supervisor and colleagues when going to the ombudsman for assistance. There is usually some place, relatively out of the way, which can serve. If the office can be located near the CEO's complex, this should afford the anonymity that is desired along with a reinforcement of the awareness that the ombudsman has access as needed to the CEO. The office surroundings should be chosen to provide a comforting, relaxing ambience. A room that is bright and cheerful, with furniture that is tasteful and comfortable, sets a tone which encourages confidence in the occupant and his or her ability to be helpful. A dingy room, furnished with discarded furniture, would generate a completely contrary expectation. In addition to the room where the ombudsman meets with people, there should be a reception area which sets the same tone of calm and orderly concern for people and

their problems. Its furnishings should be in keeping with the office itself, and should provide a place where people can wait for an appointment out of the sight of passers-by.

The size of the support staff depends mainly on the volume and nature of the work load. At a minimum, there should be a secretary/assistant who will answer the phone and make appointments, assist in maintaining the records and ensuring they are secure, and prepare necessary correspondence and reports. This person's personal qualities are also very important because he or she is usually the first contact someone has with the ombudsman's office, most often by phone when someone calls to make an appointment. The secretary/assistant must be able to explain to anyone how the ombudsman functions, and reassure them on the issue of confidentiality. The reception should be cordial and open, not brusque and off-hand. Needless to say, the secretary/assistant must be as discreet about the office as the ombudsman. There can be no gossiping with friends about who came to see the ombudsman, or what a sticky problem someone has gotten into. Any hint of this and the position of the ombudsman would be irreparably damaged.

Whether someone should act as alternate to the ombudsman is difficult to answer categorically. In large organizations the case load may require more than one ombudsman, and in these cases there is frequently an effort to introduce ethnic, sex, and racial alternatives to help people feel more comfortable about discussing their problems. For example, women might be more ready to discuss instances of sexual harassment with another woman than with a man. Some firms provide a back-up arrangement for times when the ombudsman is away on leave or travelling. Not all problems can, or should, wait until the ombudsman's return, and opportunities for swift resolution may be lost if no one is on hand when the problem first arises. Finally, if the ombudsman office is expected to make extensive investigations of the cases it receives, an extra hand to do the spade work may be necessary.

The Appendices contain numerous materials that illustrate the points discussed in this chapter. The experience of starting-up an ombudsman office at

McDonnell Aircraft is related in the case study found in Appendix C. Sample Terms of Reference for an ombudsman are shown in Appendix D; sample announcement letters appear in Appendix E; sample brochures about ombudsman activities are reproduced in Appendix F; sample reporting categories are discussed in Appendix G.

# CHAPTER VI

## THE CORPORATE OMBUDSMAN ASSOCIATION

Origins. The Corporate Ombudsman Association (COA) has roots which reach back to many conversations over the years among corporate dispute resolution specialists and complaint handlers. Corporate counsel discussing "alternative dispute resolution," senior managers with good reputations for human resource management, visionary CEO's, senior "trouble shooters," highly skilled EA and EO people, and the best human resource managers would meet by ones and twos and discuss internal conflict management. In the beginning, discussions concentrated on conflict management with respect to employees. In recent years, much discussion has also included dispute resolution among managers and technical and professional staff. These discussions were initially more often problem-based than oriented toward a new profession; recently, conflict management has become more professionalized.

The Silver article on "The Corporate Ombudsman," cited earlier, generated a good deal of discussion about a profession called "ombudsman," as well as sparking several new corporate programs. Meanwhile, the concept of ombudsman was also springing up in newspapers, consumer affairs, colleges and universities, and in state and local governments, especially in Canada.

By 1982, people who were serving as ombudsman were beginning to find one another. At a request from Chris McEachern (then ombudsman at Anheuser-Busch), Lee Robbins, then a researcher at the Wharton School, began to canvass organizations known to have an interest in the concept of ombudsman. In November of that year, people from Anheuser-Busch, Bell Labs, Control Data and MIT met at MIT with Robbins and with Michael Baker, Executive Director of the Educational Fund for Individual Rights, and with other research colleagues.

That meeting at MIT convinced three of the participants -- McEachern, Martha Maselko (Bell Labs) and Mary Rowe (MIT) -- that the time was propitious to convene

a larger number of people active in this newly emerging field. Accordingly, a conference was held in the summer of 1984 on Cape Cod, and about 50 people attended. This became the first annual conference of the fledgling COA, followed by similar meetings in Dallas (hosted by The Southland Corporation) in 1985, St. Louis (hosted by Anheuser-Busch) in 1986, and Los Angeles (hosted by General Telephone of California) in 1987. During this period the COA began gradually to take a conventional form, becoming incorporated in the Commonwealth of Massachusetts and adopting a set of By-Laws to govern its operations. The first officers were: Mary Rowe (MIT), President; Chris McEachern (Anheuser-Busch) and Martha Maselko (Bell Labs), Vice-Presidents. They were assisted by three additional Board members: Jim Lakis (Polaroid), Lee Pledger (Digital) and Carole Trocchio (Southland). The membership at the present time includes practitioners, a few counsel who are especially knowledgeable about working with and supporting ombudsman officers, and the Association research group.

Goals of the Association. While one of the main purposes of the COA remains that of providing a forum for exchanging experiences and ideas among practitioners, the goals have been articulated more fully over the past few years by the officers and directors of the Association. In its first newsletter, called the "Ombudsman News" and issued in the Fall of 1985, the purpose and goals were set forth in these terms:

(1) to enhance the quality and value of the ombudsman function to business and industry;

(2) to establish and communicate appropriate standards of excellence for the profession;

(3) to develop and disseminate ethical guidelines for the profession;

(4) to establish methods to assess the development of the ombudsman function;

(5) to develop a framework of job responsibilities;

(6) to develop a network of communication to share common interests and strengthen skills.

As one can see from the aspects chosen for emphasis, the COA is very much interested in putting together the building blocks which will give shape and identity to the emerging profession of ombudsman. In a field where everyone is groping his or her way toward greater effectiveness in serving as an ombudsman, there is a need for practitioners to establish the standards and guidelines which can help make this possible. The Association has exercised the leadership role in this respect, and in a variety of ways seeks to distill the experience of its membership into useful information and advice.

The Board Committee Framework. The main means by which the Association pursues its program is through a number of specialized Board Committees. By and large, these are made up of Directors of the Board, but other members of the Association participate in Committees where their specialized knowledge would be particularly valuable. The Board Committees usually chart out a program for the period between annual conferences, and report on interim progress at full meetings of the Board held twice a year. The annual conference provides the opportunity to meet with, and report to, the membership at large. At the present time there are five Board Committees. A brief rundown of their activities and objectives illustrates the link between what they do and the goals of the Association:

Steering Committee -- This Committee has been responsible for establishing the criteria for membership in the COA. The Steering Committee is also concerned with the By-Laws, recommending up-dating or change when required. Finally, the Steering Committee is expected to oversee the preparation of Association newsletters and pamphlets, and to involve itself in matters that relate to the continuity and well-being of the COA.

Planning Committee -- This Committee is primarily concerned with planning the annual conference of the COA. This includes scheduling the meetings and selecting the site, arranging for sponsorship, developing the topics to be covered in the sessions, and distributing the materials that will be needed. The membership of the Committee includes representatives of the organization which will serve as

sponsor or host at the forthcoming conference.

Membership Committee -- Also known as the "Outreach Committee," this group has a very significant role in terms of the Association's goals. As we have seen, the COA grew out of the need for people to learn from one another's experiences, and this Committee is charged with bringing word of the Assocation and its activities to those who might wish to contact others in the same field, and in general to accomodate and facilitate the "networking" opportunities among members. In this context, the Committee reviews the ways in which this can be accomplished most readily, and initiates information and publicity activities. One recent recommendation was that all inquiries to the Assocation may be referred to the geographically nearest Board Director for handling and follow-up purposes. This degree of decentralization should lead to more effective assistance to those who request it.

Research Committee -- The purpose of this Committee is twofold: to identify the priorities for research which the COA wishes to see carried out, and to develop sources of funding for the research. Current priorities include identifying the characteristics of the ombudsman function in such aspects as client demographics, cost effectiveness, compensation, and case load. There is more discussion of the research activities in the section which follows.

Ethics Committee -- This Committee was responsible for drawing up the Code of Ethics of the Association, and maintains a continuing interest in discussion and teaching of ethical issues of particular concern to the membership.

The Research Function. Given the newness of the ombudsman concept in a corporate setting, it is important to have an active research program that can collect and assess the detailed, empirical data that are beginning to accumulate out of North American experience. There is so little known with any assurance about the dimensions of ombudsmanry that any Association that purports to promote this field of activity and to guide its development must have accurate information.

The research program got underway in 1984 with a preliminary identification

of research needs, and the directions in which it could fruitfully move. This was extended in 1985 with the development of a data collection survey instrument (including both personal interviews and mail responses); an initial report on the survey results was made to COA members at the 1985 conference in St. Louis. Some ideas were then published in the article by Robbins and the one by Rowe, both reproduced in Appendix A. Although the samples were small (l5 to 30 personal interviews), the information was the first step toward an understanding of those who serve as corporate ombudsman and their impact. Topics surveyed included such matters as job roles, power of the office, volume of complaints, nature of complaints and salary range. The focus was distinctly "applied" in nature, with clear intent to contribute information useful to a practicing ombudsman. Secondarily, the results of the research were intended for dissemination via the various channels of academic business and professional literature.

The research program for 1986-87 was essentially a continuation of the above. The primary emphasis was to expand significantly the sample of the previous survey, and to report on the preliminary results at the next annual conference. This would be followed by further analysis and write-up of the results, with particular emphasis on ombudsman views on the specific impact of their work. There is also on-going work to collect more details on the issue of cost-effectiveness. Data from three types of institution will be supplied, based on actual salaries, turnover costs, "success" rates, productivity impacts and similar measures.

The major constraint on this important activity is, of course, financial. The Association does not have resources beyond what it collects through fees, and those are inadequate to fund any large research effort. Nevertheless, member companies have made some funds available to researchers. These have been supplemented by the universities where the researchers are located through the provision of base facilities (overhead), and by the time volunteered by the researchers themselves. For the current period there are three principal researchers in the group: Lee Robbins, Ph.d., Assistant Professor of Human Resource Administration, Temple University;

Mary Rowe, Ph.D., Special Assistant to the President of MIT and Adjunct Professor, Sloan School of Management; and James Ziegenfuss, Ph.D., Associate Professor of Health Care Management, Graduate Program of Public Administration, Penn State University.

Closely related to the research function, and also under the purview of the Board Committee on Research, is the Association's interest in developing a collection of case studies. These are now used at the annual conferences as a device to stimulate discussion and thinking about particularly pressing issues, and have proven most effective in this respect. The objective of the collection effort is to bring together a wide variety of cases which give the circumstances and flavor of typical situations which an ombudsman faces. Because confidentiality is so important, the cases would be extensively "laundered" to remove anything which could identify either the people involved or the organization. Some of the case studies already prepared are presented in Appendix L, and as one can see there they cover a substantial range of problems. The COA would like, over the years, to increase the number of case studies at its disposal, primarily to distribute to the members for their information and to use in forthcoming conferences. New case studies will also be presented in subsequent up-datings of this Handbook, particularly to illustrate new kinds of problems as they arise. Finally, there is a potential educational use in university courses dealing with human resource management and dispute resolution -- indeed, there are some graduate programs which already use ombudsman case material in a limited way. Since this material will come from members, reflecting their own experiences, the COA is uniquely placed to assemble and prepare case studies for dissemination in whatever way is most effective and appropriate.

The Annual Conference. The annual conference of the COA provides members with a major opportunity to rub shoulders with others in the field, to learn what has been happening in areas of particular interest, and to contribute their own insights and experience. To be an ombudsman is, in many ways, a lonely occupation -- someone once observed that an ombudsman "gets to eat lunch alone a good deal"

-- so the chance to meet others engaged in the same activity has proven particularly welcome, and the sessions have tended to be lively as a result. But the annual conference is not only a benefit to members, it is also the primary means for the COA to pursue the goals cited above, and the structure and content of the sessions are designed with that very much in mind. From the beginning, these conferences have operated under an important ground-rule, namely, those who attend the conferences agree not to use the name of any colleague or company without explicit permission of that colleague or company. Further, the list of Association members is for the internal use of members only.

The annual conferences take place over two full days of meetings, with members attending all sessions. These sometimes are broken into smaller discussion groups, e.g., to examine a case study, which then reconvene and report to the session as a whole. The final session is typically devoted to Association business and a look ahead to the next conference and to future activities of the COA. Perhaps the best way to impart a sense of what the other sessions cover is to give some examples of topics which have been included in past conferences.

* Principles of conduct governing an individual or group in a corporate environment.
* What are differences among corporate cultures and how does an ombudsman deal with them?
* Discussion of the start-up of an ombudsman program, including the initial planning program, kickoff, anticipated problems and realities actually faced.
* A panel on AIDS/Psychosis and the role of the ombudsman.
* A panel on developing mediation skills.
* Presentation of current legal issues, such as "employment-at-will" and "duty to warn," and the implications for an ombudsman.
* Discussion of methods for dealing with harassment.

The Appendices contain materials which give more detail about the

Association and its activities. For example, Appendix H contains a list of COA members who are available to advise on the ombudsman function -- a part of the out-reach objectives; Appendix I provides the By-Laws of the Association; Appendix J gives a sample of agendas for past COA conferences; Appendix K reproduces one of the Newsletters; and, as just noted, Appendix L offers several case studies about typical ombudsman experiences.

APPENDIX A

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

APPENDIX G

## APPENDIX A

This Appendix contains three articles, selected to give readers a particularly good introduction to the ombudsman concept and how it is being used in a corporate setting. The first article, "The Corporate Ombudsman" by Isadore Silver, appeared twenty years ago in the Harvard Business Review, and it has had an important influence since that time in stimulating interest in this approach to problem resolution. The second, by Lee Robbins and William Deane and entitled "The Corporate Ombuds: A New Approach to Conflict Management," reports on their initial research findings about how an ombudsman functions in actual situations. It first appeared in the April, 1986 issue of Negotiation Journal. The final article, "The Corporate Ombudsman: An Overview and Analysis," is by Mary Rowe, first president of the Corporate Ombudsman Association. It provides a comprehensive view of the current state of the ombudsman's art, and appeared in the April 1987 issue of Negotiation Journal. All articles are reproduced here with the kind permission of the authors and publishers.

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*• Here is a device, adapted from Scandinavian governmental procedures, to help make sure that management decisions are just to employees.*

# The CORPORATE OMBUDSMAN

*By Isidore Silver*

"The modern corporation is no longer merely a unit of economic production; it is a dispenser of justice." Although this quote is mythical, it does not differ significantly from a statement by Frank Abrams, retired chairman of the board of Standard Oil:

"The job of professional management is to conduct the affairs of the enterprise in its charge in such a way as to maintain an equitable and workable balance among the claims of the various interested groups — stockholders, employees, customers, and the public at large." [1]

A management text points out, "No one can exercise power effectively these days without conveying the conviction that he does so responsibly, that is, with justice." [2] Thus some concept of justice is certainly close to, if not encompassed within, the heart of corporate awareness of its social responsibilities.

Yet corporate justice, especially to the company's nonunion employees — as envisaged by Abrams — is incomplete unless some mechanism to review management decisions is established by top management itself. The function of such a mechanism would be to assure an impartial outlet for an employee's dissatisfaction with decisions adverse to him. If the corporation is to provide fair and equal treatment to employees, it should ideally combine the virtue of fair-mindedness with the necessities of thrift and efficiency. Such an impartial grievance outlet exists in the political world and, I would argue, could readily be adapted to the corporate realm. It is the institution of the ombudsman.

The ombudsman has come to America's startled attention as a kind of Scandinavian fairy tale. A superficial reading of the press (which, these days, is filled with intriguing speculation on the subject) could lead one to believe that this strangely named fellow is a knight-errant, armed with great investigative and punitive powers, who will save us all from overweening bureaucracy. Accordingly, he is conceived of as the representative of an aggrieved citizenry, cutting through red tape and bureaucratic boondoggling, reversing unfair decisions, and righting numerous (if not continuous) official wrongs. Unfortunately, but inevitably, such a simplistic view describes a Don Quixote rather than a harried Scandinavian public servant.

## Who He Is

If the ombudsman is not Douglas Fairbanks, then who is he? What does he do? And why does he set the hearts of all "little men" aflame? The ombudsman is, quite simply, a person of some eminence, learned in the law, who is appointed by a legislative body to inquire into complaints against administrative officials and to make periodic reports about his findings. He is responsible only to the appointing authority.

The ombudsmen who now operate in Sweden (where the system started in 1809), and in Denmark, Norway, Finland, and New Zealand

[1] Quoted in "Have Corporations a Higher Duty than Profits?" *Fortune*, August 1960, p. 108.

[2] Benjamin M. Selekman, *A Moral Philosophy for Management* (New York, McGraw-Hill Book Company, Inc., paperback edition, 1959), p. 75.

(much more recently) have varying powers. In Sweden, for instance, the ombudsman is empowered to commence prosecutions against officials who have violated the law in particular administrative situations. In Denmark, he can comment on the quality of administration and suggest better administrative methods. In all countries, he is empowered to investigate the basis of any decision, whether or not there has been a complaint, and to make his findings public. The system has been favorably commented on by those Americans who have studied it, and it is the subject of much serious discussion in respectable political circles.

### Manifold Advantages

Although he has no power to change any decisions, the mere possibility of criticism by the ombudsman encourages administrators to find sufficient reasons for their decisions. Some countries publicize the ombudsman's findings, and this imposes yet another constraint. Observations seem to confirm that administrative decisions are often made more thoughtfully now than in pre-ombudsman days.

The ombudsman has the great virtue of being "visible." Persons aggrieved by administrative decisions know that there is someone they can turn to for impartial investigation. They may not know where else they can go in the bureaucratic maze, but the ombudsman is there. Generally, even when the political ombudsman dismisses a particular claim as being insubstantial, he satisfies the claimant's desire for a full and fair investigation, although the investigation itself may only consist of an appraisal in an office and a courteous letter denying the claim. Thus the raw edges of conflict are rubbed smooth, and in human affairs this is no inconsiderable achievement.

The ombudsman also serves to vindicate administrative decision making where such decision is just. Interestingly, most administrative decisions, even the contested ones, are reasonable. The Danish ombudsman, for example, censures officials in only 5% of the cases before him. Indeed, he takes only 15% of the complaints submitted. Extant information clearly demonstrates that administrators now regard the ombudsman system as a protective device — rather than a hindrance at worst, or a nuisance at best. Since most of the investigated administrative decisions have proved to be just, the initial bureaucratic antipathy toward the ombudsman has become transformed into wholehearted acceptance. Walter Gellhorn, the leading authority on the subject, concludes, "The ombudsman's work has indubitably had a tonic effect upon public administration." [3]

### Prescribed Limitations

Much of this acceptance of the ombudsman is engendered by certain prescribed limitations on his authority. He can only investigate and recommend; he cannot reverse particular decisions. He cannot attack an exercise of discretion (except in Norway, where he may find that a particular decision is "unjust," and in New Zealand, where he may think it is "wrong"). He cannot make policy decisions, although he is empowered to make recommendations for policy changes on the basis of his investigative findings. The available evidence indicates that the policy recommendation aspect of his function is the weakest; thus, his primary role is to act in limited defense of the "little man" against the arbitrary "bureaucrat" and not to reform basic procedures.

## Why Justice Is Needed

Lest anyone doubt the necessity of providing justice to employees, let us pause a moment. There are two primary reasons for this need:

(1) Management itself genuinely believes the corporation has evolved so that it is now a socially responsible institution. Understandably, however, there is some confusion about the precise meaning of justice in the corporate context.

(2) It is clearly in the long-range interest of the corporation to seek mechanisms to effect employee justice. If justice is a dominant value of American life, there can be no question that corporate employees bring this value into the office in the morning and leave with it at night. Employees expect justice in their lives and cannot arbitrarily divorce their existence into "work" and "leisure" components. People do not create such simple categories, in either their conscious or their psychological lives. An employee who feels that his legitimate grievances are being justly dealt with cannot help but be a better employee, and more importantly, a better citizen.

### Existence of Conflict

Another reason why justice is needed is related to what might be called the "communica-

[3] *Ombudsmen and Others* (Cambridge, Harvard University Press, 1966), p. 36.

tions gap," which often creates organizational conflict. Indeed, one of the great problems of corporate life, and a cause for frequent grievance, is not the unfairness of management actions, but the inexplicability. It is ironic that in our overcommunicative society, communications breakdowns frequently occur. Even in corporations — where internal communications networks are the lifeblood of their activity — decisions are sometimes made without adequate explanation. Often, such decisions appear to be arbitrary when in fact they are not. Equally often, work discontent is caused by a lack of understanding as to the reasons for such apparently unfavorable decisions. Even what at first blush appears to be "insubordination" may well be nothing more than a communications gap. One arbitrator observes:

> "Authority is exercised by people. Insubordination is always man against man. It involves tempers, personalities, problems of communication, and differing points of view. Did the employee understand the order? Did he realize beyond all question that he was violating it? . . . Did he try to make amends . . .?" [4]

The failure is by no means one-way. "Clearing the air" is frequently more efficacious to everyone involved than "changing the decision."

Management should not, and generally does not, deceive itself about the existence of conflict within organizations. The wise corporate manager recognizes the existence of conflict (what the employee's superiors in the organization want him to do and what others who influence him want him to do) and job ambiguity (what he is supposed to do). These forms of conflict result in stress (not only job stress), and recent studies confirm this: "Conflict and ambiguity are among the major characteristics of our society, and . . . are among the unintended consequences of . . . the growth of large-scale organizations." [5]

The existence of conflict does not end there. The modern corporation finds itself greatly in need of ever more skilled and, indeed, professional employees. A modern enterprise simply cannot maximize its economic and technological goals without an educated, intellectually equipped cadre. Educated people come to the corporation with great expectations; they want more intellectual comforts — in the form of autonomy and responsibility — than their predecessors desired. They want to do "meaningful" work and to have their work respected by their superiors. These desires are not unreasonable, and they must be recognized if the corporation is to retain a fair proportion of these educated employees.

Further, professional people such as lawyers, accountants, and scientists are imbued with professional goals which include peer esteem, job integrity, and opportunity for research. But these goals often conflict with corporate goals based on other considerations (the need to meet competition or the need to control the innovative process). Neither of these sets of goals — professional and corporate — is good or bad per se; both are worthy, and their reconciliation is a legitimate concern of corporate management. Astute management should reasonably move to meet the expectations of professional employees, despite those inherent conflicts with corporate goals. Often, of course, this does not happen, and the professional turnover rate mounts.

Even beyond the issue of conflicting employee-company goals, contemporary managers of economically powerful modern corporations are currently pondering the problem of deciding to what primary ethic the company feels itself bound. Is its duty to the shareholder? If so, how can management justify charitable contributions which result in a lessened dividend? Is there a duty to the community in which the company operates? If so, can management ever move a plant from a town dependent on it? If the community is in the South, should management adhere to local mores and not hire Negroes, for instance?

Perhaps one answer to the problem is to recognize a duty to these and other groups, but to argue that the primary duty is to the enterprise itself — to ensure future growth and continued functioning as a profit-making supplier of goods and services.

Of course, management perceives other goals which take precedence over profit. The corporation pays taxes because what is good for society is good for the corporation. It contributes to charity both because it is "right" to do so and to enhance its image and sense of participation in the community. It pays dividends to retain favor among present shareholders and to make

[4] Orme W. Phelps, *Discipline and Discharge in the Unionized Firm* (Berkeley, University of California Press, 1959), pp. 98–99.

[5] Robert L. Kahn et al, *Organizational Stress* (New York, John Wiley & Sons, Inc., 1964), p. 3.

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# Research Report

## The Corporate Ombuds: A New Approach to Conflict Management[1]

*Lee P. Robbins and William B. Deane*

Problems of real and imagined unfair treatment, harassment, and disagreements about safe practices arise frequently in all workplaces. Under hierarchical management, disputes could be settled by fiat—with employee disagreement sometimes ended by departure or silence. But increasing complexity, growing interdependence in the decision-making process, and greater value attached to employee job satisfaction have led to a rise in participatory, collaborative management. Meanwhile, changes in the cultural definition of equity have led to employee lawsuits under an extended concept of due process and under Civil Rights law. Potential sabotage by disgruntled employees raises an even more serious if less frequent spectre. Better ways of avoiding, surfacing, and dissolving conflicts and disputes are no longer a luxury but a necessity. One such approach is through the work of a corporate ombuds, the subject of this research report.

The term ombudsman stems from the Swedish noun, *umbothsmathr*, derived in turn from the Swedish, *umboth* (commission) and *mathr* (man); it refers to a government official charged with investigating complaints of abuse or capriciousness made by individuals against government officials. To avoid possible sexist connotations, we prefer the term "ombuds" rather than "ombudsman."

During the activist 1960s, the concept spread in the United States to include ombuds appointed in the nonprofit and private sectors to respond to complaints from such groups as students and consumers. Some of these ombuds had advocacy as well as investigative roles and adjudicatory power while others did not. Also in this same era, in response to widespread reports on the ombuds concept, a few corporations decided to experiment with ombuds in the hope that they might play an important part in improving job satisfaction, enhancing supervisor employee communication, and reducing costly time-consuming litigation. Such ombuds would have specific skills in handling conflict; access to the top level of management to ensure attention by employees and managers; and, opposite to usual management

**Lee P. Robbins** is a consultant and researcher at the Busch Center of the Wharton School, University of Pennsylvania, where he is also completing his Ph.D. dissertation at the Department of Social Systems Sciences. His address is: Department of Social Systems Sciences, Vance Hall-CS, The Wharton School, University of Pennsylvania, Philadelphia, Penn. 19104. **William B. Deane** is completing his Ph.D. dissertation at the Department of Social Systems Sciences, the University of Pennsylvania. He is also a private consultant with Deane, O'Neill, and Associates, 42 S. State Road, Upper Darby, Penn. 19082.

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practice, responsibility but not authority. Our current research results further support the value of this approach to internal, interpersonal conflict.

General interest in the once-novel ombuds concept waned during the 1970s, when the only public commentary on corporate ombuds occurred in a few popular business periodicals such as *Business Week*. Most ombuds themselves, lacking a common name, a body of literature, or a professional organization (for corporate and other private sector ombuds), did not recognize the common nature and widespread importance of their work.

## Background and Methodology[2]

During 1982 and 1983, in response to a request from the new corporate ombuds at Anheuser-Busch Companies, Inc., we studied how corporate ombuds function in the United States. Anheuser-Busch management believed that the company needed a senior official to assist in resolving conflicts and complaints among its nonunion employees. The exact nature of the position remained incompletely specified, and the firm's new corporate ombuds suspected there were others doing similar jobs from whom she could learn. This past year, we updated our original data with subsequent interviews.

Interviews were conducted by telephone in late 1982 and early 1983 with sixteen corporate ombuds; we supplemented these with face-to-face discussions with six of the respondents. Aside from one university ombuds, all respondents were employed by private corporations. In cases where more than one individual served as ombuds, we usually talked with only one. Ombuds in the firms studied numbered from one individual to a corporation with 13 ombuds offices, each with a full-time staff (It is noteworthy that this corporation leads its industry, and management articles and textbooks often refer to the very high quality of its management). From 1983 through May of 1985, we added to our original data by meeting informally with approximately half the original respondents and ten other corporate ombuds.

The first few of the sixteen corporations with ombuds were identified by researching periodical articles that appeared in the 1960s and 1970s. We identified further ombuds by asking respondents, "Do you know of others doing a job similar to yours?" In 1982-83, none knew more than two; most knew none. There was practically no communication within this group.

Though the ombuds in one corporation studied claimed the existence in his firm of an individual fulfilling the ombuds function as early as 1946, ten of the sixteen positions held by persons in the study began between 1971 and 1982. The earliest ombuds position in this study, created in 1946, illustrates the difficulty of locating corporate ombuds. This ombuds, in a major industrial corporation located in the Northeast, managed the company cafeteria. Due to his personality, his central location and its suitability for informal discussion, his widespread friendships, and his flexible schedule, he also functioned as the company ombuds (i.e., he provided informal, confidential third party assistance in resolving complaints outside the normal management structure). When he retired, the loss was felt so strongly that an official ombuds position was created and filled on a full-time basis. With-

out this after-the-fact occurrence, it is unlikely that we—or anyone else—would have recognized that an ombuds existed. Dr. Mary Rowe, M.I.T. ombuds and researcher, reports such unofficial ombuds to be common in her unpublished survey of a large group of *Fortune 500* companies.

Surprisingly, the people we studied performed their jobs in very similar ways including extraordinary attention to confidentiality and neutrality; informal operation; wide boundaries on the nature of concerns handled; and use of an extensive repertoire of conflict resolution methods other than adjudication.

Based on this information, we developed the following definition of "ombuds": *a neutral member of the corporation who provides* ***confidential*** *and* ***informal*** *assistance to employees in resolving work-related concerns and is* ***outside*** *the normal management control structure.* This very strict definition excludes traditional grievance procedures, personnel managers, employee assistance programs (EAPs), inside and outside arbitrators, and managers using the "open door" policy, but emphasizes the neutrality of the ombuds—a rare role in the business firm. The definition does not exclude part-time ombuds; though those we sampled spent all or most of their time on this function, we now know of many part-time people.

Most firms studied were large, nonunionized, and often considered progressive and well-managed by students of management. All ombuds were available to all nonunion employees (in either the entire corporation or a specified subunit) with internal disputes and problems. The one university ombuds also handled the disputes of a nonemployee group, students, and this occupied about 70 percent of the office's time. Because students are not employees, we did not add further university ombuds. After our original survey, however, we interviewed a less typical university ombuds who works almost entirely with faculty and staff and fits our definition well.

While we found our definition useful in locating ombuds, it is by no means definitive. For example, we did not include the mediation work of Professor Stephen Goldberg and his colleagues at Northwestern University Law School with the United Mine Workers and in other unionized settings because the mediators are not internal employees of the corporations served.

Only one of the sixteen initial respondents officially worked with union employees—though in several corporations, other than Anheuser-Busch, ombuds occasionally and almost secretly assisted union employees dissatisfied with the contract grievance process. During the two years following the initial survey in 1982-83, six examples of newly established ombuds who work with both union and nonunion employees have come to our attention. One case involves an ombuds with prior work experience in the firm for over three decades in both union leadership and management positions. Employed for the last two years as the corporate ombuds, he said he has no difficulty in working with both union and nonunion employees, and believes that the critical factors in his success are his wide personal contacts and the trust that both union officials and managers have in him.

One original respondent dealt with employee disputes and needs in a much smaller unit of 400. She handled conflicts and complaints as

did the others, but her function also included items of employee welfare that "fell between the cracks" of defined responsibilities such as arranging for a lunchroom piano for employees. We suspect that ombuds in such small units would typically make a major contribution to "quality of work life" and hence to productivity.

## The Work and Those Who Perform It

All respondents described their primary function as individual problem handling. Two-thirds also have policymaking input to top management, though none in the sample have decision-making authority over policy. The policy roles of corporate ombuds range from passive, with no effect on general policy, to proactive ombuds who suggest and even pursue policy changes.

Despite the lack of contact among ombuds, we discovered a surprising degree of consistency among them in the following four areas: problem handling procedure, ombuds personality type, very strong emphasis on confidentiality, and a high level ombuds reporting relationship (i.e., the ombuds' "boss" is at the top management level). Where such consistency occurs, we think this means the procedures used, independently discovered, are widely effective.

Although an important aspect of the ombuds role is the use of a wide variety of approaches to problems, the first two steps are generally standard. Every ombuds questioned stated that the first step is always careful, attentive listening and the development, with the client, of a clear definition of the concern or complaint. While second nature in the counseling field, such procedures are less common in workplace disputes. In the process, the ombuds often has to determine, with the client, the nature of an implied but not formalized contract between the employee and the corporation as well as handle a specific problem. Respondents generally agreed that simply venting a concern satisfies the client in many minor complaints without the need for further action. Because some ombuds count such instances as "a case" while others do not, we found wide variation in reported caseloads.

The second step, if one is required, is usually to support a direct attempt at resolution by the client before further steps are taken. To do so, the ombuds helps the client consider how he or she might approach those affecting the situation. Sometimes this requires interpreting company policy or assisting the client in understanding the use of company procedures. As in other counseling, various approaches to supervisors or coworkers and their possible effects are explored. This counseling process often helps a hesitant client to overcome fears about approaching another individual directly to settle a problem. Occasionally, where danger or discomfort is too high (e.g., some sexual harassment cases), this step is omitted.

If resolution is unsuccessful at this stage, the ombuds may take additional steps. Depending on the situation and the ombuds, a list of steps, in one possible ordering, might include:

- responsive listening, including joint definition of the client's concern;
- interpreting company policy;
- coaching the client in the use of company procedure;
- an attempt at direct resolution by the client;

- fact-finding investigation;
- conciliation;
- referral to other helping agents or change agent groups, (e.g., EAP; personnel; Black, Gay, or Women's groups);
- mediation;
- referral for arbitration by higher management or outsiders;
- "generic" intervention (rather than handling only the specific case, a method is developed for treating a class of similar cases, thereby giving the client increased anonymity; e.g., a film on sexual harassment might be shown in the department from which the case stemmed);
- advocacy of the client's case within a grievance procedure; and
- arbitration by the ombuds.

The last two procedures, and particularly arbitration, are a rarity. We located only one ombuds with arbitration power, and he informed us that it was virtually never used. Most ombuds with whom we talked believe that the use—or even existence—of such power is likely to interfere with the perception of the ombuds as a neutral. Further, the climate created by emphasizing adjudication is one of winning and losing rather than openness and collaborative participation.

Complaints most frequently handled by the ombuds revolved around salaries, terminations, and performance appraisals in that order; however, during the last two years, sexual and racial harassment has become a growing source of complaints. The student issues most typically handled by the university ombuds are analogous—grades and dismissals. Other issues handled frequently are promotions, benefits, discrimination, discipline, workload, transfers to other work locations or shifts, and attendance records. More unusual was a complaint about office romance raised not by a supervisor but by a spouse; after a while, few complaints surprise an ombuds.

We also inquired if the problem mix changed over time. Few respondents had data available, but those who did or were willing to hazard an opinion said that the economic situation and changing Civil Rights laws had an effect as did general changes in social values. Some said the increasing frequency of harassment complaints—with no hard statistics to indicate the actual incidence of harassment has increased—appears to be a response to changing social laws and mores.

All nonunion employees were served in each case studied. The only ombuds among the sixteen original respondents who also worked with unionized employees was located in an Equal Employment Opportunity (EEO) position. Despite this apparent restriction, we accepted his self-definition as an ombuds because it was common knowledge in his corporation that some issue of possible discrimination, however tenuous, would always motivate his concern.

The ombuds must command wide recognition within the organization in order to function. This quality made the job of finding them easier—perhaps even possible. But in most corporations, we were passed among several offices before we located the ombuds. By contrast, in one firm the telephone operator we contacted immediately directed us to the right individual because the ombuds had trained all telephone operators to recognize problems that signaled a need for a referral to him. We recommend this approach to other ombuds, particularly those

who serve a large or scattered population.

Most ombuds take a passive role in locating problems: They wait for complaints to arrive at their door or, more frequently, on their telephone. They are, however, active in publicizing their existence and their function. Methods include breakfast meetings with employees, visits to the shop floor, roundtable discussions with groups of employees and supervisors, and video presentations about the ombuds function and its practitioners. Top managers also often direct complaints back to the ombuds. In fact, sometimes the impetus for establishing the ombuds position came from a top manager who found it difficult to handle all the disputes arriving at his or her desk. Dr. Rowe of M.I.T., in an interview with the authors in March of 1985, noted that this last factor recently led to the creation of several new corporate ombuds positions.

All respondents regarded total confidentiality for client consultations as being absolutely essential. Occasionally, however, a client's choice of extreme confidentiality prevents resolution of a problem. For example, a client might perceive a poor performance evaluation as being due to the ending of a sexual relationship between client and supervisor—but remain unwilling to take direct action or allow intervention. Though it is possible for legal pressures or concern for the life or welfare of a threatened individual to require modification of full confidentiality, modification without client consent is extraordinarily rare, and many corporate ombuds regard such a result as being indicative of a professional failure.

Neutrality, however, remains a problem in the prevailing organizational design, where ombuds owe their position to one or more top managers and do not have long-term contracts. The possibility of bias in favor of management that this creates is less serious in the absence of decision-making authority by the ombuds. Further, strictly voluntary use of the ombuds function by employees creates counter-pressure on the ombuds to avoid any appearance of bias. Nevertheless, the present system places heavy reliance on the personal integrity of the ombuds. Further research might examine the possibility that frequency of employee use of corporate ombuds correlates inversely with employees' perception of ombuds bias. We also think that judicial systems should be examined to determine if their solutions to similar problems might be adopted for corporate ombuds.

Only three of the sixteen firms surveyed used the ombudsperson title; among the others, thirteen firms exhibited thirteen different titles. These included such wide variations as Director of Work Problems Counseling, Resident Manager, and Director of Personnel Communications.[3] Since the original survey, the ombudsman, ombudsperson, or ombuds title has become more common in corporations.

The absence of a common title in one way proved a boon; had a common term been in use, we might have used it uncritically, thus excluding some who should be included.

The overriding importance of confidentiality may partially explain the lack of more descriptive titles. One ombuds said she located her office in an obscure corner of her building so that clients might meet her unobtrusively. Another respondent was reluctant to talk with us because he identified "ombudsperson" with government, and his firm was hostile

to governmental involvement in business. Such views may explain reluctance to accept "ombudsman" as the common title.

Hesitation in using this title may also stem from the wide use of ombudsmen to describe an individual who acts as an *advocate* for customers, patients or clients for newspapers, hospitals, or government; the corporate ombuds normally plays a *neutral* role and deals with *internal members* of the organization (employees including managers).

Though in a plurality of instances no specific causative factor for the initiation of the ombuds position could be identified, fear of unionization accounted for 25 per cent of the positions in the original survey. Two positions were established through contact with other ombuds, two as the idea of a new CEO, one each as the result of EEO legislation and a student sit-in. We were unable to find any specific event leading to the creation of the remaining six positions.

The person to whom the ombuds reports is typically either within or above the personnel chain (e.g., the Vice-President for Personnel, the CEO). Most ombuds said that the perception of "clout" created by this access was a vital factor in their ability to perform well. Without it, access to all personnel, particularly upper managers and data, could not be guaranteed.

Reporting is typically both verbal and written. All sixteen original ombuds and all others with whom we have subsequently spoke were appointed by, reported to, and received their salaries from corporate management. In one case, a formal arrangement existed for consultation on selection of new ombuds with an elected, but nonunion, employee policy committee.

A majority of the respondents have no other official role or duties. Those who did have another position usually felt their multiple duties either neutral or helpful as a source of improved communication; one indicated a conflict due to his supervisory authority over some potential clients.

Few ombuds in this study used resources external to the company. We do not know whether this would be true for smaller corporations with fewer internal sources. Two used outside consultants to explore new ideas, one made referrals to an outside counseling service, and one brought in speakers on topics such as stress. In the last two years, the use of outside resources has become more common.

The number of cases each ombuds handled per year varied widely from 50 to 350; a caseload of 200 to 300 was typical. This wide variation in part reflects the lack of a consistent definition of what constitutes a case.

In this and other areas of statistical data, many respondents had only scattered information. We think this reflects both their enormous concern with confidentiality and their concentration on resolving individual cases. A side effect, which may or may not be considered desirable, is reduced ability by top management to evaluate and control the ombuds. Participants at the April, 1985 annual meeting of the Private Sector Ombudsmen Association indicated that the collection of aggregate data, without identification of individual clients, is increasing.

If ombuds are to play their full role by alerting management to patterns of problems as well as handling specific disputes, the collection of aggregate data is essential. Further, considerable additional data for research is

needed if the ombuds function is to be compared adequately with other methods of handling employee conflicts and concerns.

Respondents from whom we were able to obtain data said that the supervisors were upheld in 75 to 90 percent of their cases. This does not allow us to conclude that bias exists because, in most cases, the employee complainant had previously been turned down at one or more supervisory levels. Thus, the several previous layers of decision-making would have to be "wrong" for a decision to be reversed. In the most successful ombuds interventions, this measure becomes irrelevant as the complaint is dissolved to mutual satisfaction. Perhaps for this reason, many ombuds were unwilling or unable to provide information on this issue—which seemed the most sensitive of the entire survey.

In 1985, several ombuds said that the proportion of peer level (worker-coworker or manager-manager) cases was increasing. Still, we feel that the information we did obtain indicates a need for further investigation of ombuds neutrality. Depending on the results, some alteration of the prevailing design in which the ombuds serves solely through the choice of top management might be desirable.

Not surprisingly, most ombuds described their role as highly successful. More significantly, considering that employee use of the ombuds is optional, most of the jobs have grown. Expansions occurred in budget and number of personnel, the scope of the job, or the number of cases handled in eleven of sixteen cases. Five positions remained unchanged; one was reduced in scope. We located only two corporations in which the job was eliminated, and in one of these we were told of an intention to reinstitute the position.

Definitions of "success" thought relevant by the ombuds included "resolving difficult cases"; "making management aware of problems"; increasing sensitivity to employees among managers"; decreasing volume of complaints"; and, among a few, "keeping out unions." With regard to the last, if ombuds (operating as here described) do help in "keeping out unions," it is because they respond to worker needs. We think the smart union will wish to adapt the device rather than oppose it. This could require a different design for reporting responsibility, for hiring and firing, and possibly a joint source of payment.

We asked ombuds to describe major personality traits of themselves and their colleagues. The most frequent descriptions were "warmth" and "empathy" but also "strength." The perception of their behavior matched their descriptions: they were consistently concerned and cooperative in our interviews and had the self-confidence to answer directly without seeking the approval of other authority.

The importance of both the reality and appearance of "a high level of integrity" and of "creativity in problem solving" were the next most cited items. Other characteristics mentioned frequently included "calmness," "good judgment," "enthusiasm," and "the desire to help others." Few may attain such an ideal state, but in our experience they approach more of these qualities with fewer pretensions than most.

In contrast to the consistency of personality traits, formal backgrounds varied widely. These included business management, personnel management, psychology, counseling, law, and even Sanskrit, plus in-

stances of individuals with no degree who worked their way up from line worker to supervisor to ombuds. There was no agreement on the importance of any particular training; all respondents either described this as unimportant or cited their own particular background. Most respondents felt little need for further formal training but expressed considerable interest in meeting other ombuds. It remains to be determined if newly developing curricula on dispute resolution may change these views.

The point to be made is that this data suggests that personality traits are far more important than specific credentials. Or, in other words, practicing ombuds believe selection of the ombuds and design of the function is more important than training.

Extensive familiarity with and contacts within the organization appeared similarly important; most ombuds had been in other positions within the organization for two years or more prior to appointment. The exceptions in our sample were in multiple person ombuds offices where incoming assistants could acquire experience in supervised situations. Subsequently, we have heard of rare instances where the principal ombuds is a newcomer to the organization.

Only a minority in the sample stated a desire for further training for themselves in areas including Civil Rights and labor law, group dynamics, negotiating techniques, and stress handling. The absence of a widespread feeling of need for formal training may reflect the lack of contact with these alternatives and with other ombuds, the lack of continuing self-evaluation and striving for improvement, or the irrelevance of such training. This is another area requiring further study, particularly in light of recently developed nonadversarial dispute resolution curricula.

In sum, the respondents' opinions on the most helpful factors in doing their job were personality factors ("being a good listener," "creativity," "judgment," "integrity," "guts") and design factors ("a high level reporting relationship," leading to perceived status or "clout;" being outside the normal management structure; and "a good understanding of the organization").

## Two Comparisons

One widespread approach to workplace conflict, union grievance procedures as presently constituted, may be less consistent with collaborative, participatory, relations between workers and managers. Nor do these procedures necessarily satisfy unionized employees; A.W.J. Thompson (1974, p. 5) for instance notes that, "As a consequence of the (Supreme) Court's reliance on the grievance arbitration process to resolve contract disputes, the status of the individual employee, as distinguished from his union representative, may have deteriorated." Of equal or even greater importance is that union grievance procedures often do not deal with worker-coworker and manager-manager conflicts and concerns. Thompson (1974, p. 1) further comments, "Through this system the grievance process assumes three different roles: an administrative role—applying the contract, a judicial role—interpreting it as a code of rules and behavior, and a compliance role—ensuring that the obligations of the contract are met."

The function of the ombuds is none of these; rather it is to reduce the need to appeal to a legal contract by settling conflicts through agree-

ment among the disputing parties. Further, an ombuds handles a variety of issues not usually treated as grievances including salaries, performance evaluations, and several categories of racial and sexual harassment. By reducing the polarization produced by settlement through legalization and adversarial argument, the ombuds fits a climate of participatory, cooperative decision-making. Nevertheless, the ombuds function to date has usually been made available only to nonunion employees.

The ombuds we studied represent the most visible members of a mostly invisible class. We studied only full-time ombuds with job descriptions specifying conflict resolution among employees. Many corporations have individuals who function as part-time ombuds handling similar problems through similar methods.

A different function for the ombuds is to help alert management to rising problems within the corporation. For example, an ombuds noticed an increasing number of disputes concerning flexibility in taking time off. Relating this to an increase in the number of employees from "higher" socio-economic backgrounds (probably due to job scarcity in a recession) she suggested a "flex-time" policy—which was subsequently adopted. This is an example both of the policy-influencing function and the potential for the ombuds to form part of an "early-warning" system for newly arising problems.

Data supplied to managers is normally filtered and condensed; not only is the process imperfect but information may be distorted for the purpose of influencing decisions. The ombuds receives unfiltered raw data from all levels and locations in the organization and does not have management responsibility. In our opinion, the potential usefulness of ombuds to an "early-warning system" has been underutilized because a design eliminating the potential conflict with confidentiality has not been fully developed.

The development of industry or nationwide networks of corporate ombuds might enable the early detection of problems affecting an entire industry or even corporations in general.

## Conclusions

Corporate ombuds provide superior confidential assistance to handling employee conflicts. Typical problems solved relate to salaries, terminations, evaluations, and harassment. No areas of concern lie beyond their purview. Their primary objective is fairness and problem dissolution rather than advocacy or adjudication. To this end, they utilize a variety of counseling, mediation, coaching, and conciliation methods. To date most corporate ombuds serve nonunion employees, but in several new settings their work has been extended to union members as well.

Though reliable measurements of their effectiveness and efficiency compared to other alternatives are still lacking, the current research documents their usefulness. Their approach blends well with participatory, cooperative management styles; and with their quick knowledge of problems, they have a valuable ability to alert management to developing problems.

In 1984, the first meeting of a new national organization of corporate ombuds was held on Cape Cod, Massachusetts. By 1985, this group had a mailing list of over 100, including representatives from a number of *Fortune 100* firms. The organization's

second annual meeting, held in Dallas in April of 1985, attacted almost 50 ombuds. They christened themselves the Private Sector Ombudsmen Association, examined several possible logos, and decided to incorporate as a nonprofit organization.

If concern for corporate fairness and a high quality of work life continues to increase, we expect that corporate ombuds will play a growing role in its achievement.

## NOTES

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1. An earlier version of this article, under the title "A Non-Adversary Solution for Employee Conflicts," appeared in Vol. 3 No. 8 (August 1985) of *Alternatives to the High Cost of Litigation* published by the Center for Public Resources, New York.

2. The authors may be contacted for further information about the research and findings.

3. Other titles were Corporate Director of Industrial Relations, Director of Human Resources, Director of Personnel Relations, Director of Urban Affairs & Equal Opportunity, District Staff Manager: Personnel-EEO Affirmative Action, Manager of Employee Relations, Ombudsperson (two positions), Second Vice President: Personnel Employee Relations, Senior Director of Employee Relations Programs, Senior Personnel Manager, University Ombudsperson, and Vice President: Human Resources and Labor Relations.

## REFERENCES

**Thompson, A.W.J.** *The Grievance Procedure in the Private Sector.* Ithaca, N.Y.: Publications Division, New York State School of Industrial and Labor Relations of Cornell University, 1974.

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# In Practice

## The Corporate Ombudsman: An Overview and Analysis

*Mary P. Rowe*

In the past two years, at least fifty North American employers created ombuds offices; the total number of corporate ombuds offices has risen now to an estimated 200. This paper attempts to answer the questions most commonly asked by the CEOs and Human Resource managers exploring the concept. The paper is drawn from the author's 14 years of experience as an ombudsman; from several dozen interviews with corporate ombuds practitioners; and from several pilot surveys conducted from 1982 to 1986 among members of the Corporate Ombudsman Association, by members of the COA Research Committee.

There is no universally accepted definition of an intra-corporate ombudsman. And many companies that have an ombudsman structure call it something else (e.g., Liaison, Work Problems Counsellor, Personnel Communications). Nevertheless, the term "ombudsman" is now growing to be the generic word, amid many corporate "brand names." My definition is a neutral or impartial manager within a corporation, who may provide confidential and informal assistance to managers and employees in resolving work-related concerns, who may serve as a counsellor, go-between, mediator, fact-finder or upward-feedback mechanism, and whose office is located outside ordinary line management structures.

The term "ombudsman" causes discomfort to many who would prefer "ombudsperson." Corporations and practitioners, in fact, use many forms of the word. Some refer to the practitioner as an "ombud" or "ombuds." Many use the term as an adjective, as in "ombuds office" or "ombuds practitioner." Purists speak only of an "ombudsman." If the word is to be contracted, neither "ombud" nor "ombuds" is technically more correct; the choice is, therefore, a matter of taste for those who use these terms. This author will use many variations in this paper.

Technically speaking, a pure or classic ombudsman is created by statute and reports (and is paid) *outside* the turf overseen by the office. All intra-institutional practitioners are then, by this definition, "quasi-ombuds." In common parlance in the United States, this distinction has been lost, but it is important to keep in mind when talking with lawyers, non-Americans, and academic specialists who are accustomed to the classical concept.

**Mary P. Rowe**, a founder of the Corporate Ombudsman Association, is an economist. She is Adjunct Professor at the Sloan School of Management and Special Assistant to the President of the Massachusetts Institute of Technology. She is the author of numerous articles, including most recently "Dealing with the Fear of AIDS." *Harvard Business Review*, (July-August, 1986). Her mailing address is 77 Massachusetts Ave., MIT 10-213, Cambridge, Mass. 02139.

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## Is a Corporate Ombudsman Really a Neutral?

An ombudsman clearly is *not* an ordinary kind of advocate; this practitioner specifically is not a conventional "employee advocate." But the definitions of "neutrality" and "impartiality" adopted by practitioners vary from company to company.

About half the companies with ombuds offices have designated their practitioners as neutrals. Nearly all expect the practitioner to be at least impartial in all interpersonal interactions, including those with senior managers. (All expect the practitioner to uphold relevant laws, statutes and company policies; one is, in other words, not "neutral" with regard to the law or company policy.)

Practitioners tend to talk about these matters in company-specific terms, such as:

> "I am an advocate for fair *process*, not for any specific person or position."
>
> "I am impartial and neutral up to the point that I find a law or company policy being flouted."
>
> "My company believes the long-range interests of the company lie with anyone who has been unfairly treated. If two people have each treated the other unfairly, the company may have an interest on both sides."

Most practitioners simply say, "I have to find solutions that meet many sets of rights and interests," or "The ombudsman will take into account the rights of all employees and managers and the obligations of the company . . . and also the rights of the company and the obligations of employees and managers." In technical terminology, the ombudsman is committed to integrative solutions, and avoids distributive solutions both by the design of the office (an informal, nonadjudicatory structure) and by personal commitment.

In protecting their neutrality, most ombuds practitioners pay particular attention to the issue of recordkeeping. Most keep aggregate statistics, but maintain individual records only briefly or in obscure shorthand. Many would resist a subpoena by attempting in the public interest to have it quashed. About half say they would, if necessary, refuse a subpoena; some also have an agreement with their employers that they will not be called by the company in any court case. (To date, this author knows of no case of an ombudsman being called into a court case, let alone of a subpoena being sustained.) Since most ombuds practitioners are not usually a formal part of any formal grievance procedure and stay out of formal contractual matters, this possible threat to neutrality has not so far been a problem.

## But How Can a Manager Inside the Company Really Be Neutral?

Most ombuds practitioners report to the CEO or someone close to the CEO. And most do not have oversight over others who report to that same senior officer. Most practitioners report themselves neutral or impartial with respect to everyone else in the company.

Although observers regularly presume that bosses put a lot of pressure on ombudspeople, in practice ombuds practitioners report relatively little stress over the issue of neutrality. Nearly all can remember one or two attempts to "lean" on them, but this experience is very rare. The ombudsman's neutrality is usually protected by the structure of the situation:

- the office reports to the top;

- most contacts to the office are brief; practitioners are not usually locked into long-term fights, or major battles over company strategy;
- many contacts to the office are inquiries, problems or suggestions rather than solely complaints;
- policy, company ethics, law, and "principle" are usually on the side of the ombudsman;
- practitioners typically avoid polarization and, instead, seek integrative solutions;
- practitioners typically avoid the appearance of close social relationships at work;
- most managers seem to respect and even at times to protect the impartiality of the ombuds office; and
- where there is tension, there are usually powerful forces on all sides that push the practitioner toward a neutral stance. (In fact, quite a number of practitioners report themselves to have become, if anything, far "more neutral" over time, as they continuously hear two or more sides of any given story.)

## Confidentiality

All ombuds offices known to this author affirm that they will, if asked, keep the confidence of their visitors "under almost all circumstances." The definition of exempted circumstances varies by practitioner from "I would report illegal activities" to "I would report a situation threatening to life or safety." Most practitioners will not report minor infractions of company policy.

Most practitioners also report they have either never knowingly broken confidentiality, or if so, that this has happened only once or twice. The apparent bind between confidentiality and "duty to warn" is actually less troublesome in practice than in theory. The major reason is that an experienced ombudsman will nearly always find acceptable alternatives: that the ombudsman is given permission to report or investigate a problem using no names, that the client will report the problem directly to responsible managers, that a generic solution can be found which obviates the individual problem, or other responsible recourse.

The development of professional practice with respect to confidentiality will be particularly interesting with the recent advent of a few "ethics officers" or "ethics ombudsmen," among defense contractors. This narrowly-focused, new subgroup has developed in very specific response to concerns about waste, fraud and abuse. General ombuds practitioners hypothesize that this new group will find, as have the rest, that confidentiality is the cornerstone of the perceived trustworthiness of their structure.

## Purposes and Functions of Ombuds Practitioners

One important difficulty people experience in thinking about ombudsmanry is that many North Americans view "work problems" as if they were all "complaints." And they associate the term "complaint-handling" with courts, with other formal grievance structures and procedures, and with a wide variety of ideas that have come collectively to carry the name of "due process." (For a list of ideas associated with "due process," please see Appendix One)

One purpose of an ombudsman *is* clearly to foster and support fair and proper communications and processes. But, typically, the major purpose is to

help with a very wide variety of problems and inquiries and concerns at work, in whatever ways are perceived as helpful by the employer and by the managers and employees of the company. For example, one ombudsman has two formal charges:

1. To help every individual manager and employee who comes in, as well as possible; and
2. To get needed information back to line managers (in ways consonant with the privacy and confidentiality of clients) so that the managers will be more effective.

It is obvious that ombuds work may differ a good deal, company by company, as the needs of the company and skills and interests of the practitioner may vary. But these characteristics are clear: An ombudsman is meant to deal with *people* as individuals, and with *problems* as systematically as possible.

The principal functions of an ombudsman are:

• *Dealing With Feelings*

On occasion, living and working bring rage, grief and bewilderment to everyone. Managers and employees often feel there has been "no one to listen." Possibly the most important function of a complaint handler (or complaint system) is to deal with feelings. If this function is not otherwise provided, by line and staff managers, it will fall to the ombudsman.

Sometimes this is in fact all that is needed. Every practitioner has the odd experience of having someone blow up and/or weep for hours in the office, only to report back on the morrow that "everything now seems much better."

At other times, it is critical to help someone with a problem express feelings (for days or weeks or months) before a responsible plan of action can be chosen and undertaken, or before the matter can be appropriately dropped and forgotten.

• *Giving and Receiving Information on a One-To-One Basis*

Many employees do not even know the name of their CEO, much less how the company determines promotions, transfers, or benefits, or how it deals with problems in the work place like harassment. It is therefore very important that line and staff managers be prepared to give out information, and make referrals to helping resources, on a one-to-one basis, at the time and in the fashion needed by an individual with a problem. This may again be all that is needed. If appropriate information and referrals are not made available by other managers, this function may fall to the ombudsman.

An ombudsman may also *receive* vital data. This may, for example, happen with a "whistleblower" who either does not know where to go, or is afraid to go to anyone but a confidential adviser. It is also likely to happen with new problems. That is, an ombudsman is likely to be the bellwether or early warning device for whatever problems the employer has not yet met, but will soon have to deal with. Examples of such problems include sexual harassment in the early 1970s, AIDS in the early 1980s, and now new kinds of drug problems.

• *Counselling and Problem-Solving to Help the Manager or Employee Help Himself or Herself*

Many employees and managers face tenacious problems with only three alternatives in mind: to quit, to put up with their problem, or to start some formal process of complaint, or suit or investigation.

These are not the only alternatives, nor are they always the best available. The skilled ombudsman will help a visitor develop and explore and role-play new options, then help the visitor choose an option, then follow-up to see that it worked. And in many cases, the best option may be for the person with a problem to seek to deal with it effectively on his or her own.

Many people would prefer to "own" their own concerns and, if possible, learn how to deal on their own with their difficulties, if effective options to do so can be developed and pursued. Thus, a critical function for the ombudsman is not only to "give a fish to the hungry person," but "to teach how to fish." Many senior ombuds practitioners therefore function frequently as in-house consultants, to employees and managers, rather than intervening directly in every case.

These first three functions are available on a confidential basis. (Ombuds practitioners report many discussions on the phone at night or at outside restaurants, or even occasionally with a person who wishes to remain anonymous, if the topic is particularly sensitive.)

• *Shuttle Diplomacy*

Sometimes a visitor will opt for a go-between. This is especially true where one or more parties need to save face or deal with emotions before a good solution can be found. This is much the most common type of intervention reported by ombuds practitioners, especially if the company is quite hierarchical in style and organization. In some companies, this function may also be pursued by the ombudsman—during or between the steps of a formal, complaint-and-appeal, grievance process—as an option for settling outside any adjudicatory process.

• *Mediation*

At other times, a visitor will choose the option of meeting *with* others, together with the ombudsman. Like shuttle diplomacy, this usually happens on an informal basis. However, the "settlements" of shuttle diplomacy and mediation may be made formal by the parties involved.

• *Investigation*

Investigation of a problem or a complaint can be formal or informal, with or without recommendations to an adjudicator—for example, to a grievance committee or to a line or senior manager. All four of these investigatory options are reported by ombuds practitioners, and are more or less common depending on the company and the ombudsman.

• *Adjudication or Arbitration*

This function is very rare for the ombudsman. Here, the classic phrase about ombuds practitioners is likely to obtain: "They may not make or change or set aside a management rule or decision; theirs is the power of reason and persuasion."

Even those few practitioners who do have arbitration power use it very rarely, for this is seen to be the province of line management. In some companies, however, the ombudsman may facilitate or chair formal grievance processes (as a nonvoting neutral).

• *Upward Feedback*

Possibly the most important function of the ombudsman is to receive, perhaps analyze, then pass along information that will foster timely change in a company. Where policies are outdated or unintelligible, or new problems have arisen, or a new diversity appears in the employee pool, an ombudsman may be a lowkey, steady-state change agent at very low cost to the employer.

This function also provides a mechanism for dealing with some very difficult confidentiality problems. An ombudsman can, for example, suggest that a department head instigate an apparently "routine," department-wide discussion about safety or harassment or waste-management or theft, in response to an individual concern, at no cost to anyone's privacy or rights, in such a way as to eliminate an individual problem (if not necessarily the perpetrator).

Ombuds practitioners appear to vary a good deal as to how they spend their time. Some observers believe that the prior career of the ombudsman may influence ombuds practice. A former Employee Assistance practitioner may primarily listen, counsel, and help with transfers. A former engineer or top manager or group leader may spend more time helping the system to change.

It also may be that an ombudsman will "pick up" whatever functions other managers are performing least well, or that an ombuds office simply responds to varying company problems. And ombuds practice may change over the career of the practitioner. Several long-term practitioners report they now intervene less, and spend more time as in-house consultants, helping managers and employees deal directly with their concerns.

Pilot surveys among Corporate Ombudsman Association members indicate that ombudsmen spend about one-third of their time on upward feedback and systems change, with formal mediation the least common activity of ombuds practitioners.

## Relationships Between Ombudsmen and Other Line and Staff Managers

Ombuds practitioners are often asked what other managers think of them: "Don't they hate you?" No one wants to answer "yes" to this question, and for a practitioner to answer at all may be disingenuous. However, some data suggest that 90-95 percent of all line and staff managers feel relatively comfortable about an ombuds office, at least after the second or third year of its existence.

For one thing, managers tend to seek out ombuds practitioners proportionately more often than do employees, at least by the ombudsman's second year. Experienced and self-confident managers, especially technical managers, seem especially likely to seek assistance. Managers tend to bring in new, usually painful, and sometimes bizarre management problems, or to come in with their own personal concerns. The general rule that most clients are most satisfied with mediation-oriented problem solving may also be partly responsible for the considerable acceptance of ombuds by other managers.

Moreover, most ombuds practitioners avoid any appearance of substantive decisionmaking, work hard to get line managers the data they need to manage better, and place great emphasis on the protection of everyone's privacy, including that of line managers. The typical ombudsman wants line managers to get the credit for any constructive changes that occur—and never, or almost never, uses the name of the boss to get something to happen. The role of the practitioner is support rather than competition. In addition, most ombuds practitioners take on themselves full responsibility for getting along with other managers, in the spirit of commitment to the employer and to the team.

It is quite common to find that the ombudsman conforms his or her working style considerably to the style of other senior managers. Thus, if a department head says, "Fix anything you can; the more time you save for me the better!", the ombudsman may scarcely see that department head, and will problem-solve at the lowest possible level, if a department head says "Look, let me know if you can,

when you're on my turf," the ombudsman is more likely to seek permission to do just that. To the employee in that area, the ombudsman may say, "Look, how do you feel if you or I let Sandy McHierarch know about this problem? You know old Mac really cares about knowing what's going on; would it make sense to touch base with Mac?"

Sometimes, the ombudsman has been asked to intervene and needs to decide whether to go first to the immediate supervisor (who will desperately want this to happen), or to go first to the department head. Much will depend on the facts of the case, on the known wishes of the department head, and on who first returns the ombuds' call. But most ombuds practitioners will start at the lowest relevant level, if only because that supervisor may prefer to be the one who goes to the department head. (The practitioner who plans generally to follow this approach is probably well-advised to discuss this contingency, early on, with the department heads.)

Another reason for the generally agreeable relations with line and staff managers is the constant cross-referral that occurs. Most ombuds practitioners consult with and refer continuously to helpful line managers; Employee Assistance; Equal Opportunity staff; relevant security/police officers; and especially, to every variety of Human Resource professional in the company. Referrals to health care practitioners, religious counsellors, marriage counsellors, divorce attorneys, and a wide variety of other professionals are also common. Frequent consultation with company counsel is typical for many ombuds practitioners.

The commonest source of referrals *to* an ombuds office are, likewise, line managers and staff professionals, as other colleagues seek to build a safety net for employees and managers with problems. The close interdependence of the ombudsman and other colleagues thus powerfully reinforces the sense of a team rather than of turf. Or, alternatively speaking, one may simply note that almost no one really wants to "own" the most serious people problems at work; most sensible managers are only too glad to "share" such problems.

## Why Would a CEO Want an Ombuds Office in Addition to Employee Relations and Employee Assistance?[1]

This is a question best answered by current ombuds practitioners who once were Employee Relations and Employee Assistance professionals. They usually say, "Because more and different problems come to the ombuds office."

Those ombuds practitioners who have held both Employee Relations and ombuds jobs note that some people will choose an ombuds office for reasons that include:

- because it is seen as neutral;
- because someone they once knew did not trust the Employee Relations (or Personnel) office;
- because they do not like the specific Employee Relations or Personnel officer assigned to them, or think "their supervisor eats lunch with that person;"
- because they do not want this problem in their (real or imaginary) personnel file;
- because some Employee Relations offices increasingly handle administrative matters like benefits, rather than listening to people;
- because the concerned person has no idea where to go or hates formal grievance procedures;

- because the problem is seen as bizarre or embarrassing or shameful;
- because there is a hidden agenda (for example, to seek referral to a counsellor or clergy), and they would rather get there via an ombudsman;
- because the ombudsman is seen as close to the CEO and they want to take an ethical or whistleblowing problem up higher. Ombuds practitioners who come out of Employee Assistance often note that the problems brought to the ombuds office are more directly work-related, including for example, safety and ethics issues, and require detailed knowledge of the individual company.

It seems also to be true that "more" problems will surface, or surface earlier, if any additional communications channel is added within a company. Some of these problems may never need to have surfaced, but it seems clear that a small, significant group of problems brought to an alternative channel either are extremely serious or would have become so. This certainly appears true in the experience of ombuds offices which regularly get a small number of new, or very peculiar problems of some gravity.

CEOs who have added an ombuds office usually justify its creation by one or more of these three statements:

- the office more than pays for itself—it is cost-effective;
- the rights and responsibilities of employees and of the company are well supported by such an office;
- it is humane and caring human resource policy to have such an office.

It should be noted that a number of companies with an in-house Employee Assistance program have decided to locate the Employee Assistance and ombuds offices in the same place. This is especially true where both functions are available to managers and employees via an 800 telephone line, as well as in person.

It may also be noted that this "Who needs it?" question parallels an older, similar question as to why one wants any Human Resource functions at all, when all the functions of the Human Resource Department also might lodge with line supervision. The practical answer to that question is, of course, that many line supervisors are promoted for technical skills, and that many do not have all the human resource management skills needed by the company. In addition, most employers wish to provide an option for managers and employees who want advice and data they do not get from line supervisors.

The parallel is an important one. As Human Resource managers are not there to replace line management, ombuds practitioners are not there to replace either Human Resource or line managers.

The purpose of an ombuds office, in particular, is continuously to put itself out of a job by supporting clients and regular line and staff offices so that they can deal effectively with each question and problem that arises. With respect to each concern brought to the office, the ombudsman's job is back-up, fail-safe, check and balance, rather than turf building. In this context, it is important to note that a high proportion of referrals to ombuds offices come from Human Resource Management, Employee Assistance, Equal Opportunity, Medical, line supervision and other colleagues.

## What Kinds of Problems Does an Ombudsman Handle?

Many ombuds offices now keep careful statistics. Pilot surveys indicate that once an office is up and running, it appears to get calls from two to eight percent of the constituent community each year. Practitioners commonly report a considerable fraction of very brief contacts to the office (which may or may not be serious problems).

One practitioner estimates about one-tenth of the contacts to the office concern rather serious problems in terms of (potential) disruption to the individual and/or the company. Another practitioner estimates that, at any given time, the "open" office case load runs at about 12-15 percent of the yearly caseload, indicating that many problems can be resolved rather promptly.

Common topics include salary and benefits; promotion and demotion; performance appraisals; job security and retirement issues; company policies; discipline/termination; discrimination and harassment; safety, ethics and whistleblowing; transfers; personality conflicts/meanness; information/referral; suggestions; working conditions; personal health, mentoring, and counselling issues; management practices; bizarre behavior and problems. Established offices that are reasonably well-known in a sizable company will see all these kinds of contacts each year. The profile of concerns, however, varies somewhat from company to company.

A majority of ombuds practitioners in companies where at least some employees are unionized, do see bargaining unit employees. Union employees are however appropriately referred elsewhere if they bring up concerns that are covered by the union contract. Ombuds offices are typically very respectful of their local unions and practitioners commonly report good relations with bargaining unit officers. In fact, many an ombudsman has had union officers as clients in the office.

## How Effective Are Ombuds Offices?

Most offices seem to be evaluated on the basis of intuition, word of mouth, "happy client" letters and the like. Some practitioners, in fact, believe their formal reports are not widely read.

Corporate Ombudsman Association practitioners have given this subject careful review and are pursuing cost-effectiveness analyses. Thus far their hypotheses focus on three main areas: client use, policy changes, and cost-savings.

• *Client Use*

To some extent, an office can be evaluated on the basis of its client use rate. Successful offices are seen to be those which are quite busy, with 2-8 percent of the community making contact each year. Possibly of equal importance, some offices appear to attract clients who mirror the company population by race, gender, pay classification, shift, etc. If the office attracts clients rather randomly from the total company community, one may hypothesize that the office is seen to be relatively fair in its service to managers, employees, women and men, minorities and nonminorities.

Several ombuds practitioners have attempted to estimate what proportion of their clients are "satisfied." Their estimates of the "satisfied" range from 50 to 90 percent. One practitioner reckoned in his first year that 55 percent of his visitors received positive help, and another 30 percent expressed appreciation, although

no substantive change occurred in the situation they reported. Another practitioner also estimates that 10-20 percent of her caseload feels that "nothing much was done," with about 50-60 percent receiving at least some immediate improvement with the problems reported. A number of practitioners have reported that they receive unusually favorable ratings in routine employee attitude surveys.

It should also perhaps be noted that it is common, both in research and anecdotally, to find that most people prefer problem solving to mediation, and prefer mediation to adjudiction. Results of this sort are also relatively stable whether those queried feel they "won" or "lost" their original point of view. It would therefore be expected that employee and manager satisfaction would usually be higher where people perceive that their concerns are addressed in a problem-solving mode, and where their complaints are addressed if possible through mediation or shuttle diplomacy.

In my own experience, this common tilt toward informal, mediation-oriented problem solving is not universal. Some people, probably at least 10 percent of ordinary U.S. work populations, prefer adjudication of work problems. If this estimate is correct, it underscores the point that employers need to provide *both* well-understood, fair, formal grievance procedures and informal counselling and mediation processes. Further, it appears likely that morale will be higher if managers and employees feel they have some choice in what kind of procedures they will use.

• *Policy Changes*

Many ombuds practitioners report informally and constantly to line managers throughout the system, as they are given permission by clients to do so. As a result, the typical ombudsman can name a great many changes in policies and procedures and structures that resulted from information flowing through the ombuds office. (Most practitioners feel this steady-state, upward feedback is far more important than their formal annual reports.) No serious studies have yet been made of this low-key, change-agent phenomenon, (nor estimates made of whether similar or better changes might not have occurred in the absence of the ombuds offices). Nevertheless, the change-agent role is widely perceived by practitioners to be valuable.

One important aspect of this role is when an ombudsman "picks up" a new problem that will prove to be very important to the company. This "early warning" has helped a number of companies prepare early for dealing with problems like the fear of AIDS.

• *Cost Savings*

Most practitioners have many examples of costs-savings attributable to their offices. Typical examples include: keeping very valuable employees who would otherwise have left; averting expensive litigation or damaging publicity; preventing or averting theft or sabotage; timely apprehension of unsafe or unethical practices; timely intervention in cases of bizarre or psychotic behavior; introduction of cost-saving or damage-prevention or morale-enhancing suggestions from employees.

In addition, practitioners hypothesize some reductions in absenteeism, sick and disability leave, and turnover, as a result of their work. And many practitioners believe their work enhances the productivity of others, especially if some particularly good idea is adopted by a line manager.

No careful studies have yet been done on any one office, although any one of the cost-savings here attributed to ombuds offices might more than pay the annual cost of a given office. To date there is also no known case of major costs or damages attributed to a corporate ombudsman. Practitioners, as a profession, have a firm belief in the cost-effectiveness of their offices.

## Who Becomes an Ombudsman? How Should an Employer Choose an Ombudsman?

Casual survey of about 50 U.S. ombuds practitioners reveals wide diversity of backgrounds. At least 90 percent worked for the present employer before being chosen as an ombudsman and were "picked from within," so most ombudspeople have in common the facts that they have previously known their companies and been personally trusted by their employers. But in most other respects, practitioners are diverse.

About half are women and a significant minority are black, Hispanic and Asian. Some came from Employee Assistance or Equal Opportunity offices; one or two were internal counsel. Many were line managers, and perhaps a quarter were quite senior line managers, deliberately taking on a "last career" within the company. Many knew the CEO or other very senior executives well. Some have developed the job from related Employee Relations or Human Resource Management positions. The college and graduate school majors of ombuds practitioners were diverse, including some with engineering, economics and management degrees. In addition, many have come from social work, counselling, liberal arts, divinity studies, and other disciplines.

When this author is asked about choosing an ombudsman, she usually recommends "finding a person to whom colleagues naturally turn," or "picking someone who may be doing the job anyway." "Natural mediators" in the company are actually quite easy to identify, and are usually well-known to their peers as effective troubleshooters and sympathetic listeners and counsellors. They typically have a reputation for dealing fairly and comfortably with both employees and managers, and with people of different races, religions, income and gender.

The typical ombudsman will comfortably take high emotional risks but is not an entrepreneurial risk taker. The effective practitioner will be seen as an excellent listener. This person likes almost everyone, finds it easy to imagine "the other side of the story," finds it easy to "separate the people from the problem," and may actually say how interesting it is that one can like someone whose behavior is inappropriate.

An ombudsman typically has no particular need to rush off to act in the face of a harrowing tale, and in fact finds a sense of accomplishment in helping other people help themselves. Nevertheless, the successful practitioner is capable of recognizing an emergency and prepared if necessary to take decisive, swift action. Most practitioners are very curious about other people and about management dilemmas, but seem to have a low need for power and public accolade; many in fact are somewhat shy.

The effective ombudsman appears comfortable as a neutral, and relatively comfortable with paradox, and may be known for not leaping quickly to conclusions. The practitioner is likely to be very sensitive to "data," to be somewhat analytic, and to be interested in problem solving and in puzzles for their own sake. Most are very independent people, who can either deal peacefully with high

emotion from others, or who quickly learn how to give that impression. Most also are—or become—very circumspect at work, avoiding major social issues (like abortion or politics) where responsible people do not agree with each other.

An ombudsman must be able to speak well and succinctly, and to write constantly and comfortably. The practitioner should learn a considerable body of employment law, at least a little about common personality types and disorders, and a great deal about company goals, policies and customs. The practitioner must be willing to deal with anyone and with any kind of problem with consistent courtesy, and must be willing to try to work together with any colleague, no matter how difficult.

In some companies, the ombuds role is filled for two or three years at a time by managers on the way up. In other companies, the position is deliberately one's "last" career step, to guarantee an experienced manager and to underscore the protection of objectivity of the ombudsman. Sometimes, the job appears to be just another Human Resource Management option within the company. And in some companies, the original incumbent sees the ombuds job as a profession and will very likely continue. There are a number of cases of practitioners who have served successive CEOs, and a number of cases of original incumbents who have turned over the job to successors.

## Part-Time and Multiple Ombudsman Options

Small companies and single plants often have one or more part-time ombuds practitioners. Typically where there is more than one part-time or full-time ombudsman, the different practitioners are chosen from different population groups: minority, nonminority; technical, nontechnical; male, female; Spanish-speaking, English-speaking; and so on.

Some employers have opted to employ several, part-time, "internal mediators." In their ombuds role, such practitioners closely resemble the ombudspeople described earlier, whatever their other job assignments. Practitioners in this role typically practice independently, but meet together regularly, (discussing cases with strict guidelines for protecting the confidentiality of their clients). In some models, any employee or manager may approach any practitioner anywhere in the company. In other models, different employee groups have different practitioners. Despite the obvious potential for conflicts of interest, part-time ombudspeople report few difficulties with their (informal, nonadjudicatory) ombuds role.

In larger companies, an ombudsman will have assistants, often of different race and gender. In this model, the practitioners keep common records and may consult together, although typically any manager or employee may choose to consult anyone in the office.

In order to keep a practitioner "close" to the given population group, very large companies may designate one practitioner per plant. In other very large companies, most ombuds work is done via an 800 telephone line to a central, multi-practitioner office. In practice, each of these options appears to work well.

## Is the Emphasis on Ombudsmanry Something New?

Ombudsmanry is a relatively old concept. People who served this kind of function appeared in rabbinical courts, as court jesters, as troubleshooters, etc., over the ages. The first classic ombudsman appeared in Sweden at the beginning

of the 19th century. Classical ombuds offices now appear in many countries.

Designated neutrals within corporations are a relatively new concept. Managers with ombuds-like functions appeared here and there between the World Wars in a few companies. But serious interest in the United States began in the late 1960s and grew only slowly until the 1980s.

Increasing heterogeneity in the workforce, rapidly changing laws and statutes, an increasingly well-educated employee pool, and stresses associated with huge increases in government contracting, have all led to increased recent interest in ombudsmanry. Contributing to the sense of a zeitgeist is the fact that ombuds-like structures and offices have appeared spontaneously and independently in many different companies and also elsewhere in the economy.

In North America, there are about 100 ombuds offices in colleges and universities, an estimated 200 in corporations. Three dozen newspapers have an ombudsman. Nearly 4,000 hospitals have patient ombuds offices and a great many businesses have client or consumer complaint offices. Each state has a nursing home/long-term care ombuds structure, and there appear to be about 1,500 part-time and full-time ombudspeople attached to those offices. In addition, there are perhaps two dozen classical ombuds offices in states, provinces and cities, and scattered practitioners for prisons and other institutions. Some radio and television stations and newspapers also have citizen's complaint or citizen's service structures, as do also mayors' and governors' offices.

In sum, the ombudsman concept is very varied and currently very lively. There is almost no general rule about ombuds offices that holds true for all such offices. But the overall ideas of listening to people as individuals, and of trying to deal with problems at an early stage, are clearly ideas of current interest to a wide variety of employers.

## NOTES

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1. See Appendix Two for a more detailed description of typical characteristics of persons who use a complaint system and relevant specifications for an effective complaint system.

## APPENDIX ONE

### ELEMENTS OF DUE PROCESS

### (As commonly recognized in the United States)

I. Due process seen as a matter of specific elements of grievance procedure, for example:
- Notice to the defendant; right to know the charges. In some cases, right to know accuser;
- Timeliness of process and to each step of the process;
- Right to present own evidence;
- In some cases, right to question the evidence brought by the other side; and in some cases, right to face or meet with the accuser;
- Right to answer the concerns that are raised;
- Right to accompaniment and someone to advise; in some cases, right to legal counsel;
- A fair and impartial fact finding; a fair and impartial hearing;
- Right to a decision that is not capricious, arbitrary or unreasonable in nature;
- Notice of the decision; in some cases, right to a written decision with a statement of reasons for the decision;

- In some cases, right to an appeal process;
- Freedom from retaliation for raising a complaint in a responsible manner;
- In some cases, a regard for the privacy of all concerned.

II. Due process seen as "that which is due" under the circumstances. Sometimes people use the term loosely to mean just "the process that I deserve," whether as a matter of law, company policy, or just as a matter of what an individual perceives as "fair".

* * * *

Seen in the context of this list of specific elements of grievance procedure, it is evident that an ombuds office is not primarily a due process structure. Seen in the context of "fostering the process to which a person feels entitled," part of an ombudsman's work clearly relates to fair process, although the terms seem too ambiguous to be very useful.

## APPENDIX TWO

### TYPICAL CHARACTERISTICS OF PERSONS USING A COMPLAINT SYSTEM AND RELEVANT SPECIFICATIONS FOR AN EFFECTIVE COMPLAINT SYSTEM

I. Most people who use a complaint system:
- greatly fear retaliation, from supervisors and peers;
- greatly fear loss of privacy; (this concern may hold with respect to family members as well as with respect to those at the work place);
- fear they will be seen to be disloyal;
- have widely differing views of whom they will trust among complaint handlers;
- do not wish to lose control over their concern or complaint;
- feel they lack the skills they need effectively to change the situation;
- think it is probably pointless to try to complain;
- just want the problem to stop; (a desire for punishment or revenge against an alleged offender is relatively rare).

II. An effective complaint system must therefore:
- offer a chance to deal with feelings, learn appropriate information and seek counselling *on a confidential* basis;
- have redundant* channels and options, so people have a chance to choose among multiple modes and access points (for example, supervisors, and HRM, anonymous hot lines, ombuds offices, QWL groups, etc.);
- have at least one general channel that is used more or less proportionately by everyone in the company, managers and employees, (for example, an ombuds office, hot line, etc.);
- have formal as well as informal complaint handling procedures open to the choice of the complainant; the formal process(es) must be perceived as fair;
- offer to most complainants the option to learn how to handle their concerns directly, on their own, or to ask for third party assistance (shuttle diplomacy, mediation or adjudication), or to seek a generic (systemic) approach;
- proscribe retaliation by supervisors and be known to take action against proven retaliation by supervisors, peers and subordinates;
- encourage responsible concerns by appropriate protection of the rights of complainants, the managers involved, and of all others involved in a complaint;
- be seen to produce some change in the treatment of individuals and with respect to policies and procedures and structures in the organization.

*"Redundant" here is used in the engineering sense of fail-safe, back-up, checks and balances.

APPENDIX H

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

APPENDIX G

## APPENDIX B

This Appendix contains a selected bibliography of books and articles about the institution of ombudsman, both corporate and statutory. It was compiled by Prof. J. T. Ziegenfuss, Jr. of Penn State University, and first appeared in his book Patient-Client-Employee Complaint Programs: An Organizational Systems Model. Springfield, Illinois: Charles C. Thomas Publishers, 1985. The bibliography is reproduced here with the kind permission of the author and publisher. Prof. Ziegenfuss is an active member of the Corporate Ombudsman Association research group.

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## REFERENCES

Aaron, Richard I., "Utah Ombudsman: The American Proposals", Utah Law Review No. 1 (March, 1967), pp. 32-93.

Anderson, Stanley V., "Ombudsman Proposals: Stimulus to Inquiry", Public Affairs Report VII, No. 6 (December, 1966), reprinted in Congressional Record (January 24, 1967), pp. A238-39.

Anderson, Stanley V., "The Ombudsman: Public Defender Against Maladministration", Public Affairs Report VI, No. 2 (April, 1965).

Anderson, Stanley V., Ed., Ombudsmen for American Government Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1968.

Annas, G.J., and Healey, Jr., J.M., The Patient's Rights Advocate: Redefining the Doctor-Patient Relationship in the Hospital Context. Vanderbilt Law Rev. 27:243, Mar., 1974.

Berg, Ivar, "Employee Discontent in a Business Society", Society Magazine 14, No. 3 (March-April 1977):51-56.

Blakely, T. and Goldsman, A.H., "Is There a Need for Corporate Ombudsmen?" Canadian Business 46, August, 1973, pp. 45-47.

Braun, R.J., "Consider the Student Ombudsman", School Management 13, June, 1968, 71.

Broderick, A., One-Legged Ombudsman in a Mental Hospital. Catholic University Law Review 1973, 22, 192-198.

Buffalo Citizens Administrative Service: An Ombudsman Demonstration Project. Berkeley, CA: University of California Press, 1969.

Burbridge, Charles T., "Problems of Transferring the Ombudsman Plan", International Review of Administrative Sciences 1974, 40, 103-8.

Bylin, James E., "The Ombudsman: He Keeps Swedish officials in Line. Would It Work Here?" Wall Street Journal 168, November 22, 1966, p. 18.

Cahn, E.S., and Passett, B.A., (Eds.), Citizen Participation: Effecting Community Change New York: Praeger Publishers, Inc., 1971.

Capozzola, J., An American Ombudsman: Problems and Prospects. The Political Quarterly 1968, 21, 289-301.

Ceavarella, M.A. and Doolittle, L.W., "Ombudsman: Relevant Role Model for the Counselor", School Counselor 17, May, 1970, pp. 331-336.

Chapman, Bruce, "The Ombudsman", Public Administration (London), XXXVIII, No. 4 (Winter, 1960), 303-10.

Christensen, Bent, "The Danish Ombudsman", University of Pennsylvania Law Review CIX, No. 8 (June, 1961), 1100-26.

Christiansen, Jon P., "A Remedy for the Discharge of Professional Employees Who Refuse to Perform Unethical or Illegal Acts", Vanderbilt Law Review 28 (1975):805-41.

"Citizen Complaint in St. Louis: The Case for an Ombudsman?" Business and Government Review September/October, 1969, pp. 25-31.

Clegg, S., Power, Rule and Domination: A Critical and Empirical Understanding of Power in Sociological Theory and Organizational Life Boston: Routledge and Paul, 1975.

Clegg, S., The Theory of Power and Organization Boston: Routledge and Kegan Paul, 1979.

Cole, Leslie B., "Ombudsman in Vocational Rehabilitation Process", American Rehabilitation 13, January/February 1976, pp. 18-20.

Cool, A., Sex Discrimination at Universities: An Ombudsman's View. American Association of University Professors Bulletin 1972, 11-14.

Crawshaw, Ralph, "Yes, Time Magazine, There is an Ombudsman Committee (of the Oregon Medical Association)", American Medical Association Journal 216, May 3, 1971, pp. 806-808.

Culp, Kenneth, "Ombudsman in America: Officers to Criticize Administrative Action", University of Pennsylvania Law Review 109, June, 1966.

Czjarnecki, G.W., "The Case for Internal Consulting". Journal of Symptoms Management 1981, 32, 6-13.

Danet, B., "Toward a Method to Evaluate the Ombudsman Role". Administration and Society 1978, 10, 335-370.

Davis, Kenneth Culp, "Ombudsmen in America: Officers to Criticize Administrative Action", University of Pennsylvania Law Review CIX, No. 8 (June, 1961), 1057-76, excerpted in Public Law (Spring, 1962), pp. 34-42.

Delbecq, A.L. and Vandetten, A.H., "A Group Process Model for Problem Identification and Program Planning", Journal of Applied Behavioral Science 7,4 (July/August, 1971).

Drew, J.W., "Effectiveness of an Ombudsman", Personnel and Guidance Journal 51, January, 1973, pp. 317-320.

Dunn, F., The View from the Ombudsman's Chair. New York Times May 2, 1976.

Ege, Karl J., "Enforcing Environmental Policy: The Environmental Ombudsman", Cornell Law Review 56, May 1971, pp. 847-863.

Eisenstadt, S.N. (Ed.), Max Weber on Charisma and Institution Building: Selected Papers Chicago: University of Chicago Press, 1968.

Emrich, M., "Patient-Relations Representative: More Than a Hospital Hostess", Hospital Topics 49-43, Sept. 1971.

Evan, William M., "An Ombudsman for Executives?" New York Times August 26, 1973, pp. 110-11. (Cite I: The Idea Is to Avert Corporate Injustice. Cite II: General: Ombudsman Best Way to Protect Executives, Absent Union).

Evan, William M., "Organization Man and Due Process of Law", Organization Theory New York: Wiley-Interscience, 1976.

Ewing, David W., "Employee Rights: Taking the Gag Off", Civil Liberties Review 1 (Fall, 1974):54.

Ewing, David W., "Civil Liberties in the Corporation", New York State Bar Journal 50 (April, 1978):188-91.

Ewing, David W., "Freedom Inside the Organization", Society 16, No. 2 (January-February, 1979):87-90.

Ewing, David W., "Winning Freedom on the Job: From Assembly Line to Executive Suite", In "Freedom Inside the Organization: Bringing Civil Liberties to the Workplace", Civil Liberties Review 4, No. 2 (July-August, 1977).

Farley, Marta Pisetska and Farley, Andrew N., "An American Ombudsman: Due Process in the Administrative State", The Administrative Law Review XCI (Summer, 1964), 212-21.

Ferena, T.P., "Organizational Communication Systems and the Decision Process", Management Science 1970, 17, B 83-96.

Fitzharris, Timothy L., The Desirability of a Correctional Ombudsman Berkeley, California: Institute of Governmental Studies, University of California, 1973, 114 p.

Fleishman, E.A., (Ed.), Studies in Personnel and Industrial Psychology Homewood, Ill.: Dorsey Press, 1967.

Foegen, J.H., "An Ombudsman as Complement to the Grievance Procedures", Labor Law Journal 1972, 23, 289-294.

Friedmann, Karl A., Complaining: Comparative Aspects of Complaint Behavior and Attitudes Toward Complaining in Canada and Britain Beverly Hills: Sage Publications, Inc., 1974.

Frank, B., "State Ombudsman Legislation in the United States", University of Maine Law Review 29, Spring, 1975, pp. 397-445.

Frye, C., and Miller, H., Patient Advocate - A Natural Role for the Volunteer. Volunteer Leader 16:20, Fall, 1975.

Geilhufe, N., "Discrimination Against Women in Jail: An Analysis of Advocacy Anthropology", Human Organization 37, Summer 1978, pp. 202-10.

Gellhorn, Walter, Ombudsmen and Others: Citizens' Protectors in Nine Countries Cambridge: Harvard University Press, 1966. Reprinted from "Citizens' Grievances Against Administrative Agencies - The Yugoslav approach", Michigan Law Review LXIV, No. 3 (January, 1966), 385-420; "Finland's Official Watchmen", University of Pennsylvania Law Review CXIV, No. 3 (January, 1966), 327-64; "The Norwegian Ombudsman", Stanford Law Review XVIII (January, 1966), 293-321; "The Ombudsman in Denmark", McGill Law Journal XII, No. 1 (1966), 1-40; "The Ombudsman in New Zealand", California Law Review LIII, No. 5 (December, 1965), 1155-1211; "Protecting Citizens Against Administrators in Poland", Columbia Law Review LXV (November, 1965), 1133-66; "Review of Administrative Acts in the Soviet Union" Columbia Law Review LXVI (June, 1966), 1051-79; "Settling Disagreements with Officials in Japan", Harvard Law Review LXXIX, No. 4 (February, 1966), 685-732.

Gellhorn, Walter, When Americans Complain: Governmental Grievance Procedures Cambridge: Harvard University Press, 1966.

Getman, Julius G., "Labor Arbitration and Dispute Resolution", Yale Law Journal 88 (1979):916-49.

Gilbertson, Forbes, "Will Ombudsman Come to Canada?" Canadian Business July, 1964, pp. 30-33.

Guskin, A.E. and Ross, R., "Advocacy and Democracy: The Long View; Role of the Advocate Planner", American Journal of Orthopsychiatry 41, January 1971, pp. 43-57.

Gwyn, W.B., "Obstacles Within the Office of Economic Opportunity to the Evaluation of Experimental Ombudsmen", Public Administration 1976, 54, 177-197.

Gwyn, W.B., "The Ombudsman in Britain: A Qualified Success in Government Reform", Public Administration (London) 60(2):177-195, Summer, 1982.

Gwyn, William B., The Discovery of the Scandinavian Ombudsman in English-Speaking Countries. West. Eur. Politics 3:327-38, 1980.

Gwyn, William B., Ombudsman Policy Innovation in the English-Speaking World. Research Report, Institute of Governmental Studies, University of California, Berkeley, CA, 1980.

Hacker, R.L., "What Executive Managers Should Know About Grievance Procedures", Hospital and Health Services Administration 1980, 25, 7-30.

Hadi, W.A., "The Spread of Ombudsman", International Review of Administrative Sciences October-December, 1977, pp. 334-344.

Hannigan, John A., "The Newspaper Ombudsman and Consumer Complaints: An Empirical Assessment". Law and Society Review Spring, 1977, pp. 679-700.

Harriman, Bruce, "Up and Down the Communications Ladder", Harvard Business Review 52, No. 5 (September-October, 1974):143. (New England Telephone "Private Lines" company encourages employees to ask management about any matter that might concern them.)

Hawley, Willis D. and Rogers, David, Improving Urban Management Beverly Hills, CA: Sage Publications, Inc., 1976.

Her Assignment is to Humanize the Hospital. Hospital Practice 9:49, Feb., 1974.

Hill, L.B., "Affect and Interaction in an Ambiguous Authority Relationship: New Zealand's Bureaucrats and the Ombudsman". Journal of Comparative Administration 1972, 4, 35-58.

Hill, L.B., "The Citizen Participation - Representation Roles of American Ombudsmen", Administration and Society 13(4):405-433, Feb., 1982.

Hill, Larry B., The Model Ombudsman Princeton: Princeton University Press, 1976.

Horton, F.W., & Marchand, D.A. (Eds.) Information Management in Public Administration Arlington: Information Resources Press, 1982.

Houston, C.S., and Pasanen, W.E., Patients' Perceptions of Hospital Care. Hospitals, J.A.H.A. 46:70, Apr. 16, 1972.

"How the Xerox Ombudsman Helps Xerox", Business Week May 12, 1973, pp. 188+.

"Innovative Approaches to Complaint/Grievance Resolution", Labor Law Journal 33:454-66, August, 1982.

International Ombudsman Conference, 1st, Edmonton, Alberta, 1976. Report on the Proceedings, First International Ombudsman Conference, September 6th to 10th, 1976, Edmonton, Alberta, Canada Compiled and Edited by Randall E. Ivany. Edmonton: s.n., 1978, 54 p.

Jackson, C.C., "Alternative to Unionization and the Wholly Unorganized Shop: A Legal Basis for Sanctioning Joint Employer-Employee Committees and Increasing Employee Free Choice", Syracuse Law Review 28 (Fall 1977):809-45.

Jagerskiold, Stig, "The Swedish Ombudsman", University of Pennsylvania Law Review CIX, No. 8 (June, 1961), 1077-99.

Jenkins, David, Job Power: Blue and White Collar Democracy Garden City, N.Y.: Doubleday, 1973.

Keating, W.A. and Holden, J.A., "Campus Ombudsman: A Vehicle for Change?" Journal of Research and Development in Education 6, Fall, 1972, pp. 38-45.

Keefe, W.F., "How to Keep Your Workers Happy: Listen to Them and Communicate", Pulp & Paper 44 (January, 1970): 139-41.

Kenyon, Carleton W., ed., The Ombudsman: A Bibliography California State Law Library, 1966.

Klesment, Johannes, The Ombudsman and Related Systems of Governmental Supervision in Scandinavian and Other Countries Library of Congress, European Law Division, 1961.

Kotter, J.P., Power in Management New York: AMACOM, 1979.

Lane, D.S. and Evans, D., Study Measures Impact of Emergency Department Ombudsman. Hospitals, J.A.H.A. 52:99, Feb. 1, 1978.

Legge, K., Power, Innovation and Problem-Solving in Personnel Management London: McGraw-Hill, 1978.

Lieber, M., Patient Representative is Hospital, Patient Liaison. Amer. Oper. Room Nurse J. 26:668, Oct., 1977.

Leidecker, Joel K. and Hall, James L., "A New Justification for Participative Management", Human Resource Management 13 (Spring 1974):28-31.

Lockerby, F.K., Representative Personalizes Care. Hospitals, J.A.H.A. 47:50, Oct. 1, 1973.

Louise Marie, Sister, The Hospital Ombudsman. Hosp. Forum 15:6, May, 1972.

Louviere, U., "Where Any Employee is Heard at the Top", Nation's Business 62 (June, 1974):40.

MacDermot, Niall, The Ombudsman Institution. Internat. Comm. Jurists R. p. 37-42, 1978.

Mandry, W.J., "Participative Management: The CIL Experience", Business Quarterly 36, No. 4 (Winter, 1971):73-87.

Marx, Fritz Morstein, "Administrative Procedure in Comparative Perspective", Law and Contemporary Problems 26, 1961, pp. 307-328.

McClellan, G.B., "Role of the Ombudsman", University of Miami Law Review 23, Winter-Spring 1969, pp. 463+.

McNamara, E.M. and Sax, A.B., Hospital Social Workers and Patient Representatives. Hospitals, J.A.H.A. 48:14, May 1, 1974.

Means, Inguun N., "The Norwegian Ombudsman", Western Political Quarterly 21, December, 1968, pp. 624-650.

Michael, Stephen P., "Due Process in Non-Union Grievance Systems", Employee Relations Law Journal 3, No. 4 (Spring 1978):516.

Middleton, K.W.B., "The Ombudsman", Juridical Review 5, No. 3, 1960, pp. 298-306.

Mitchell, J.D.B., "The Ombudsman Fallacy", Public Law 1962, p. 24.

Modesta, Sister M., Patient Relations Representatives Bridge Communications Gap. Hosp. Prog. 51:30, Sept., 1970.

Mohapatra, Manindra Kumar, Studies on Ombudsman and Other Complaint-Handling Systems: A Select Bibliography 392 pp., 1979.

Moore, J.E. and Wyner, A.J., "Responses of Law Enforcement Agencies to External Grievance Mechanisms: The Experience of Two American Ombudsman Offices" American Political Quarterly 3, January 1975, pp. 60-80.

Morgan, D.M., The Patient Advocate: A New Aid for Emergency. Can. Hosp. 50:24, Aug., 1973.

Nelson, W.B., "Union Representation during Management Investigation of Alleged Rule Infraction", Labor Law Journal 26 (January 1975):37-43.

Newman, Frank C., "Natural Justice, Due Process and the New International Covenants on Human Rights", Public Law Winter, 1967, pp. 274-313.

Newman, Frank C., "Ombudsmen and Human Rights: The New U.N. Treaty Proposals", The University of Chicago Law Review XXXIV, No. 4 (Summer, 1967), 951-62.

Nielsen, Richard P., "The Problem-Solving Model for Cooperative Labor Relations", Labor law Journal 29 (April 1978):236-40.

"The Ombudsman: A Symposium", The Administrative Law Review XIX, No. 1 (November, 1966), 6-106.

"Ombudsman Gellhorn Cites Critics' Role in Controls of Administration", New York Law Journal March 29, 1966.

Ombudsman Workshop, Honolulu, 1971. Establishing Ombudsman Offices: Recent Experience in the United States: Transcript Stanley V. Anderson and John E. Moore, eds. Berkeley, California: Institute of Governmental Studies, University of California, 1972, 293 p.

Payne, James E., "Ombudsman Role for Social Workers", Social Work January, 1972, pp. 94-100.

Peel, Ray V., Ed., "The Ombudsman or Citizen's Defender: A Modern Institution", Annals of the American Academy of Political and Social Sciences 377, May 1968, pp. 1-138.

Pettefer, J.C., "Effective Grievance Administration", California Management Review 12 (Winter 1970).

Powell, Norman John, Responsible Public Bureaucracy in the United States Boston: Allyn and Bacon, Inc., 1967.

Presthus, Robert, Public Administration New York: The Ronald Press Company, 1975.

Pugh, Idwal, "The Ombudsman - Jurisdiction, Powers and Practice", Public Administration (London) Vol. 56:127-138, Summer, 1978.

Quilitch, B., "Using an Ombudsman and a Rights Committee to Handle Client Complaints", Hospital and Community Psychiatry 1981, 32, 127-129.

Rabin, Robert L., "Job Security and Due Process: Monitoring Administrative Discretion through a Reasons Requirement", University of Chicago Law Review 44, No. 1 (Fall 1976):60.

Ravich, R., Patient Relations - Annual Administrative Review. Hospitals, J.A.H.A. 49:107, Apr. 1, 1975.

Ravich, R., and others, Ombudsman: A New Concept in Voluntary Services. In: National Association of Social Workers. Second NASW Professional Symposium: Human Services and Social Work Responsibility Washington, DC: NASQ, 1969, pp. 311-320.

Ravich, R., Hospital Ombudsman Smooths Flow of Services and Communication. Hospitals, J.A.H.A. 43:56, Mar. 1, 1969.

Ravich, R., and Rehr, H., Ombudsman Program Provides Feedback: Mount Sinai Medical Center in New York City. Hospitals, J.A.H.A. 48:62, Sept. 16, 1974.

Regan, J.J., "When Nursing Home Patients Complain: The Ombudsman or the Patient Advocate", Georgetown Law Journal 65, February 1977, pp. 691-738.

Reuss, Henry S., "A Trouble-Shooter for Congress", The Progressive XXX, No. 2 (February, 1966), 23-25.

Reuss, Henry S., and Anderson, Stanley V., "The Ombudsman: Tribune of the People", Annals of the American Academy of Political and Social Science CCCLXIII (January, 1966), 44-51. Reprinted in Congressional Record (February 17, 1966), pp. A835-37.

Rowat, D., Ombudsman for North America. Public Administration Review 1964, 24, 226-233.

Rowat, D.C., The Ombudsman Plan. Toronto: McClelland and Stewart, 1973.

Rowat, D.C., The Ombudsman: Citizens' Defenders. London: Allen and Unwin, 1965.

Rowat, Donald C., The Ombudsman Plan: Essays on the Worldwide Spread of an Idea Toronto: McClelland and Stewart, 1973, 315 p.

St. Paul Fire and Marine Insurance Co., Patient Advocate Programs Gain Support. Malpractice Digest May-June, 1977.

Sandler, A., "Ombudsman for the United States", Annals of the American Academy of Political and Social Sciences 377, May 1968, pp. 105-110.

Sawer, Geoffrey, Ombudsmen Melbourne: Melbourne University Press, 1964.

Schiff, Martin, "The Ombudsman: Sweden's Guarantor of Open Government", New York State Bar Journal 50, June 1978, pp. 296-9+.

Scott, Stanley, Ed., Western American Assembly on the Ombudsman Berkeley: University of California, Institute of Governmental Studies, 1968.

Sherwin, D.S., "Strategy for Winning Employee Commitment", Harvard Business Review 50 (May 1972):37-47.

Silbert, J.D. and Sussman, A.N., "Rights of Juveniles Confined in Training Schools and the Experience of a Training School Ombudsman", Brooklyn Law Review 40, Winter, 1974, pp. 605-635.

Silver, Isidore, "The Corporate Ombudsman", Harvard Business Review 45, May/June, 1967, pp. 77-87.

Silverblank, F., "Role Perceptions of the Ombudsman", Intellect 102, January 1974, pp. 238-239.

Snook, Jr., I.D., Patients' Rights: Annual Administrative Review. Hospitals, J.A.H.A. 48:177, Apr. 1, 1974.

Stacey, Frank, "The Machinery for Complaints in the National Health Service", Public Administration 43, Spring, 1965, pp. 59-70.

Stacey, Frank, Ombudsman Compared Oxford: Oxford University Press, 1978.

Stessin, Lawrence, "Management Tunes in on Employee Gripes", New York Times October 16, 1977, sec. F, p. 2.

Stewart, William J., Jr., Citizen Participation in Public Administration Birmingham, Ala.: Birmingham Publishing Co., 1976.

Strategies for Change and Reform in Public Management: Proceedings of the Symposium "Managing Change in Public Administration". Paris: Organization for Economic Cooperation and Development, 1980.

Stum, D.L., "Direct - A Consultation Skills Training Model", Personnel and Guidance Journal 1982, 60, 296-302.

Swanick, Eric L., Ombudsman Bibliography. Vance Bibls., 1979, 39 p.

Tibbles, Lance, "The Ombudsman: Who Needs Him?" Journal of Urban Law 47, Issue 1, 1969, pp. 1-67.

Toxey, W.M., "Ombudsman in the Common Law System - Administrative Justice", William and Mary Law Review 11, Fall, 1969, pp. 138+.

Trotta, Maurice S. and Gudenberg, Harry R., "Resolving Personnel Problems in Non-Union Plants", Personnel 53 (May-June 1976):55.

"Union Presence During Investigations", Monthly Labor Review 98, (March 1975):62-63.

Verkeril, P.R., "Ombudsman and the Limits of the Advocacy System", Columbia Law Review 75, May 1975, pp. 845-61.

Warren, W.H., "Ombudsman Plus Arbitration: A Proposal for Effective Grievance Administration Without Public Employer Unions", Labor Law Journal 29, September 1978, pp. 562-9.

Wasem, G., "Bank Ombudsman: Human Hot Line:, Bankers Monthly 90, September 1973, pp. 26+.

Weeks, Kent M., Ombudsmen Around the World: A Comparative Chart. Institute of Governmental Studies, University of California, Berkeley, CA, 2d Ed., 1978.

Wiesennberg, P., Introduction to Organizational Behavior: A Behavioral SCience Approach to Understanding Organizations Scranton: International Textbook Co., 1971.

Where Ombudsmen Work Out. Business Week May 3, 1976.

White, R.N., "State Grievance and Appeals System: A Survey", Public Personnel Management 10(3), 313-323, Fall, 1981.

Wilensky, H.L., Organizational Intelligence: Knowledge and Policy In Government and Industry New York: Basic Books, 1967.

Wockon, G.H. and Moriwaki, S., "Ombudsman: A Serendipitous Mental Health Intervention", Community Mental Health Journal 13, Fall, 1977, pg. 229-230.

Woodward,Susan L., "The Freedom of the People Is In Its Private Life: The Unrevoluntionary Implications of Industrial Democracy", American Behavioral Scientist 20, No. 4 (March-April 1977):579-96.

Yates, Douglas, Neighborhood Democracy: The Politics and Impact of Decentralization Lexington, Mass.: D.C. Health and Co., 1973.

Youngdahl, J.E., "Arbitration of Discrimination Grievances", Arbitration Journal 31 (May 1976):145-63.

Weinberg, Edgar and Batt, William L., Jr., "Labor-Management Cooperation Today", Harvard Business Review 56, No. 1 (January-February 1978):96-104.

## APPENDIX C

This Appendix presents a case study about the actual start-up of an ombudsman office at McDonnell Aircraft (MCAIR), a major aero/space corporation. It indicates the many steps which MCAIR went through, and also contains a helpful assortment of many "do's" and "don't's" which will be of interest to anyone contemplating a similar venture. The case study is reproduced here with the kind permission of Mr. V. M. Marti, Vice President and Ombudsman of McDonnel Aircraft Company.

# SETTING-UP AN OMBUDSMAN PROGRAM -- THE MCAIR EXPERIENCE

A good ombudsman program is important for effective communication. Using our McDonnell Aircraft (MCAIR) ombudsman office as an example, here are a few basic guidelines to help set up and maintain an effective program specifically tailored for your company.

## GETTING THINGS STARTED

Before creating the office, there are several questions to consider:

1. Why does your company need this position?
2. What does your company expect of this office?
3. Who should the ombudsman be to fulfill those expectations?
4. Who should the ombudsman report to?
5. Where should the office be located?
6. When is the office ready to open?
7. How will the ombudsman handle the workload?

## UNDERSTANDING COMPANY PHILOSOPHY

It is rare indeed that an organization's communications are so good they cannot be improved. Sanford McDonnell led his team of executives at McDonnell Douglas in a program he labeled the "Five Keys of Self Renewal" which stressed:

1. Strategic Management
2. Human Resources Management
3. Participative Management
4. Productivity Improvement
5. Ethical Decision Making.

He strongly feels that the most important resource is the Human Resource and that employees can and will contribute the most when given a chance to develop their ideas and have them listened to by management. But finding the right avenue to air concerns is not always easy. To choose the right channel, it is necessary to first understand the company's philosophy.

MCAIR's commitment is to provide a good and stimulating place to work. Part of this environment includes mutual respect and understanding. MCAIR's goal is to "Treat the Employees with Dignity and Respect but We Expect Them to Work."

Yet despite the efforts of management and fellow workers, situations sometimes dissatisfy people and affect productivity.

Concerns that affect productivity

Times have changed and so have employee attitudes:

* People are more career oriented with higher job expectations.

* An emphasis on job enrichment, not just a paycheck, highlights the need for employee participation.

* People need more plausible answers.

Addressing those concerns

Concerns that interfere with effective employee contributions need to be solved. MCAIR realizes that for personal satisfaction, for the cooperation of all and for the continued success of MCAIR something must be done to solve whatever concerns develop.

Thus, it is important to do the following:

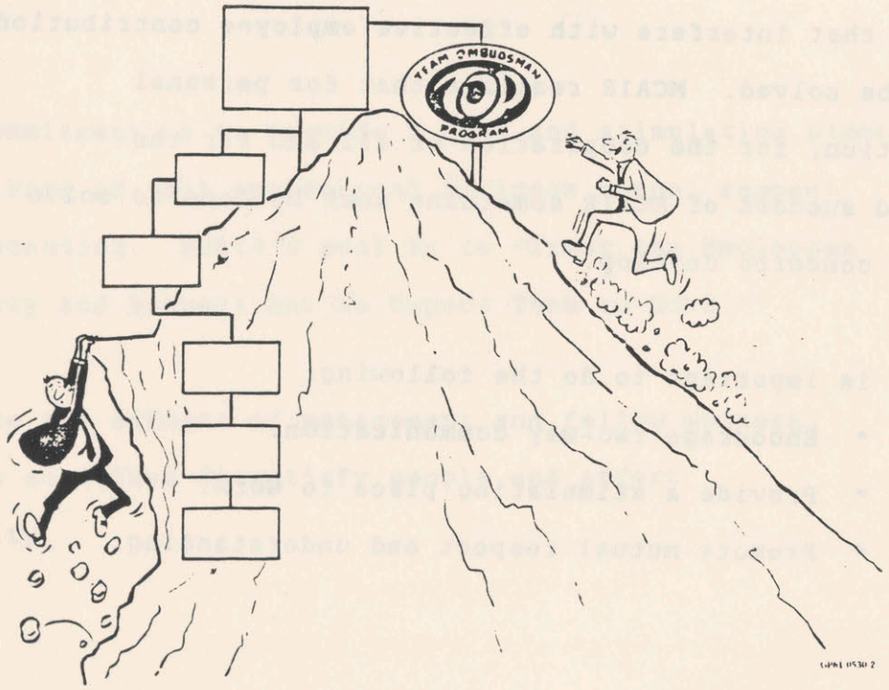
* Encourage two-way communication.
* Provide a stimulating place to work.
* Promote mutual respect and understanding.

Another avenue

It is axiomatic that one should try to discuss concerns with his supervisor first. The supervisor has the responsibility to assist in resolving them. But sometimes, for a variety of reasons, teammates do not get satisfaction through this channel.

The Team Ombudsman Program (TOP) offers another way to approach and solve the problem.

## Another Avenue to Air Concerns



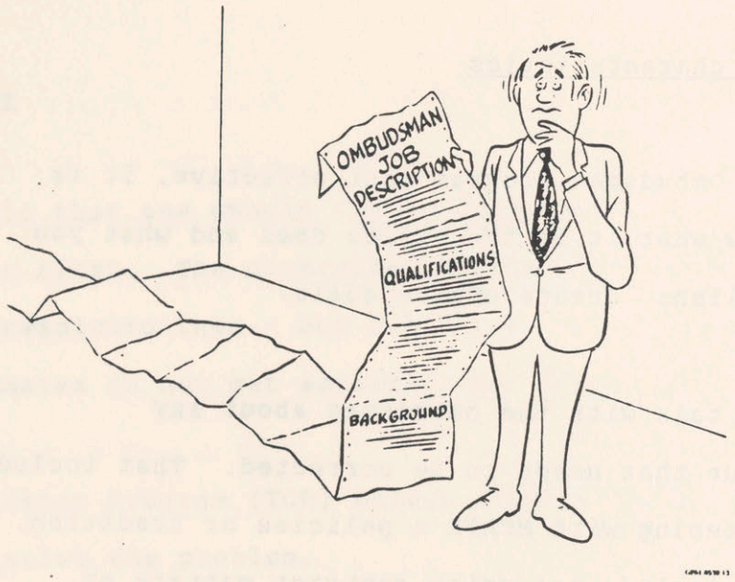
Ombudsman office characteristics

To make the Team Ombudsman Program most effective, it is important to know what it is the office does and what you expect to accomplish: Create office goals.

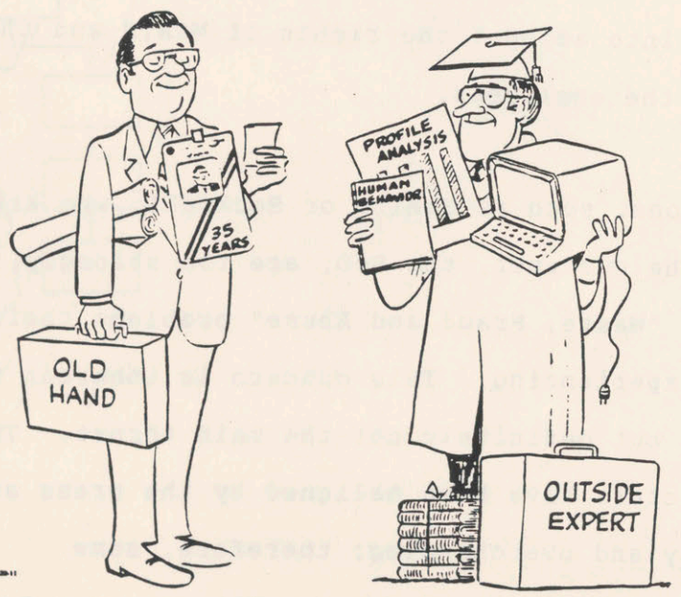
The employee may talk with the ombudsman about any work-related issue that needs to be corrected. That includes conduct not in keeping with MCAIR's policies or tradition. What it does not include are union contract matters or negotiable issues, which are handled through other established channels.

MCAIR's main focus has been on improving communication and airing all types of concerns. However, it is as equally important to MCAIR to realize that process is a two-way street: The ombudsman will take into account the rights of the employees and the obligations of MCAIR; the ombudsman will also take into account the rights of MCAIR and the obligations of the employees.

Some organizations, such as Boeing or Rockwell, who are under pressure from the customer, the DoD, are too strongly emphasizing the "Waste, Fraud and Abuse" problems their companies are experiencing. This concern is inherent in MCAIR's program but definitely not the main thrust. The military contractors have been maligned by the press as wasteful, greedy and overcharging; therefore, some contractors have set up "Hotlines" or other avenues for "snitching."




However, a good ombudsman program is far broader than this. Job description and the thrust of your program are only two important characteristics, while the personality and background of the person(s) chosen to fill the office is just as crucial.



IMPLEMENTATION

Now that you know why your company wants to establish the office and what your goals are, you must choose the right personnel to carry out the task. What is expected of an ombudsman and just what does he do?

The ombudsman

* listens to employee concerns
* assesses the situation
* keeps the information surrounding issues confidential
* remains impartial to all people and departments involved
* recommends action
* follows up each individual situation.

The ombudsman should

* be a good listener
* be compassionate
* know the organization
* be trustworthy
* be accepted by both management and employees
* be approachable.

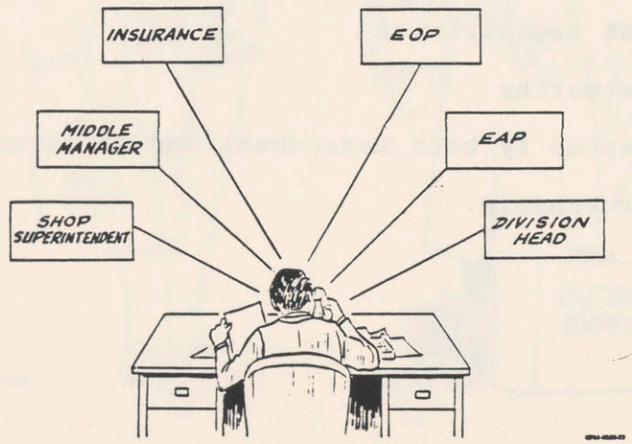
Networking

The ombudsman office will have to have a working relationship with many functions in the organization. Although it is true at all times, it is especially important when the volume of contacts is high.

It is important that clients be encouraged to work out their own problems within the system. If a pattern of complaints develops, that can mean the system needs changing or is breaking down. It is up to the ombudsman office to recognize such patterns and recommend change.

To do this networking effectively, the office must eliminate the fear of "Protecting One's Turf." The ombudsman office must strive to have a working rapport with the line managers and the service offices, such as Equal Opportunity Program, Employee Assistance Program, so they can resolve problems quickly rather than make the concerned employee feel that he is caught in a "crossfire."

**Networking**



Recommending changes

Another consideration in choosing an ombudsman is that it may be necessary for the ombudsman to recommend changes in management practices within certain divisions or subdivisions. If a young high potential engineer, for instance, were chosen to be ombudsman, it would take enormous courage for him to recommend certain changes in the engineering division when there exists the possibility that the young engineer would be reassigned to work for those same directors and/or vice presidents two or three years later.

It is also important that the ombudsman report to the president so that he has enough clout to get the attention of the division heads if necessary. The backing of upper management is vital in getting priority to make management practices changes and/or to address all types of employee concerns within the various divisions.

To summarize, it appears that an effective ombudsman office can be instituted if:

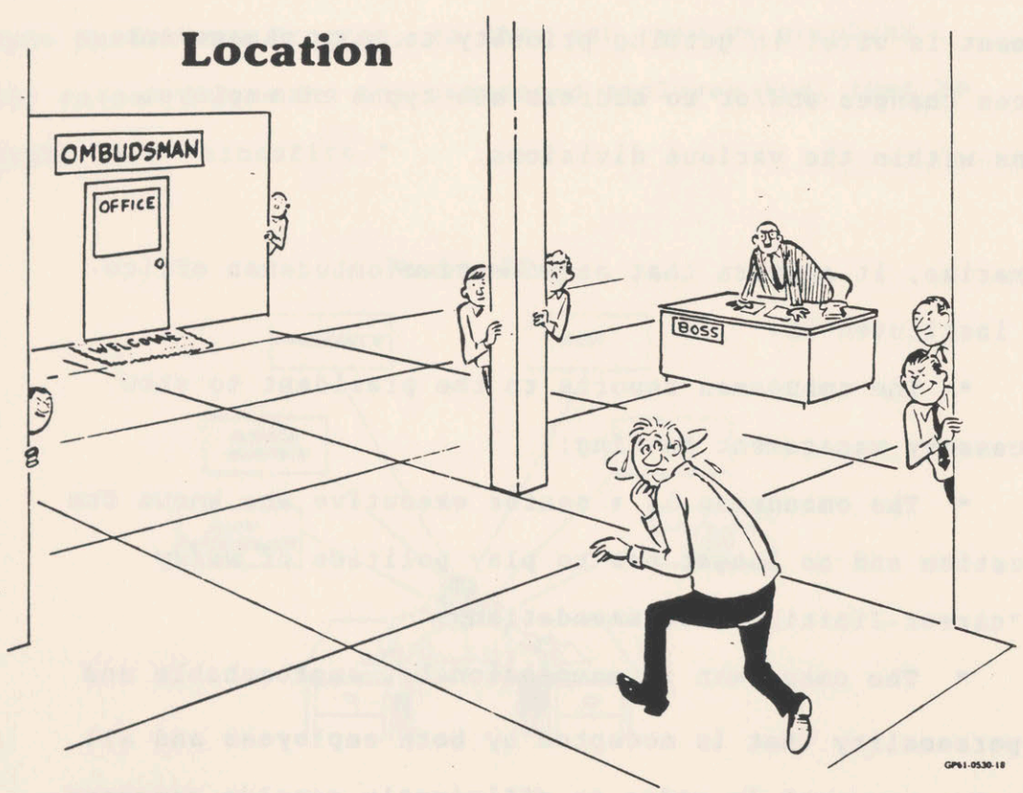
* The ombudsman reports to the president to show the necessary management backing;

* The ombudsman is a senior executive who knows the organization and no longer has to play politics or worry about "career-limiting" recommendations;

* The ombudsman is compassionate, approachable and has a personality that is accepted by both employees and all levels of management in order to efficiently resolve concerns.

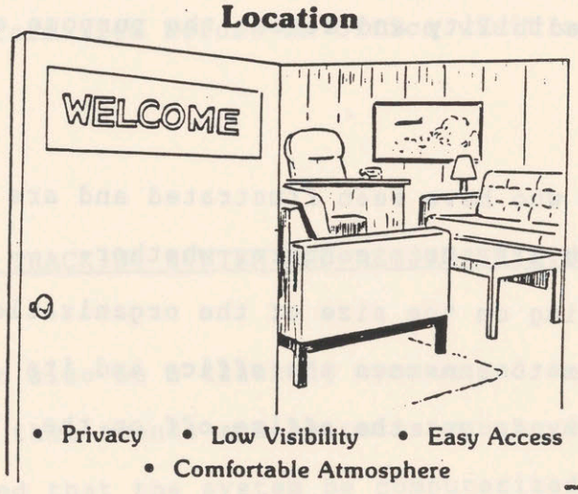
Location

There are many facets to consider when determining the office location. At MCAIR, that means all employees, including salaried, hourly, all management levels and union members must be considered. Certainly the bulk of clients will not want to be seen entering the office by their immediate supervisor. Preferrably the office will be located elsewhere. Because there are many buildings at MCAIR, most of the employees will not be in the building where the office is located. If that is still a problem at your company, arrangements should be made to meet with an employee at a remote location or a specified conference room at a designated time.



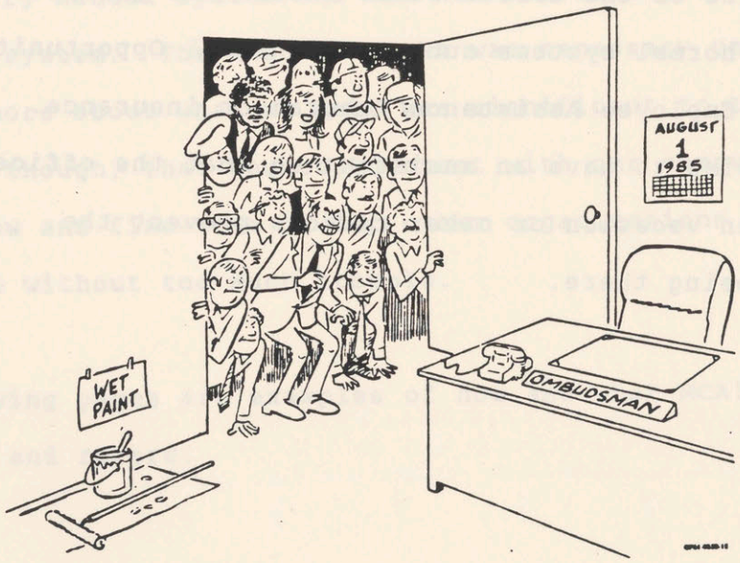
Another consideration is to locate the office where it gives the message that it has upper management backing; locate the office close to the president. The office must have easy access at a convenient location that can be found without complicated instructions. It must be private with a comfortable, non-threatening atmosphere.

**Location**




- Privacy
- Low Visibility
- Easy Access
- Comfortable Atmosphere

Premature announcement of the office could be disastrous.



Establishing credibility

Responding to the first calls and letters is paramount.

Word spreads quickly, and if the initial callers feel they were not listened to or were just given another place in line, it will hurt the credibility and defeat the purpose of the office.

There will be many people who have been frustrated and are looking for a new place to air their concern, whether justified or not. Depending on the size of the organization, a phased publicity program to announce the office and its purpose might be a good way to get the office off on the right foot.

Personnel

Certainly the size of the office staff should not parallel the size of the normal systems such as the Equal Opportunity Program, or the Employee Assistance Program or insurance. However, it is wise to have an assistant so that the office is available when vacation or other reasons prevent the ombudsman from being there.

A full-time secretary is a must. This person can do initial screening to determine the subject of the client's concern or can, in many cases, take care of the concern by having the necessary information such as benefits or who to contact regarding certain subjects. Time can certainly be saved by having information before an office visit or call back is made.

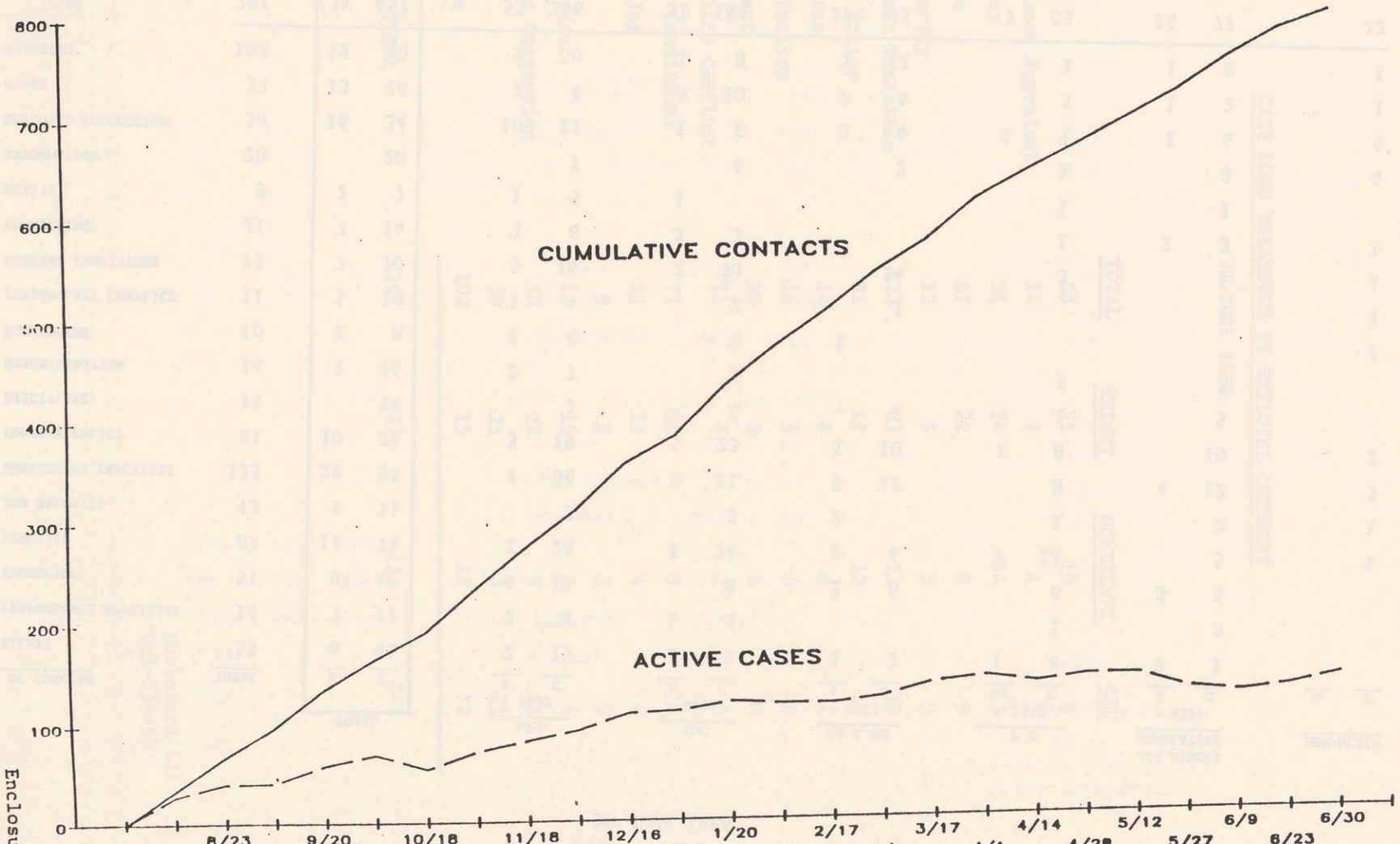
PART II: TRACKING SYSTEM AND RECORD KEEPING

There must also be a tracking system and a record-keeping system so that trends and patterns can be determined. It is recommended that the system be computerized as soon as you know the type of records you want to keep.

We at MCAIR opened our office Aug. 1, 1985, with a preliminary manual system and are now converting to a computer system. The manual system was necessary until we learned more about what we felt was significant to track. We believe, though, that you could start with our computer system now and fine-tune it for other organizations after some time without too much trouble.

The folowing pages are examples of how and what MCAIR choses to track and record.

# TEAM OMBUDSMAN PROGRAM
# 1985–1986 CASE LOAD




Enclosure (1)
OMB-039-86

APPENDIX G
APPENDIX F
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APPENDIX D
APPENDIX J
APPENDIX I
APPENDIX H

# CASE LOAD BREAKDOWN

## 30 JUNE 1986

| TYPE OF CONCERN | TOTAL | TOTAL A | TOTAL C | MFG * 9570 A | MFG * 9570 C | ENG * 6229 A | ENG * 6229 C | QA & FM * 3512 A | QA & FM * 3512 C | P S * 2212 A | P S * 2212 C | ALL OTHERS CUMULATIVE * 4229 A | ALL OTHERS CUMULATIVE * 4229 C | NON-NCAIR A | NON-NCAIR C |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| A. SALARY | 53 | 8 | 45 | 2 | 25 | 1 | 9 | 2 | 2 | 1 | 8 | 2 | 1 | | |
| B. PERFORMANCE APPRAISAL | 14 | 3 | 11 | 2 | 4 | 1 | 3 | | | | 1 | | 3 | | |
| C. PROMOTION | 51 | 9 | 42 | 4 | 15 | | 8 | 2 | 6 | | 8 | 3 | 5 | | |
| D. BENEFITS | 87 | 11 | 76 | 2 | 24 | 5 | 26 | 2 | 6 | 2 | 14 | | 5 | | 1 |
| E. JOB SECURITY | 13 | 2 | 11 | | 3 | | 3 | 2 | | | 1 | | 3 | | 1 |
| F. MANAGEMENT PRACTICES | 123 | 29 | 94 | 7 | 38 | 9 | 21 | 9 | 12 | | 8 | 4 | 12 | | 3 |
| G. COMPANY POLICY | 81 | 10 | 71 | 3 | 19 | 5 | 23 | 1 | 10 | 1 | 8 | | 10 | | 1 |
| H. DISCIPLINE | 14 | | 14 | | 2 | | 4 | | 2 | | 1 | | 5 | | |
| I. DISCRIMINATION | 16 | 2 | 14 | 2 | 7 | | 3 | | | | 1 | | 3 | | |
| J. HARASSMENT | 10 | 2 | 8 | 1 | 6 | | 1 | 1 | | | | | | | 1 |
| L. PERSONALITY CONFLICT | 11 | 1 | 10 | 1 | 4 | | 2 | | 1 | | | | 2 | | 1 |
| M. WORKING CONDITIONS | 77 | 7 | 70 | 5 | 16 | 2 | 30 | | 14 | | 3 | | 6 | | 1 |
| N. COUNSELING | 21 | 7 | 14 | 3 | 6 | 2 | 3 | | | | 1 | 2 | 3 | | 1 |
| O. HEALTH | 9 | 2 | 7 | 1 | 5 | 1 | | | | | 1 | | 1 | | |
| P. INFORMATION | 20 | | 20 | | 7 | | 4 | | 2 | | 1 | | 2 | | 4 |
| Q. EMPLOYEE SUGGESTION | 50 | 16 | 34 | 10 | 11 | 1 | 6 | 3 | 4 | 1 | 1 | 1 | 6 | | 6 |
| R. OTHER | 39 | 13 | 26 | 7 | 4 | 3 | 10 | 2 | 4 | | 5 | 1 | 2 | | 1 |
| T. TRANSFER | 102 | 12 | 90 | 5 | 50 | 1 | 8 | 5 | 22 | | 1 | 1 | 8 | | 1 |
| TOTAL | 791 | 134 | 657 | 55 | .246 | 31 | 164 | 29 | 85 | 5 | 63 | 14 | 77 | | 22 |

* Number of personnel as of 1/3/86
A = Active
C = Closed

Enclosure (2)
OMB-039-86

## CASE LOAD BREAKDOWN BY EMPLOYEE CATEGORY

30 JUNE 1986

| | TOTAL | EXEMPT | NONEXEMPT | CBU |
|---|---|---|---|---|
| A. Salary | 53 | 35 | 10 | 8 |
| B. Performance Appraisal | 14 | 7 | 4 | 3 |
| C. Promotion | 51 | 24 | 14 | 13 |
| D. Benefits | 87 | 72 | 6 | 9 |
| E. Job Security | 13 | 5 | 5 | 3 |
| F. Management Practices | 123 | 63 | 21 | 39 |
| G. Company Policy | 81 | 47 | 12 | 22 |
| H. Discipline | 14 | 4 | 6 | 4 |
| I. Discrimination | 16 | 5 | 6 | 5 |
| J. Harassment | 10 | 3 | 1 | 6 |
| L. Personality Conflict | 11 | 4 | 2 | 5 |
| M. Working Conditions | 77 | 55 | 9 | 13 |
| N. Counseling | 21 | 13 | 4 | 4 |
| O. Health | 9 | 3 | 1 | 5 |
| P. Information | 20 | 15 | 1 | 4 |
| Q. Employee Suggestion | 50 | 32 | 3 | 15 |
| R. Other | 39 | 25 | 3 | 11 |
| T. Transfer | 102 | 15 | 15 | 72 |
| TOTAL | 791 | 427 | 123 | 241 |

Enclosure (3)
OMB-039-86

CASE LOAD DEMOGRAPHIC BREAKDOWN

30 JUNE 1986

TOTAL: 791

ACTIVE: 134

CLOSED: 657

[1] YES - 363 55%

NO - 101 15%

NO* - 193 30%

| | | % CASES | MCAIR POPULATION AS OF 29 JUNE 1986: 28,373 % POPULATION |
|---|---|---|---|
| MALES: | 626 | 79% | 83% |
| FEMALES: | 165 | 21 | 17% |
| EXEMPT: | 427 | 54% | 51% |
| [2] NON EXEMPT: | 123 | 16% | 13% |
| C B U: | 241 | 30% | 36% |
| CAUCASIAN: | 689 | 87% | 86% |
| BLACK: | 88 | 11% | 12% |
| OTHER: | 14 | 2% | 2% |
| FIRST SHIFT: | 662 | 84% | 83% |
| SECOND SHIFT: | 115 | 14% | 15% |
| THIRD SHIFT: | 14 | 2% | 2% |

[1] Yes = cases receiving positive help
No = cases where no change was made
No* = cases where the person felt better and was appreciative despite no change in the situation

[2] Includes FEP Hourly

Enclosure (4)
OMB-039-86

APPENDIX H

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APPENDIX G

## APPENDIX D

### Terms of Reference for the Ombudsman, XYZ Corporation

### I ESTABLISHMENT AND APPOINTMENT

1. The XYZ Corporation has established the office of the Ombudsman.

2. The Ombudsman shall (a) be appointed by the President, after consultation with representatives of the staff, selected by the staff, and (b) in the exercise of his or her duties, be independent of any organ or official of the Corporation. Compensation and the terms and conditions of service shall be set by the President.

3. The Ombudsman will have direct access to the President of the Corporation.

### II RESPONSIBILITIES AND FUNCTIONS

4. The Ombudsman will consider a grievance of any nature related to employment from any staff member, and may also receive requests to mediate between parties referred by senior managers.

5. The Ombudsman will, in the exercise of his or her judgement, facilitate conflict resolution, using mediation and conciliation or other appropriate means for the primary objective of settling grievances between staff members and management. The Ombudsman will not have decision-making powers but will advise and make recommendations for the purpose aforesaid.

6. The Ombudsman may also make suggestions or recommendations as appropriate on actions needed to settle grievances. The term "grievance" is used in its broadest sense to include matters pertaining to the administration of benefits as well as staff relations matters.

7. The Ombudsman may take into account not only the rights and obligations existing between the Corporation and its staff member, but also the equities of the situation.

8. The Ombudsman may, in his or her discretion, decline to consider grievances that can be remedied only by action affecting the staff at large, or all the members of a category of staff, or which are considered not to have been brought to the Ombudsman's attention in a timely manner.

9. If the Ombudsman believes there are shortcomings in policies, procedures or practices, based on the work which has come to the office, the Ombudsman will inform management. The Ombudsman may be consulted on policy issues where his or her views and experience might prove helpful.

10. The Ombudsman will take requests from staff members to review their respective personnel files in accordance with the Personnel Information Policy of the Corporation.

11. In performing the functions of the office, the Ombudsman will have access to any staff record which the Ombudsman believes to be relevant to the discharge of those functions. The Ombudsman shall respect the confidentiality of all information and documentation made available.

12. The Ombudsman will provide reports regularly to the Vice President for Personnel Administration. They are to include an overview of the Ombudsman's activities, and comments on shortcomings in policies, procedures, and practices that have come to his or her attention.

APPENDIX H

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## APPENDIX E

This Appendix provides some examples of letters/announcements issued on the occasion of introducing the function of ombudsman into a corporation.

THE WORLD BANK
Washington, D. C. 20433
U. S. A.

A. W. CLAUSEN
President

December 9, 1981

Dear Fellow Staff Member:

Foremost in my mind during the past few months has been a keen desire to foster a good working environment not only here in the Bank but in IFC as well--an environment in which employees can find satisfaction, develop their own potential and thus make an effective contribution to the institution for which we work. This means good employee relations and an atmosphere in which there is mutual trust between employees and management and trust in the integrity of the personnel system.

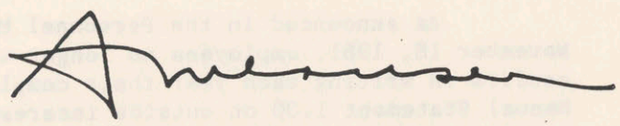
As announced in the Personnel Manual Circular of November 18, 1981, employees no longer will be required to confirm in writing each year their compliance with Personnel Manual Statement 1.00 on outside interests and activities. It is management's belief that none of us needs to be reminded of our obligations in this regard and that each one of us will fully respect the intention and philosophy of that Statement. This is the first step to be taken by the Managing Committee as a result of an ongoing review of policies, procedures and practices for the purpose of assuring that they are compatible with a "mutual trust" philosophy.

In addition, the Managing Committee has approved the establishment of a new senior level Ombudsman position to provide a mechanism for employees to seek answers to questions and concerns about Bank Group activities and programs and resolution of grievances which may arise from time to time. In an organization such as ours, issues of this sort are inevitable. The Ombudsman will seek to resolve problems and disagreements and provide answers to questions on an informal and impartial basis. While this new Ombudsman facility will not replace present formal appeals procedures, it will provide a more accessible and less burdensome avenue for dealing with difficult situations before they become highly controversial. This new concept has been discussed in detail with a broad cross section of employees throughout the Bank and it has met with uniform acceptance.

I am pleased to tell you that Mr. C. Eugene Webb has been appointed to this important new position. Most of you know him and are aware of the sensitive and mature judgment he has brought to bear in his role as Legal Adviser to many Bank employees during the past year and a half. Mr. Webb, a United States national, is a graduate of Williams College, Yale Graduate School and Yale Law School. He joined the Bank in the Legal Department in 1957 and, except for periods of service as Legal Consultant to the Attorney General of Tanzania and to the East African Development Bank (1968-70) and as a Senior Loan Officer (1970-72), has remained there. Mr. Webb's responsibility will be sufficiently broad to permit him to identify organizational issues which affect the working climate. His concern at all times will be human relationships and how they can be enhanced.

Although Mr. Webb will not be attached to my office, I will be available to him at all times to provide assistance as it is required.

Sincerely,



Vol. 1, No. 1
27 January 1986

A Publication of
MCAIR Communications

# TeamTalk

## No Shortage Of Customers For Ombudsman

"People ask me to step in... when the regular channels are blocked."

*Kay Mueller had a problem. In fact, Mueller and her co-workers in Building 221 had several problems with their work place, and they were looking around for help.*

*"We actually didn't know where to start looking," said Mueller. "We thought of the ombudsman after seeing the article in* **Spirit.**

*"And we've been very impressed. Virgil Marti and his assistant, Therese Clemente, met with us right away. They got involved with our problems, were concerned and did something to help.*

*"There are a few more things to be worked on, but we got action," Mueller said.*

Virg Marti and Therese Clemente are a popular pair. Since August, nearly four people a day have stopped by their offices in Building 1 or telephoned to ask for help. Marti, you see, is MCAIR's ombudsman, the complaint department, the court-of-last-resort, and Clemente is his assistant.

"People ask me to step in when they need direction, as in the Mueller case, or when the regular channels are blocked and they can't find a satisfactory solution to their problem," said Marti.

He and Clemente have seen enough cases that they are now starting to see some typical problems.

"A classic case," said Marti, "is a boss telling an employee that the employee is put up for promotion, and then the promotion doesn't happen. The supervisor gets or gives no feedback, the employee, and sometimes the supervisor, are left wondering why, and no explanation is forthcoming. There may be no raise.

"That's a communication problem. A supervisor or the supervisor's superiors just aren't leveling with the employee. We see it most often when performance appraisals are being discussed or at merit review time.

"A number of people wouldn't be here if they got the straight scoop from their supervisor or from the person they asked for help in the first place," Marti added.

A number of other subjects crop up often when Marti sees employees: the new MCAIR attendance policy, benefits, morale on the second shift.

"These are the concerns bringing in the customers," Marti said.

Have all 378 teammates who've knocked on his door in the past five months gone away happy?

"About 225, well over half of them, either got what they wanted or felt better about having their case heard by a third party. The rest of the cases are still open or didn't turn out the way the employees wanted," Marti said.

"Not every person who has asked for help got it. If we look into the matter and find that management practice was in keeping with company policy and administered uniformly, we don't ask for changes. But often, poor communication is at the heart of those problems, and that's where we really can help."

*An interested, impartial third party*

# MCAIR ombudsman opens for business

By Mary Jo Becker

*St. Louis*

Virgil Marti will know he's been successful when he works himself out of a job.

Virg, as he prefers to be called, is the new vice president-ombudsman at MCAIR. His job is to listen to employee concerns that haven't been solved through normal channels and seek their solutions. If he solves every situation employees bring before him, if he helps employees understand the assistance already available to them throughout the company, if he encourages people to work better together at all levels, Virg Marti might just have to close up shop.

He smiles at the thought.

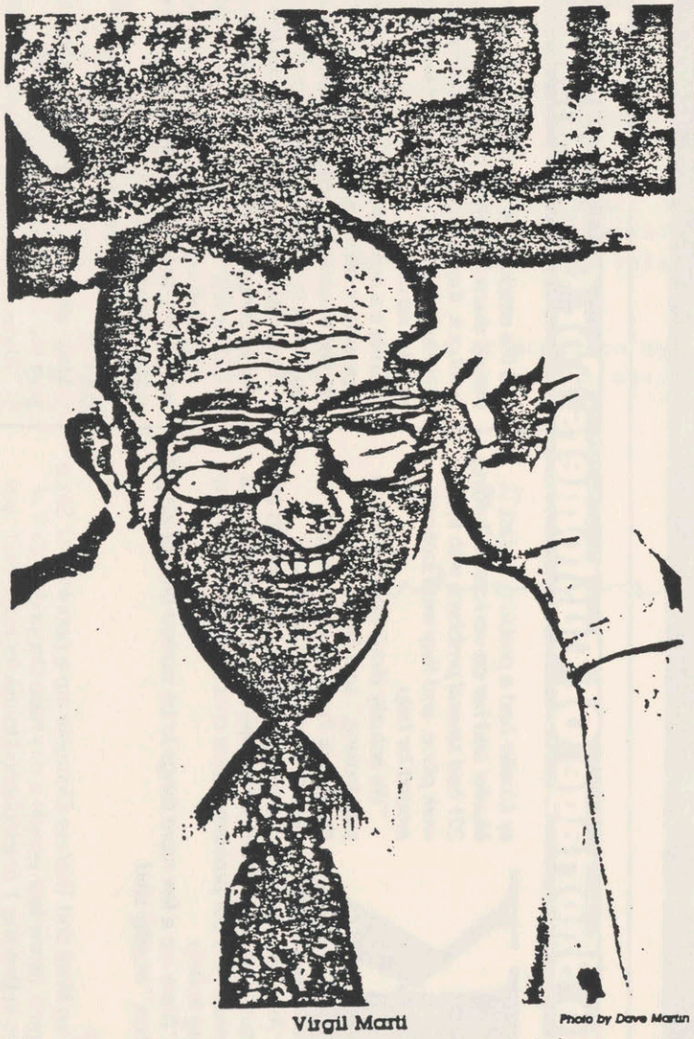
After all, though he's been with MCAIR nearly 40 years, he's been on this job only two months and a handful of days. Except for an aerial photograph of MCAIR that stretches behind his desk, his walls are still bare. But don't let that fool you. He's very much in business and, with the nature of large corporations, is likely to stay that way.

"We've had 166 people call so far," Marti said. "We expect to average about 30 inquiries a week when we're in full swing.

"This is all part of Sandy's thrust in the Five Keys initiatives," he explained. "We want to make sure that there is a vehicle for expression of human concerns of all kinds at all levels. And regardless of how good things are, this position and its purpose will remain important."

With the establishment of TOP – Team Ombudsman Program – MCAIR joins a growing list of major corporations that have come to realize the value of having an impartial person to handle those troublesome situations that seem to be without solutions.

"We've had quite a variety of subjects so far – some on insurance and retirement benefits, rehiring, supervisory communications and morale," Marti said. "Some people aren't satisfied with services already in place. Others don't know where to go to get help. Some have mentioned a variety of communication problems."



Virgil Marti

Photo by Dave Martin

An employee may come to Marti with any work-related issue he or she thinks should be corrected, except for union contract matters or negotiable issues, which are handled through other channels. Marti will sort through the facts and gather more information if necessary.

In some cases, Marti, with his staff assistant, Therese Clemente, and secretary, Rita Nugent, will be able to resolve the problem immediately. Or he may direct the situation to another program office – equal employment opportunity or employee assistance, for example. But he will guide the concern through whatever channel he directs it to assure that action will be taken.

"In some cases, we may need to clarify a policy that's been misinterpreted," Marti said. "Maybe we'll find that we need to direct an employee to our training programs, or to our Career Center, or to any of the many other resources at MCAIR they just might not be aware of."

If an issue is complex, Marti may send it to a panel of MCAIR directors for discussion and resolution. The panel may recommend a change in the application of a company policy, or a revision of policies.

"We might have to modernize some of our policies," Marti said. "The world changes. We have to change, too."

After the panel reviews a situation, the ombudsman reports the results to the person who originally brought the concern to his attention.

Confidentiality and impartiality will be the keys to the success of TOP at MCAIR, he said.

"People don't have to be afraid of repercussions from their supervision if they come to me," he said. "We're not here only for insurance questions, though we're happy to handle those things, but for very heavy matters, too. We will protect a person's identity if he or she desires."

Because he has vice presidential status he has access to management at all levels, but he won't have the day-to-day press of schedules that a person at that level usually has.

"An ombudsman must be someone who will take the time to listen and isn't afraid of his own future if he crosses swords with someone else," he said. "It's important to simply listen and not pass judgment.

"Sometimes the answers that I'll arrive at won't be the ones employees might have been looking for," he said. "Sometimes I'll have to say 'I understand your point of view but that's the way it is. There may be a law that prohibits doing things differently, and we are a business and must follow the law.' Sometimes I will have to make employees realize that they have obligations, too."

Being an ombudsman is no easy job, but Marti is prepared to tackle the situations that are waiting to pass through his door, and is looking forward to the challenge. He recalled his career with the company as an engineer, including years of management experience in the design, development, evaluation and research of airborne systems.

"People problems are not new to me," Marti said. "I consider myself a people-oriented person. I realize that you can't do everything by yourself. To do something right, you need a team.

"I've been here a long time and I think I know how Mr. Mac

*(Continued on page four)*

## . . . Ombudsman

*(Continued from page three)*

wanted to treat people – very straight, above-board. He felt people were very important and wanted us to be a team. So do I."

Why an ombudsman program at MCAIR now?

"I think people are more and more knowledgeable and more mobile," he explained. "And our product is very technical. That means we have to communicate better. MCAIR is becoming more aware that communication up, down and sideways must be improved."

"I started here in Building 1, on the top floor, in July 1946. We called it the bullpen. There were no room dividers and we had to cover our boards when it rained because the roof leaked. There were fewer than 3,000 people here then, about one-tenth of those here now.

"We've come a long way since then. But I'd like to see that original team spirit revived. I think the steps that Sandy McDonnell and Don Malvern are taking will accomplish that. We put out a tremendous product but we want to emphasize that our people are our most important resource. They are what makes MCAIR tick." ■

# Internal Correspondence

UNITED TECHNOLOGIES

July 17, 1986

To: Senior Management Council

Subject: Executive Personnel Appointment

The Board of Directors has elected Walter F. Eells to the new office of Vice President - Ombudsman for United Technologies.

Walt's new role will include reviewing and assuring resolution of employee concerns that have potential corporate-wide impact, particularly those that could affect UTC's relationship with government and commercial customers, or its reputation as an outstanding place of employment. Implementing actions to establish a broad-based communications program designed to permit UTC employees to raise questions or concerns about the Corporation will be announced on August 1.

As Vice President - Ombudsman, Walt will report to Ed Large and will have direct access to me for guidance and advice on any matter that he decides should have my attention. He will make periodic presentations on his activities to the Audit Committee of the UTC Board of Directors.

R. F. Daniell

rch

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UNITED TECHNOLOGIES

United Technologies Building
Hartford, Connecticut 06101
203/728-7643

Robert F. Daniell
President and
Chief Executive Officer

August 1, 1986

To: Corporate Office Employees

Subject: Responding to Employee Concerns

The growing diversity of United Technologies' business interests makes communication an increasingly difficult task. I recognize that you need and want to know how the company's actions affect your job, your family, and your community. Your company, on the other hand, needs and wants to know your concerns and questions so that it can operate more sensibly and efficiently - and more competitively.

To assist this process you may confidentially express comments or concerns through a new communication program called DIALOG. This program is designed to encourage an open atmosphere. It will enable you to raise an issue without fear of reprisal. Issues may include any aspect of your employment relationship with the company. DIALOG also is intended to provide a means to communicate directly to the highest company levels any concern you may have about violations of our policies or actions that are not in keeping with the high standards we are entitled to expect of one another.

Forms like the one attached are for use in the DIALOG program and will be available throughout the Corporate Office. Mailing them requires no postage in the U.S. Your name will be kept in confidence and you will receive a prompt response to your concern, generally within two weeks. You may contact Ann Bensinger, DIALOG Administrator for the Corporate Office, directly by telephoning (203) 728-6447.

Walter F. Eells has been elected Vice President - Ombudsman to oversee the implementation of DIALOG programs at all business units of the Corporation. He will be available to assist any employee, who believes that he or she has a concern with a potential corporate-wide impact. You may contact Walt directly by telephoning (203) 728-6444.

These activities, of course, are not meant to replace any of the numerous other channels of communication open to you. Always try to discuss your thoughts with your supervisor first, or use the other procedures that are readily available such as our personnel counselors, Employee Assistance Program, or Equal Employment Opportunity Office.

But if the results do not satisfy you and your concern is strong, try DIALOG. You'll get a response, and you'll help make United Technologies an even better place to work.

Sincerely,

Bob

Robert F. Daniell

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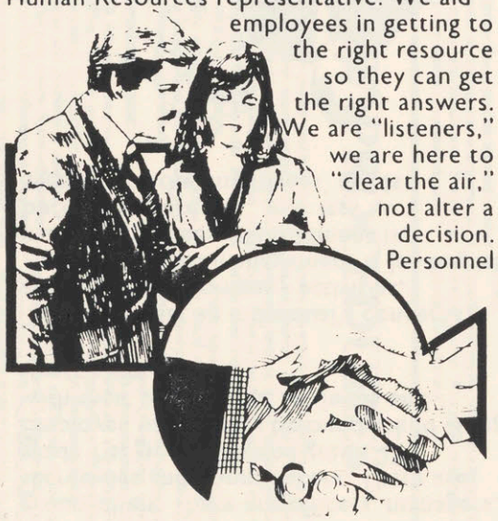
This Appendix contains a sampling of brochures issued by corporations to explain the role of ombudsman, and to publicize how employees may avail themselves of the assistance this office affords. Please note that several firms use terms other than "ombudsman" for the same function, e.g., Personnel Communications (Anheuser-Busch), Liaison Department (Southland Corporation), and Employee Advisory Resource (Control Data).

**Human Resources Review**
Acting in a support role with the Organization Development Department and upon management's request, Personnel Communciations helps and provides input to Human Resources reviews. These reviews may be conducted to ensure that Anheuser-Busch personnel policies and practices are accomplishing what management intends them to accomplish, as well as to measure employees' attitudes about work and job satisfaction. These reviews may take the form of anonymous employee interviews or written surveys. Such employee attitude surveys provide management with direct feedback on key employee relations issues and problems that affect salaried employees.

**Human Resources Consultant**
For those facilities which do not have full-time personnel staffs, Personnel Communcations serves as an Human Resource contact for those salaried employees who need assistance or direction from an appropriate Human Resources representative. We aid employees in getting to the right resource so they can get the right answers. We are "listeners," we are here to "clear the air," not alter a decision. Personnel





Communications is not a panacea. We do not expect to eliminate all problems. But such a program is a sincere effort to improve the workplace.

Expansion is here to stay at Anheuser-Busch. As the company grows it is putting systems into place which will eliminate the possibility of growing insensitive to its people. Record sales and earnings are hollow without a genuine team effort and feeling of belonging.

A program such as Personnel Communications is a visible sign that we are willing to take risks, to innovate, to delegate and to seek solutions which don't have clear answers within the existing framework.

It is an indication the company cares, that it encourages and supports two-way communications.

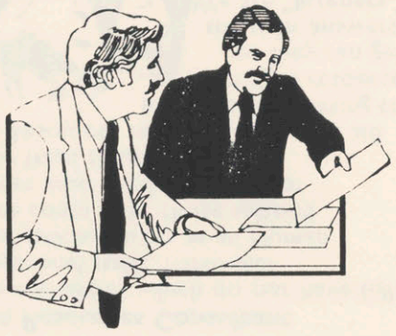
For more information about Personnel Communications call 314-577-4277, 1-800-325-9393.

ANHEUSER-BUSCH COMPANIES
St. Louis, Missouri

# Personnel Communications

As Anheuser-Busch grows larger, more computerized and more dispersed, there could be a tendency to think of employees less as individuals and more in terms of group labels. There are officers, managers, secretaries and coordinators. There are grade 7's, grade 15's and grade 25's. Employee names may be overlooked along with their sensitivities, anxieties and frustrations.

To ensure that an individual's concerns are not lost in company activities, Anheuser-Busch management is lending its ear to employees. Management is becoming more . . . not less . . . sensitive to the employees' needs.



Communication that used to be a one-way street . . . from the top down . . . is now a two-way feedback process. It is an interpersonal exchange between managers and those who report to them.

Anheuser-Busch Companies encourages and supports such a two-way feedback process. To emphasize this Anheuser-Busch's Human Resources Policy stresses management's recognition "that the quality of employee relations is equal in importance with other managerial

criteria, such as product quality, cost control and efficiency." That is why the company has designed a program for Anheuser-Busch salaried employees . . . Personnel Communications. The program's sole goal is to ensure that employees are being treated fairly, and given an opportunity to seek help with questions and concerns, thereby creating an environment where free and open two-way communication is available and where concerns may be addressed.

Personnel Communications consists of three parts:

**Upward Communications:** Aid with problem resolution for all salaried employees.

**Human Resources Review:** Assistance with policy reviews and Employee Attitude Surveys.

**Human Resources Consultant:** Resource to field and corporate salaried employees seeking assistance from the Human Resources Department.



**Upward Communications**
An Employee should talk to his or her supervisor about the job and related concerns or problems. It is part of the supervisor's responsibility to assist the employee in resolving concerns and problems, too. If we are all part of a team, then such free exchange of ideas is critical.

Upward Communications provides salaried employees with a means of **confidentially** airing any problems or concerns which they might have. The function is not intended to replace or infringe upon a supervisor's communications responsibility. Most problems, in fact, are handled satisfactorily by conventional procedures. But, if there are some areas which cannot be handled through the normal channels or are not being addressed properly, Personnel Communications is available to offer confidential assistance.

Although Personnel Communications' primary function is to assist in effective upward communications for all salaried employees, managers and supervisors have found Personnel Communications to be helpful with certain salaried employee problems. A good example would be assisting a manager to apply a company policy in a certain sticky situation.

# PEER REVIEW BOARD

## *It involves employees, resolves grievances*

A unit manager was put on a 60-day Performance Improvement Plan (PIP). He thought he was making progress but he received no feedback on his performance. Yet after two months he was issued a second PIP.

The employee felt trapped. He didn't agree with the new plan, but thought that objecting would only cause more trouble. He didn't sign the plan or even state his objections. Soon thereafter, he was fired.

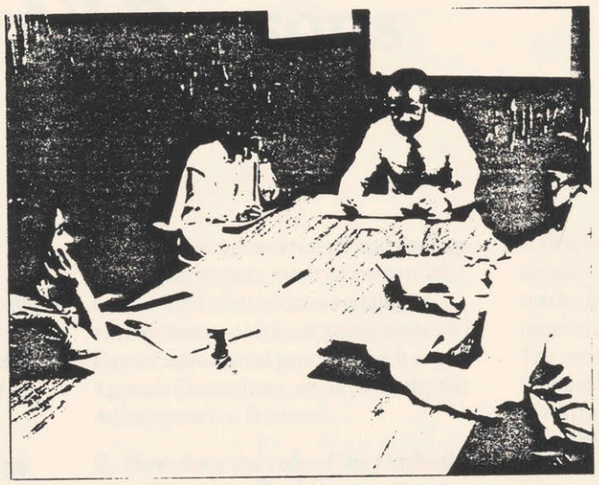
But the employee was reinstated with back pay by three people he'd never met, who didn't even work at his facility.

His case was decided at the highest level of employee justice: the Review Board.

An executive and two peers, employees at a grade level similar to the grievant, were selected at random. They were briefed on both sides of the case and studied position statements from management, personnel and the employee. After meeting to discuss the issues and policies in question, they voted to support the employee's case.

* * *

Sixteen cases have been decided by Review Boards since the program was implemented in February 1983. Seven times the Review Board recommended supporting the employee's position.



*One EAR representative is always present at a Review Board to make sure the correct process is followed, but final decisions are reached by the executive and two peers chosen at random to study the case. Above Vivian Neiger, EAR counseling center manager, and Dave Robinson, EAR director (both facing camera), listen as a case is discussed.*

### *"...an efficient way to resolve disputes."*

"Peer review is an efficient way to resolve disputes. I'm pleased with how well it works," said Eugene Baker, senior vice president of Human Resources Management and Administrative Services. He cited two outstanding strengths of the system:

"First, cases that go to a peer review board get thorough treatment," he said. "The quality of the decision is better than it was before.

"Second, and most important, we now have an opportunity to mediate disputes. About 100 employees have called EAR requesting peer review. Sixteen have actually gone to a review board. The remaining 80-plus have been mediated in other ways."

Before peer review was implemented, an employee who was dissatisfied with the decision of a supervisor and the personnel department could ask only that a higher level of management consider the dispute, said Dave Robinson, director of the Employee Advisory Resource (EAR), which administers the Review Board process. Cases were not often resolved in the employee's favor, he said.

In addition, disputes sometimes escalated as many as six levels up the management chain. Yet rarely did anyone but the front-line manager have any contact with the employee.

"The process we follow today offers a better chance at justice to all involved parties," said Robinson. "Cases are thoroughly prepared according to the specific procedures outlined in the grievance policy. The employee, involved managers and personnel participate actively throughout the process which culminates with thorough consideration by the Review Board."

"Review Boards are very thorough and well-prepared," said Robinson. "They scrutinize the materials we send them. Their questions and observations reflect good insight into the issues and into what constitutes fair treatment. When we started the Review Board system, we were hoping for that kind of thoroughness."

"Board members try very hard to be fair," agreed Vivian Neiger, EAR counseling center manager. "They might say, 'I sure hated to support firing that guy, but I couldn't see it any other way.' "

Review Board members confirm Neiger's observation. Said one:

"Someone's job was on the line. And I felt that pressure. I put myself in his place and thought of how I'd feel. I studied the case. I didn't just read it over."

"The (grievant) can say, 'This guy is my peer. He's out there in manufacturing, just like me. It's not someone sitting in an office somewhere. The people who are going to decide my future will understand what I'm going through."

An executive who served on a Review Board shared in that zeal. "The participants in the process were very enthusiastic," he said. There was a feeling among us of doing the right thing. I spent an awful lot of time on the case because this deals with the guts of our business, which is our people."

Robinson recalled a case that was mediated through EAR before it went to the Review Board:

"An assembly line worker with a good work record got a disciplinary letter for playing a radio while he worked. He'd received no warning. No one told him to turn it off. Suddenly the letter appeared in his file."

"He called EAR. We coached him on how to present his views. Ultimately, a decision was made to remove the letter from his file. We helped him work through the system without going to the formal Review Board process."

### *Control Data is a pioneer*

The participants don't always get what they want through mediation or peer review. Sometimes, however, they do get satisfaction, Robinson said.

He cited the case of a sales rep who made the 100 Percent Club in 1983 but didn't make his quota in 1984. He was put on a PIP and eventually terminated for poor performance.

"He wasn't making quota. That was a fact," Robinson said. "Yet he clearly hadn't been given enough feedback to help him improve."

There was some questionable application of policy. This was pointed out to personnel and they were able to work out a better termination agreement. He wasn't reinstated, but he was satisfied.

"The Review Board process is based on what constitutes an appropriate interpretation of policy, not on who should win," Neiger said. "EAR is very careful to remain impartial."

A woman had a car accident while driving to work one snowy morning. Stranded, she wasn't able to call her manager within the required two hours to say she'd be late. The woman was given an "appendix A," a first-time notice of unexcused absence. Three unexcused absences are grounds for termination.

The woman had never had an attendance problem and it had been impossible for her to call. Though she was told not to worry, that the incident didn't reflect badly on her, she wanted the notice out of her file. She called EAR requesting that the case go to a Review Board.

The dispute was ultimately mediated at the division level. The woman was told that the attendance warning did not outweigh her otherwise strong work record. But according to policy, the appendix A couldn't be removed.

Neiger cited the case of a woman who was fired for poor attendance:

"We advised her that she didn't have a very strong case. She'd have to persuade the board that a policy had been misapplied. She went ahead anyway, but the Review Board did not support her position."

Robinson told of another employee who wanted to work the system:

An employee with a documented history of poor performance lost his job during a workforce reduction. He denied that he had a performance problem and believed the workforce reduction was only a smokescreen to get him fired. The Review Board did not support his position. It found no evidence that the discharge was anything other than a workforce reduction.

"Even though he didn't get what he wanted, it gave him a chance to hear that opinion from a neutral corner, from people with no personal investment in the case. That's satisfying to many people," Robinson said.

Control Data was a pioneer in the participatory style of employee justice. Today, several corporations use a variation of the Review Board system.

"I doubt if there are any other programs as extensive or sophisticated as ours," said Baker.

Another supporter is Control Data President Robert Price. "The Review Board system is working," he said. "It's helping settle disputes and articulate corporate norms." It provides a clear method for handling grievances with fairness and efficiency—so that those involved can get back to the business at hand.

A production worker who was a Review Board member agrees: "It's a good system. It's a fair system. I believe in it."

# PEER REVIEW PROCEDURES

The four steps of Control Data's employee justice system are:

- **Employee talks to manager:** Most problems are resolved on this level.
- **Employee talks to personnel:** The local personnel department can intervene, offer assistance, or help process the grievance.
- **Higher-level management review:** Personnel identifies the appropriate decision-maker and helps the employee write a grievance. Management issues a written response.
- **Review Board:** If still dissatisfied, the employee can request a peer review of the case.

EAR carries out the mechanics of the peer review process. It also becomes involved through its role in work problems counseling.

"We counsel the people and help them understand how the system works," said EAR Director Dave Robinson. "We help them deal with the emotions associated with work problems and then we refer them to the proper place in the system.

"Our role is not to help the employee get what he or she wants, but to make sure the system responds as it should."

### Reviewing a case

- EAR solicits statements and supporting documents from the grievant, management and personnel. Then each reads the others' statements and prepares a rebuttal, if desired. The peer review board will base its decision on this final collection of documents.
- Two peers are selected at random from a computer-generated list of employees. The peers are employees at the same grade level as the grievant. An executive, at the general manager level or above, is selected at random. None of the three members may work at the same facility as the grievant.
- After signing confidentiality forms, the three board members are briefed on the process and given a case book to study.
- The EAR counselor calls a meeting of the peer review board. Out-of-town members participate through a teleconference call. The board discusses the case and votes to support either management or the employee. It cannot propose an alternate solution.
- The board's recommendation is forwarded for approval to Eugene Baker, senior vice president of Human Resources Management and Administrative Services. To date all 16 recommendations have been approved.

*An Interview with the Ombudsman*

# A Man for All Reasons

by Ellen Tillier

*Vincent J. Riley, who became the Bank's third Ombudsman last December (see announcement in last November's issue of* The Bank's World*) explains what the Office of Ombudsman is about—its role, the kind of issues it deals with and how.*

**Q. Can you remind staff why the Office of the Ombudsman was created?**

A. It was created to provide a facility to resolve differences between staff and managers or between staff and the support departments, such as Personnel, on any kind of questions relating to employment—without going through a formal adversarial process, such as the Appeals Committee, or, ultimately, the Administrative Tribunal.

**Q. How does the role of the Ombudsman fit into the Bank's appeals process?**

A. The Ombudsman is really an optional first step. As a matter of fact, the appeals process, as we know it now, is made up of three steps. The first and most informal step is the Ombudsman. The second step is the internal Appeals Committee, and the third is the Administrative Tribunal.

In the appeals process, my role really comes in advance, counseling people as to what their rights are, their options, and how to go about it; interpreting procedures that are spelled out in the manual; advising them on notes they have prepared for the Appeals Committee, and so on. If the Ombudsman is actively working on the resolution of the case, he may intervene to obtain an extension of time for the filing of the appeal, if that's appropriate. The Appeals Committee chairman encourages a harmonious resolution of any case without going to an appeal. But once an appeal is finally filed, the Ombudsman is essentially out of the picture.

*'The Ombudsman is really an optional first step [in the appeals process].'*

**The Ombudsman, Vincent J. Riley.**

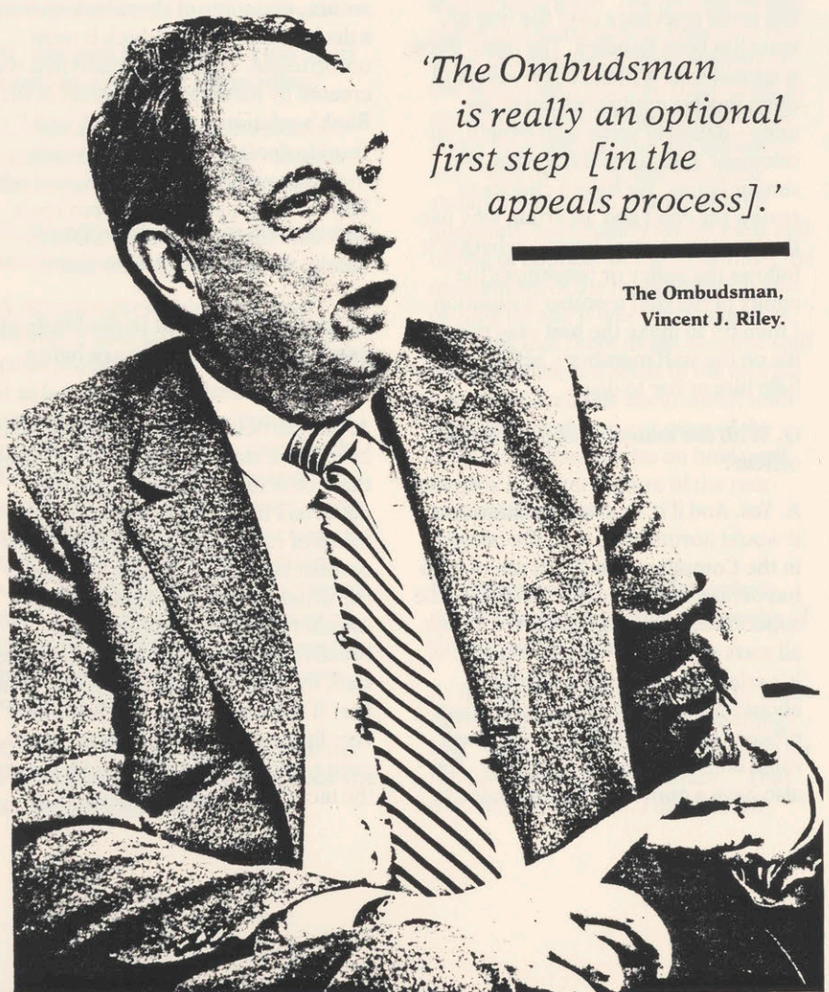


Photo by William Spidle

**Q. Because you are not a representative of staff?**

A. That's correct. I do not represent them. I can be called in certain circumstances, but it's not a regular situation for the Appeals Committee to call on the Ombudsman. The rule is that on the initiative of the Appeals Committee, or on the request of a party, and with the consent of the other party, the Ombudsman may be called upon to testify or supply documentary evidence to the Appeals Committee. In the three months I've been Ombudsman, I've never been called upon to do that, and in the four years I was on the Appeals Committee, I don't recall any case

when we called the Ombudsman. But it sometimes occurs.

**Q. Do many other organizations have an Ombudsman?**

A. Quite a few, although they're not always called by that name. The Fund has one. Several U.N. organizations have one. The U.N. itself considered setting one up at the recent General Assembly, but postponed it again until next year. Many business organizations have one. In fact, there's a group called the Corporate Ombudsman Association. My predecessor was a member of it—an officer, in fact—and I am now a member.

**Q. How accessible are you? How can staff reach you?**

A. I try to be available to staff as rapidly as they want me to be. With a few exceptions, such as for staff overseas, most of them pick up the phone and call. We usually try to set up an appointment the same day or, at the latest, the next day. I then sit down with them, listen, try to ascertain first what the problem is; secondly, how they'd like me to help; thirdly, how I think I might be able to help. And we go on from there. Sometimes we have several meetings and interviews.

**Q. How do you preserve the confidentiality of these sessions with staff?**

A. First, I operate on the basis of not discussing it with anybody else unless the staff member agrees that I should discuss it with another person. Some problems can be resolved simply by counseling or reference to manuals or review of files. But many others are really only resolvable if you go and talk to the manager, to more senior managers, to Personnel, to Compensation or to whomever appropriate. However, I never do that unless the staff member has agreed to my going to see such a person. Secondly, we don't make any records of our cases. We have a little statistical sheet on which we record just some basic biodata, and the nature of problems brought up. That's the only thing we keep on a long-term basis. I also make some pencil notations as we converse to jog my memory. But once the matter is completely closed and taken care of, those get weeded out and thrown away.

**Q. So there are no records?**

A. No records. Nothing stays on file. No record is prepared to go into a person's file, either in his or her office, in Personnel or elsewhere. For additional privacy, I recently arranged to have the office—which used to be in a fairly public area on the 9th floor of the D building—moved to the 12th floor of the C building, where you can step off the elevator and right into my office with virtually nobody seeing you.

**Q. What are the main types of problems you deal with?**

A. About two-thirds of the people who come to the Ombudsman raise questions that are related to career development—promotions, evaluations, salary increases, reassignments. They often feel some grievance over the way an issue has been handled. The other third is spread over a wide range—some of them involve compensation questions—denial of some staff benefit, entitlement to insurance coverage and similar issues. We have a chance to review the rules and ascertain why particular actions were taken—whether it follows the policy or recognizes the equity of the staff member's situation. I then try to make the best case possible on the staff member's behalf, or help him or her to do so.

**Q. With the manager or personnel officer?**

A. Yes. And if it's a compensation case, it would normally be with the person in the Compensation Department who has denied the particular benefit, or the supervisor. Compensation here means all sorts of benefits—not just salary. If it's salary, there may be questions about adherence to the general salary process and on how the person was rated on performance, and so on. You also have a number of cases related to job grading and to potential separation of staff. Then there are the fraud and misconduct issues. Even though I don't investigate them, I become involved in how they are adjudicated.

**Q. How are you perceived by managers when you intercede on behalf of staff?**

A. I like to believe that the more mature and secure managers are pleased that the Office of the Ombudsman exists, and that it's a way of resolving difficulties without going through elaborate proceedings. I think a good many managers welcome my intervention because of what I can do. I can help by opening up channels of communication with staff, by gathering information from other sources so that they themselves don't have to get involved. Or, even if they do get involved, there are things that can be done that they're not in a position to do as easily.

Alas, there are some managers who don't fit into the category I talked about, of being confident, sure and secure, and some of them look on it as a declaration of war, which is most unfortunate. This is a function that was created by management as part of the Bank's relationship with staff, and I frankly don't understand why any manager who thinks about it, and who knows what's going on, doesn't just welcome the opportunity. Unfortunately, there are a few who don't.

**Q. Is there any trend in the kinds of cases your good offices are being called upon?**

A. Not particularly. One thing we do is keep some statistical data on the cases that come to us. By and large, the patterns I mentioned before—two thirds of cases deal with career development and related issues—has been the situation over a period of time. Another consistent pattern is the breakdown by higher level and support staff, by male and female, by Part I and Part II members. These patterns vary very little over a month, a quarter or even a year. The biggest trend has been the increase in the number of cases

that have come to the Ombudsman in the last few years. In 1984, there were 149 new cases; in 1985, 169; in 1986, 225. It hasn't let up.

**Q. How do you explain the reason for this increase? Is it because more staff are discovering the Office of the Ombudsman, or are there more problems that need your help?**

A. The fact that people are discovering it may well be a factor. I suppose if we accomplish good things in one case, it will spread by word of mouth, and someone else will come. These have been stressful times the Bank has been going through. We've had the job grading exercise, and even if it didn't, in itself, generate all that many cases for the Ombudsman, it added to the uncertainty and led to some reassignments. Then, there's been the skills mix assessment that began last year. The Bank, of course, is in the process of a reorganization, and all these things add to staff concerns and anxiety about their welfare, about their future—some are unfounded, some we just don't know.

**Q. You said there weren't too many cases as a result of job grading?**

A. That's correct. Over the past two years or so, there were only about a dozen cases involving job grading.

**Q. Was this after the special appeals mechanism was set up?**

A. So often these things are interwoven. If staff go directly to the appeals process, that would normally end it as far as the Ombudsman is concerned, at least until the process had run its course. Then they came back for review or further elaboration or explanation. But in most cases, it was people coming to get a better idea of their rights and what their options were, and the best course of action to take. I try to provide that. Almost all these cases arose before I became Ombudsman so I just have the last remnants of this.

**Q. How were you involved with the redundancy cases resulting from the skills mix exercise?**

*'The Bank has serious sanctions, going up to dismissal, for people engaging in serious cases of harassment who won't correct their ways.'*

A. The Bank has had a redundancy policy, set out in the staff manual, for some time. The skills mix was introduced last year and was described in a circular that went out from the Director of Personnel, in October, noting that the changing pattern of the Bank's activities was leading to a new assessment of skill requirements—the skills mix. As a result, some people would be reassigned, some retrained and some would be found to hold positions that were redundant, which, in time, would lead to separation. The process moved ahead and some notices were sent out a few months ago. A good number of the people who received them came to my office, one at a time, to talk to me about their options and ask questions like "why me?" I looked into their situations and tried to answer their questions, particularly on the basis and timing of appeals. In the meantime, the momentum of the reorganization was picking up and it was beginning to be accepted that there might be some staff redundancies as a result of the reorganization. Given this uncertainty, management decided to put most of the skills mix redundancies on hold until there is a clearer picture of the reorganization.

**Q. Do you expect a lot of people to come to your door after the results of the reorganization?**

A. Just about everybody in senior management I've talked to has said things like "I can see no shortage of clients for the Ombudsman in the future." That may well be the case. I don't know, since it will depend on what processes are now being established. If significant staff changes are indicated, a great deal will depend on the kind of arrangements that are made for people in terms of reassignment, of retraining, of other options, or in terms of separation. This package of alternatives is being actively worked on, that I know. But I don't know what the end product is going to be.

**Q. What about the other issues, such as harassment, which is an area of concern to staff?**

A. Harassment is a very troublesome issue. First of all, we should distinguish between general harassment and the more blatant cases of sexual harassment. There are, unfortunately, a number of cases in the Bank, particularly in the general harassment area. Clearly, there's been a breakdown in communications because it is the Bank's policy, as clear as can be, that harassment should stop. We have to learn about it and go after it. The first goal is to get harassment to stop. Beyond that, the harasser has to be brought around to change his or her conduct, and that's not an easy process. But the Bank has serious sanctions, going up to dismissal, for people engaging in serious cases of harassment who won't correct their ways.

**Q. I understand you are going to add a "whistle-blowing" function to your present duties. What does this mean?**

A. The process of whistle-blowing involves reporting incidents of serious misconduct by staff or managers that

violate Bank rules or policies—out-and-out dishonesty. My predecessors, from time to time, became involved in this so it's not something new we're about to start. It was done informally in the past, and the Ombudsman is prepared to play a role, to listen and find out what the problem is, in complete confidence and confidentiality; to take that information to those who can investigate it and do something about it. The Ombudsman won't make any decision or take action. He can only review, listen, counsel, recommend, advise and consult with people in the management hierarchy. One important advantage the Ombudsman has going for him is that he has access up the line, up to and including the President. Certainly, if a whistle-blowing situation arose requiring the knowledge of the President, the Ombudsman would take it there, while protecting the confidentiality of the person who brought the information.

**Q. What is your relationship with the Staff Association?**

A. I maintain a good dialogue with the Chairman of the Staff Association, and I've met with their grievance panel. They sometimes refer people to me. It's basically a pattern of open communication, and there are a lot of places where, for individual cases and situations, I can be helpful when they find themselves somewhat frustrated. On the other hand, when it comes to group actions, petitions for changes in policies or procedures, that is not the role of the Ombudsman, but is one the Staff Association can handle more effectively.

**Q. What skills and qualities does an Ombudsman need to have?**

A. As the first Ombudsman pointed out in *The Bank's World* five years ago, the key quality is the ability to listen, and that's certainly an important element. I suppose about 50% of my day is spent just listening. The position requires somebody who knows the Bank well, how it functions and where the sources of power lie. I happen to be a lawyer, and my predecessor was an economist. I don't think any special qualifications by way of career background or training are essential. This doesn't mean I don't think my legal training is useful, but I suspect that Jim Hendry [Mr. Riley's predecessor] thought his economic training was useful, too. And I know cases where it was.

**Q. It's very reassuring for staff to know you are there to help them.**

A. I doubt that more than two or three days go by these days that I don't have a conversation with somebody in management or otherwise influential on what is happening and so on. If I can help staff, I do. But I must point out that the Ombudsman is not, per se, a staff advocate, but someone who tries to resolve disputes. The Ombudsman tries to come up with answers that are a win-win situation for everybody. Because of the freedom, flexibility and independence attached to this office, I have opportunities to do that where people directly on the line don't.

## Who Is The Ombudsman?

Meet Virgil Marti, MCAIR's ombudsman. His nearly 40 years with MCAIR have prepared him well for the position of Vice President- Ombudsman.

He knows MCAIR, its people and its goals. Virg is a respected engineer, with years of management experience in the design, development, evaluation and research of airborne systems.

The ombudsman reports regularly on his activities to Don Malvern. He addresses and makes recommendations on concerns with policies, procedures and practices that teammates have brought to his attention.

## Why Was TOP Developed?

One of MCAIR's commitments to you is to provide a good and stimulating place to work. Part of this environment is mutual respect and understanding between you, your fellow teammates and all of MCAIR.

"TOP exists because we are interested in your concerns, and in doing whatever we can to make sure we have the most satisfied, most energetic team."

—Don Malvern
President, MCAIR

TOP aims to enhance understanding. The ombudsman is here for you to talk about concerns that, so far, have received no resolution. He is here to help resolve problems by listening, counseling, and taking or recommending action. He realizes that many work-related problems are magnified by poor communication, or misunderstandings of intent, or insufficient information. The ombudsman will take into account the rights of the employees and the obligations of MCAIR, and also the rights of MCAIR and the obligations of the employees. He will sort through the facts and perceptions surrounding a situation, and direct it to the best channels for solution.

## To Talk With The Ombudsman . . .

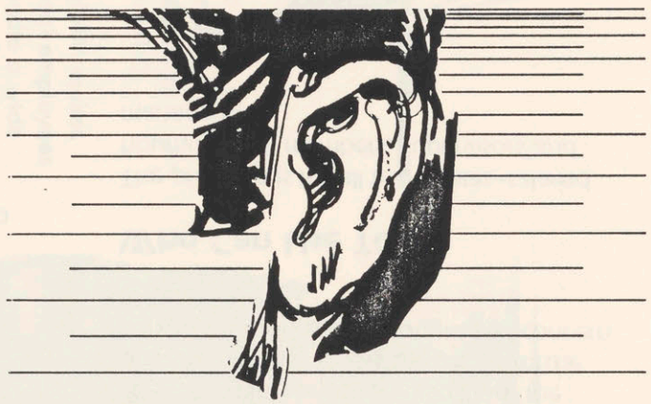
Call, write or make an appointment if you would like to talk with Virg. His number is 234-7052. His address: Dept 002, Bldg 1, Level 2, Room 248.

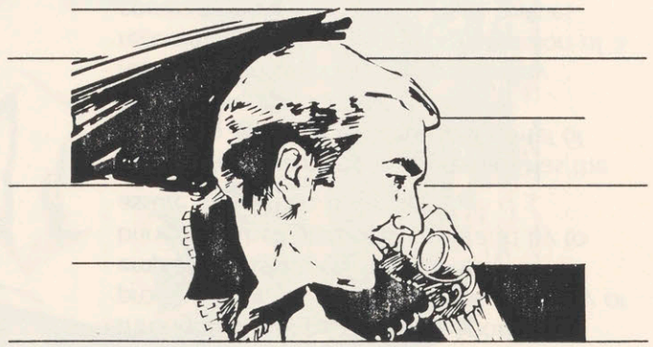
MCDONNELL AIRCRAFT COMPANY

MCDONNELL DOUGLAS

# Take It To The Top

TEAM OMBUDSMAN TOP PROGRAM





MCDONNELL AIRCRAFT COMPANY

MCDONNELL DOUGLAS

## What Is TOP?

TOP stands for the Team Ombudsman Program, a way for you and all employees of McDonnell Aircraft Company to voice concerns about your work. The ombudsman

- listens to your concerns
- assesses the situation
- keeps confidential the information surrounding your, and your fellow teammates', questions
- remains impartial, to all people and departments involved
- follows up each individual situation.

The ombudsman is appointed by and reports to Don Malvern, MCAIR president, and is independent of any other MCAIR division.

## How Does TOP Work?

Despite your best efforts and those of your fellow workers, situations at work sometimes make you dissatisfied and impact your productivity. Concerns that interfere with your effective contributions need to be solved. MCAIR realizes that for your personal satisfaction, for the cooperation of all those you work with, and for the continued success of MCAIR something must be done to solve whatever concerns develop.

Always try to discuss concerns with your supervisor first. Your supervisor has the responsibility to assist you in resolving them. But sometimes, for a variety of reasons, teammates do not get satisfaction through this channel. TOP offers another way to approach and solve the problem.

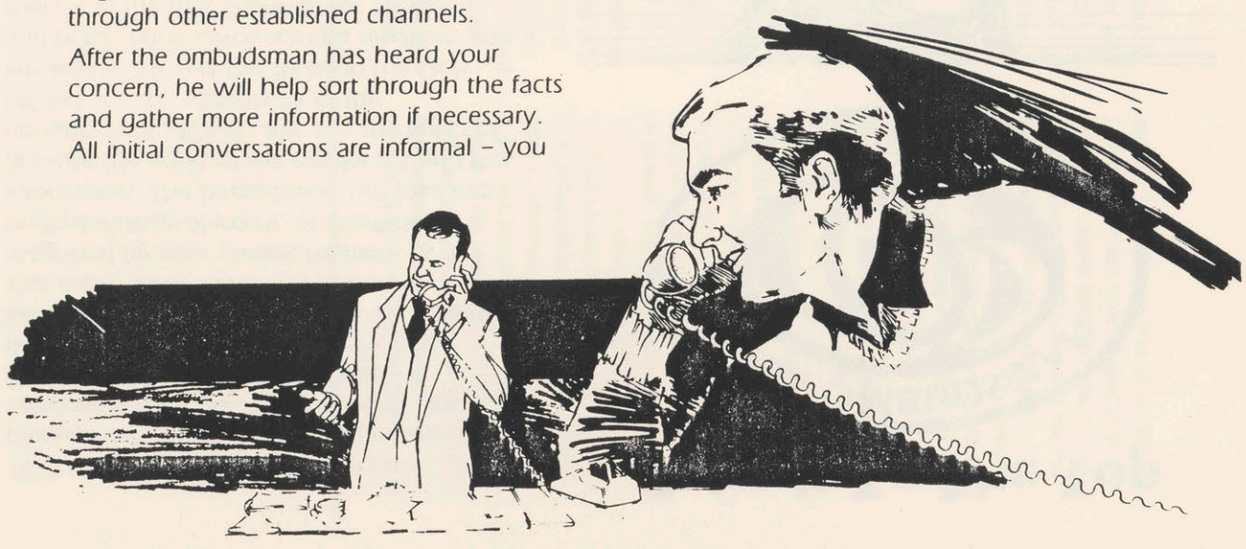
You may talk with the ombudsman about any work-related issue that you feel needs to be corrected, including conduct not in keeping with MCAIR's policies or tradition. Not included are union contract matters or negotiable issues, which are handled through other established channels.

After the ombudsman has heard your concern, he will help sort through the facts and gather more information if necessary. All initial conversations are informal – you don't need to fill out any forms, or make a formal statement. The ombudsman may be able to resolve the problem himself. Or, if he decides that your problem should be solved through MCAIR personnel in another program – equal employment opportunity or employee assistance, for example, he will bring it to their attention, but stand by to assure that action is taken.

In complex issues, the ombudsman has the option to send the concern to a panel of MCAIR directors for discussion and resolution. In this case, the panel may recommend a change in the application of a company policy, or a revision of policies. After the panel reviews a situation, the ombudsman will report the results to the person who originally brought the concern to his attention.

## Who Can Use TOP?

The program is for all teammates--salaried, hourly, union members, supervisors and managers.



TEAM OMBUDSMAN PROGRAM

## Existing Employee Services

**THE BENEFITS PROGRAM** exists to serve all employees. If you have a concern about benefits check your Benefits Handbook or contact the Benefits Counselor on x4191.

**THE CAREER COUNSELING PROGRAM** makes counseling available to all technical employees and management. Counselors handle a wide range of career-related problems such as assistance for those mismatched to their current jobs, desires for career or geographical changes. For information contact: Ann Batory (Technical) HO x4608; Bob Taylor (Administrative) DR x4390; Beverly Steele (Clerical) DR x2878.

**AFFIRMATIVE ACTION COUNSELORS** are available at each location to receive, counsel, investigate and resolve employee discrimination complaints. Alexander Willis is the counselor for Denver, x4394.

**THE EMPLOYEE ASSISTANCE PROGRAM (EAP)** The EAP provides assistance to employees with personal problems, like marital and family crises, emotional upsets, and alcohol and drug abuse. The program provides assessment, referral, and counseling services. For an appointment call Dave Tiffin at 850-8658.

I am Mary Kocman, ombudsperson for IS-Denver. My role is to assist in the human side of work. On the back of this brochure is a list of additional resources to help you resolve concerns or blocks to your effectiveness. If you have a concern that does not fit one of these resources or you are not sure whom to contact, please feel free to call me. The most important ground rule for this office is confidentiality and anonymity. My position and philosophy are supportive of the needs of the individual, supervision and the organization. Anyone with a concern or a question is welcome to call me.

# OMBUDSPERSON

Office: Denver 2S06, Extension 4121
Mail Druky! mgk

## Here are examples of how people can use this office:

- A person has a problem, feels it strongly, cannot express it clearly and wants to think it through with someone. In talking it out a person who initially says, "I'm not happy here," becomes clearer and discovers the real problem which is, "I need more specifics about what my boss expects of me in my job."

- An employee has problems of a confidential nature which impact both on work and on the home environment. This person doesn't know if there is any help or where it is available in the system. Through discussion he/she learns that employee counseling exists.

- An individual clearly identifies those in his/her work group with whom he/she has a problem. He/she recognizes he/she does not deal with it effectively and asks for help. Together we develop alternate ways of dealing with the problem and experiment with approaches; hopefully, the person gains an understanding of the problem, and feels comfortable with an initial approach in dealing with it. If needed, follow-up discussions take place.

- People may come because they are frustrated and need to be heard, not necessarily agreed with. Individuals can be angry at how they are treated or at what is happening. This position can serve as a sounding board.

APPENDIX H

APPENDIX I

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APPENDIX L

APPENDIX G

LIAISON

THE SOUTHLAND CORPORATION

# liaison

*/lē'-ə-zän/ noun*, a close bond or connection: INTERRELATIONSHIP; communication for establishing and maintaining mutual understanding.

— *Webster's New Collegiate Dictionary*

Since its beginning in 1927 as a small ice manufacturing and distribution company, The Southland Corporation has been strongly committed to people. The four cornerstones of our business are

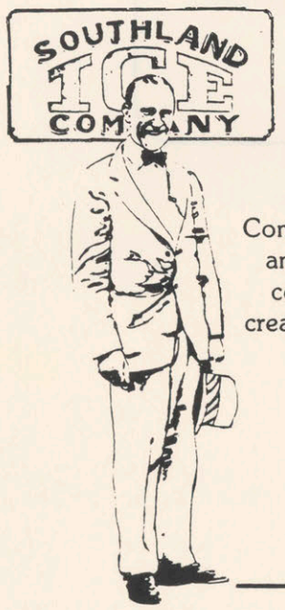
...sensitivity to the needs of our employees

...service to our customers

...satisfaction for our investors

...support of the American system of free enterprise

Upon this solid foundation, we have constructed our leadership in the convenience store business and our reputation for continuing growth, effective management, and community involvement.




Communication reinforces our strength and allows us to build upon our successes. The Liaison Department was created to ensure that all lines of communication remain open.

## The Liaison Department

...responds to specific needs within the Company.

...seeks to maintain a climate of trust and openness in communication.

...provides a system for resolving problems.

...offers objective review of conflict situations.

...is an appointed third party acting as a neutral dealing with concerns.

...contacts management on behalf of the individual.

...favors neither management nor the individual.

**The Liaison Department is available to assist...**

# MANAGEMENT

...in identifying areas where the communication process may be improved or expanded

...in developing and implementing communication programs

...in planning and conducting communication meetings to provide interaction among members of the Southland Family

...in addressing conflict situations

...in ensuring that local management representatives have an opportunity to address conflict situations

...in sharing information or activities of other areas designed to improve communication and working relationships

**The Liaison Department is available to assist...**

# EMPLOYEES

...in seeking answers to their concerns about work related problems

...in gaining a confidential discussion concerning the proper courses of action available to address concerns

...in making the initial contact with management

...in obtaining objective third party assurance that Company policy and good business judgment are exercised

...in communicating to management situations of mutual interest

**The Liaison Department is available to assist...**

# FRANCHISEES

...in addressing business related problems

...in relating their point of view to the appropriate management representatives

...in obtaining third party assurance that franchise policy and good business judgment are exercised

...in communicating to management areas of mutual interest

## *WHO MAY USE THE SERVICES OF THE LIAISON DEPARTMENT?*

All non-union employees at any level of the Company and all franchisees of the Company.

## *WILL MY CONTACT WITH THE LIAISON DEPARTMENT BE SHARED WITH OTHERS?*

The Liaison Department will honor requests for confidentiality by an employee until such time as the employee gives permission to act on his or her behalf.

## *IF MY EMPLOYMENT IS TERMINATED, MAY I CONTACT THE LIAISON DEPARTMENT?*

Yes. Any questions concerning your termination and/or any benefits you believe are due you, that you have not been able to address through local management, may be directed to the Liaison Department.

## *HOW DO I CONTACT THE LIAISON DEPARTMENT?*

The Liaison Department is located in the Corporate office complex of The Southland Corporation, Dallas, Texas. You may call or write:

Liaison Department
The Southland Corporation
2828 North Haskell Avenue
Dallas, Texas 75221
(214) 828-7945

## *WHEN IS THE BEST TIME TO CONTACT THE LIAISON DEPARTMENT BY TELEPHONE?*

The Liaison Department is open from 8:00 A.M. to 4:45 P.M. Central Standard Time, from Monday through Friday except on holidays. If this is not convenient for you, you may call during those hours and make arrangements to have a Liaison Department representative return your call at a time when you can fully discuss your situation.

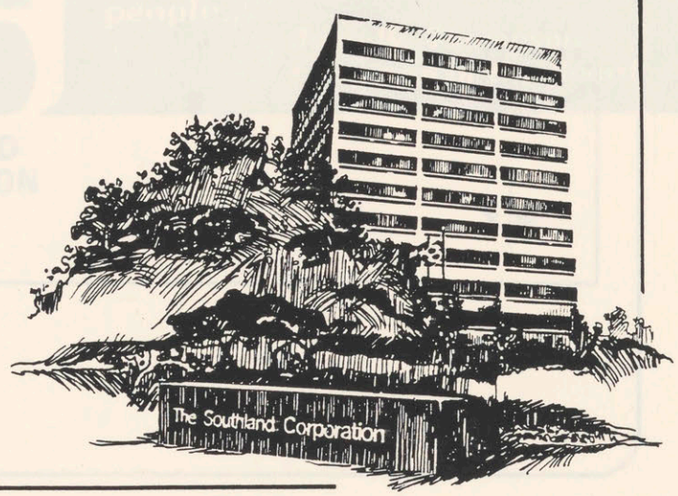
**The Liaison Department is...**

# YOUR

...RESOURCE for assistance

...confidential COUNSELOR

...objective THIRD PARTY



THE SOUTHLAND CORPORATION

**CORPORATE OFFICE** • 2828 NORTH HASKELL AVENUE • BOX 719 • DALLAS, TX 75221-0719 • PHONE (214) 828-7011

Members of The Southland Family:

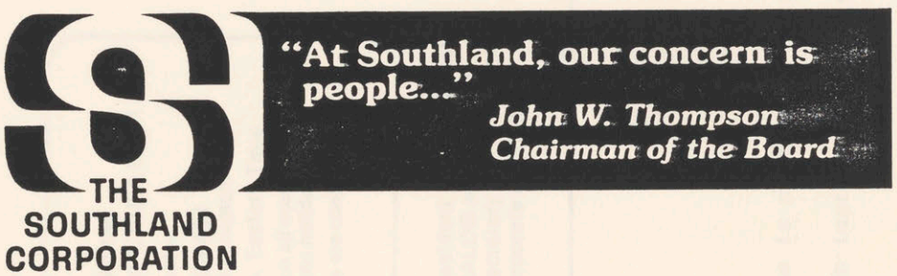
In 1981, a Liaison Department was established as an additional benefit for our employees and franchisees representing Southland's continuing efforts to provide fair and equitable treatment to all associated with the Company.

We all realize that most work related problems are addressed successfully through local channels. However, there may be times when employees and franchisees have specific concerns they would prefer to address through a third party. The Liaison Department has been provided to assist in accommodating those needs.

The activities of the Liaison Department are designed to assist in the communication process and not intended to replace or interfere with the responsibilities and/or authority of local management.

Sincerely,

Jere W. Thompson
President

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# UTC Executives: How to reach the United Technologies Ombudsman

**Ombudsman's Office**
United Technologies, Hartford, CT USA 06101

**1-800-843-8595** tollfree

or Area Code **203-728-6444**
(international collect calls accepted)

Hours: 8:30 a.m. — 5:15 p.m. Eastern Time

Phonemail service available on all numbers after hours, on weekends and holidays.

For employees only. All inquiries are confidential.

**Ombudsman's Office**

**Walt Eells,** vice president — ombudsman
**Ann Bensinger,** DIALOG administrator
**Ruth Houghton,** secretary
**Bob Morrissey,** corporate consultant

Here's a wallet card for your reference when you want to reach the office of the United Technologies Vice President — Ombudsman. The 800 number enables you to call toll-free from virtually anywhere in the U.S. or Canada. Collect calls will be accepted from other international areas.

**When to call or write.**
Contact the ombudsman's office when you have a business concern, problem, question, situation, opportunity, or comment that you can't seem to get anyone to listen to, or that you feel needs to be heard at the corporation's highest organizational level.

**Leave a message.**
Because United Technologies people work around the world, the ombudsman's office is equipped with Phonemail, a feature that allows you to leave a message if you call after business hours on the East Coast in the U.S., on holidays or over weekends. The message will be heard only by a member of the ombudsman's office staff.

**It's confidential.**
Communications with the ombudsman's office are confidential. Knowing your name is not essential to hearing what's on your mind. If you choose to give your name, it won't be used without your permission. The ombudsman's office, however, will provide a response only to United Technologies employees.

This is an example of the wallet sized, punch out card

with instructions for reaching the Ombudsman's office.

APPENDIX H

APPENDIX I

APPENDIX J

APPENDIX K

APPENDIX L

APPENDIX G

## APPENDIX G

This Appendix presents materials which relate to data collection by ombudsman offices. The first set of these materials consists of blank forms which specify the categories of information to be collected and then aggregated in two organizations affiliated with the Corporate Ombudsman Association. The second set provides a brief analysis of calls received by one ombudsman office. In this example, the aggregate data were used to examine why there seemed to be a disproportionately higher number of calls from females than one would normally expect. Please note that the information in all cases is to be collected and used in ways which fully protect the confidentiality of those who have contacted the ombudsman.

## STATISTICAL SHEET

CLOCK #_____ INQUIRY #_____ DATE_____

DIVISION_____ SEX_____ PLO_____ FLO_____ MARITAL STATUS_____

DEPT_____ SECTION_____ ETHNIC CODE: AGE RANGE:_____

BLDG_____ SHIFT_____

FLOOR_____ ROOM_____

1. CAUCASIAN
2. BLACK
3. ORIENTAL
4. AM. INDIAN
5. HISPANIC

1. 16-29 yrs
2. 30-39 yrs
3. 40-49 yrs
4. 50-59 yrs
5. 60 & up

JOB CLASSIFICATION:_____

SE_____ SNE_____ CBU_____

WRITTEN REQUEST_____ DATE_____

PHONE REQUEST_____ DATE_____

OFFICE INTERVIEW_____ DATE_____

LENGTH OF SERVICE:____

1. Under 6 mos
2. 6 mos - 1 yr
3. 1-5 yrs
4. 6-10 yrs
5. 11-20 yrs
6. 21-30 yrs
7. 30 & up

EDUCATIONAL LEVEL:____

1. 8 yrs
2. 9-11 yrs
3. 12 yrs
4. 13-15 yrs
5. 16 yrs
6. Over 16 yrs

TYPE OF CONCERN:_____

A. SALARY
B. PERFORMANCE APPRAISAL
C. PROMOTION
D. BENEFITS
E. JOB SECURITY
F. MANAGEMENT PRACTICES
G. COMPANY POLICY
H. DISCIPLINE
I. DISCRIMINATION
J. HARASSMENT
K. ETHICS
L. PERSONALITY CONFLICT
M. WORKING CONDITIONS
N. COUNSELING
O. HEALTH
P. INFORMATION
Q. EMPLOYEE SUGGESTION
R. OTHER_____
S.
T. TRANSFER

BRIEF DESCRIPTION: (ATTACH SHEET IF NECESSARY)

_____

_____

_____

_____

_____

ACTION TAKEN AND/OR TO WHOM REFERRED:_____

_____

_____

_____

_____

_____

_____

FOLLOW-UP DATE:_____ CLOSED OUT DATE:_____

Table 1

Number of Staff Consulting the Office of Ombudsman, by Type of Problem

| Category | Active Cases as of | New Cases | Cases Closed | Balance Forward |
|---|---|---|---|---|
| Vacancy Management | | | | |
| Selection | | | | |
| Salary Calculation | | | | |
| Appointment | | | | |
| Bank Temporary Prog. | | | | |
| Career & Perf. Mgt. | | | | |
| Probation | | | | |
| Perf. Planning & Rev. | | | | |
| Job Design & Pos. Grade | | | | |
| Rewards | | | | |
| Reassignment | | | | |
| Promotion | | | | |
| Career Development | | | | |
| Disciplinary Matters | | | | |
| Separation Management | | | | |
| Voluntary Separation | | | | |
| Involuntary Separation | | | | |
| Job Grading | | | | |
| Grading | | | | |
| Benefits Administration | | | | |
| Staff Benefits | | | | |
| Financial Assistance | | | | |
| Visas | | | | |
| Insurance | | | | |
| Not Classified | | | | |
| Total | | | | |

# AN ANALYSIS OF CALLS MADE TO THE OMBUDSMAN BY FEMALE STAFF OF A CORPORATION

The work force of a major aerospace company is comprised of 17 per cent females, but 23 per cent of the calls to the Ombudsman office in its first 14 months of operation came from women [Chart 1]. When looking at the percentage of calls from female employees, however, there is one classification, Salary Non-exempt and Hourly (SNE&H), which stands out as being greater (53.8 per cent) than that classification represents in the female employee population as a whole (47.6 per cent), or than that classification represents among the cumulative case load of the Omudsman office (16.1 per cent versus 10.9 per cent) [Charts 2, 3 and 5]. There is a question, therefore, whether the higher rate of calls from females can be attributed to their sex or their job classification.

An examination of each job classification category, comparing the company population with the calls [Chart 4], shows that the proportion of calls from females in the SNE&H classification is greater (by about 50 per cent) than their corresponding proportion of the total population. Calls from males in the SNE&H classification are also greater in comparison to their proportion in the total population, but the absolute proportion in either case is very small (3.9 per cent against 2.9 per cent). In the Collective Bargaining Unit (CBU) classification, female calls were greater (by about 36 per cent) than the female share in that population distribution, but male calls were below their share by about 21 per cent (macho image?). Interestingly, the percentages of calls from females and males in the Salary Exempt (SE) classification match their respective population distributions very closely.

The Ombudsman office received 84 per cent of its calls from the SE and CBU classifications, in which females constitute only 10 per cent of the population [Chart 5]. The remaining 16 per cent of all calls came from SNE&H employees, where females account for 74 per cent of the population. Since we would expect only 11 percent of all calls from this particular classification, and only 17 per cent versus 23 per cent total from females, it could very well be the employee classification rather than the gender which is causing the female numbers to be higher than expected.

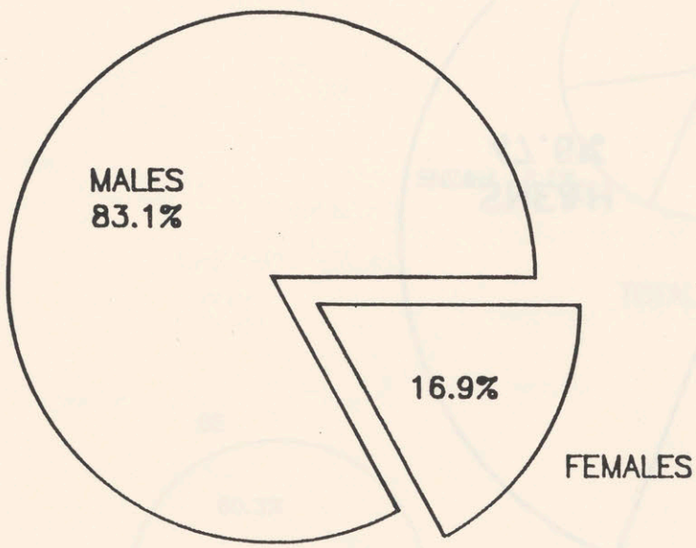
The types of concern expressed by staff are shown under 18 categories, and within these there are many sub-headings [Check List 1]. A large proportion of the women's calls (80 per cent) fall within nine of these categories [Chart 6]. The category of "Management Practices" and the sub-heading "Supervisor Style" account for the greatest number of calls from females. The next largest number of calls involves "Transfers," including changes in shift and in job classification; the majority of these came from the CBU [Figure 1]. The combination of "Salary," "Promotion" and "Performance Appraisal" (ABC) makes up a category equal in number to "Transfers," but 75 per cent of these calls were generated by the SNE&H classification. The next highest ranking concern was "Working Conditions," which was basically due to the sub-heading "Building Conditions," which in turn reflected a particular problem area which led to many calls -- 13 by men and nine by women. If the calls about this one area were discounted, the percentage of female calls would be 18 per cent, or

what one might expect. Women came to us 19 times over "Company Policy," which was only 2.5 calls above the 17 per cent mark, again the norm for females. There were 30 calls categorized as "Counseling," of which 30 per cent were from women. Slightly more than half of these were career counseling, however, which is very comparable to the category of "Promotion."

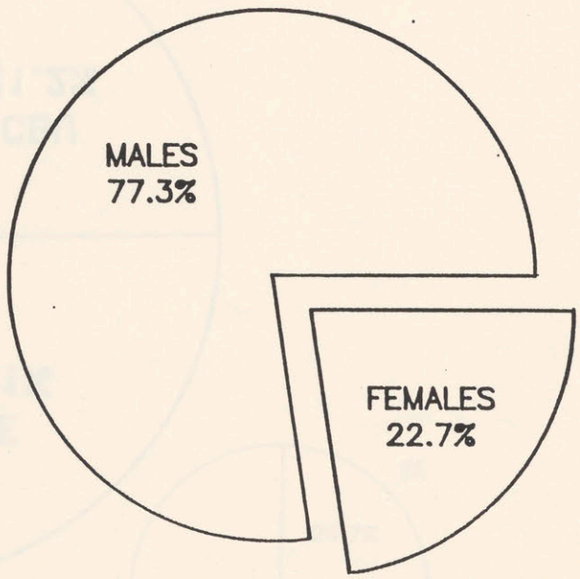
Figure 2 compares an equivalent of 17 per cent (the proportion of females in the company) of the calls in each category with the actual numbers of calls from females, which illustrates graphically which categories of calls from females exceeded their population equivalent. The largest discrepancy is in "Management Practices," followed by "Transfers." The discrepancy in "Management Practices" is most pronounced in the SNE&H classification, where it accounts for seven per cent more calls than the second-ranking SNE&H concern [Chart 6]. There is no single concern among the SE women which seems significant. As noted above, the greatest concern among CBU women was "Transfers." This is 35 per cent above the next highest CBU concern, which makes all other categories insignificant in comparison. The combined category of "ABC," which is second ranking for SNE&H and for SE, is somewhat parallel to the ranking of "Transfers" for CBU. If these categories were combined (ABCT), it would account for 29.6 per cent of the female calls, and would be the largest collection of types of concern.

It appears that women call proportionately less often than men with respect to "Benefits." The great majority of calls about "Benefits" matters, however, come from the SE classification, where men outnumber women by nine to one. If we look at the distribution per employee classification, we find that women have placed the number of "Benefits" calls one would have expected from the employee classification numbers.

# POPULATION VS CUMULATIVE CASES
## OCTOBER 1986




TOTAL POPULATION




OMBUDSMAN CASES

CHART 1

# FEMALE POPULATION
# BY EMPLOYEE CLASSIFICATION

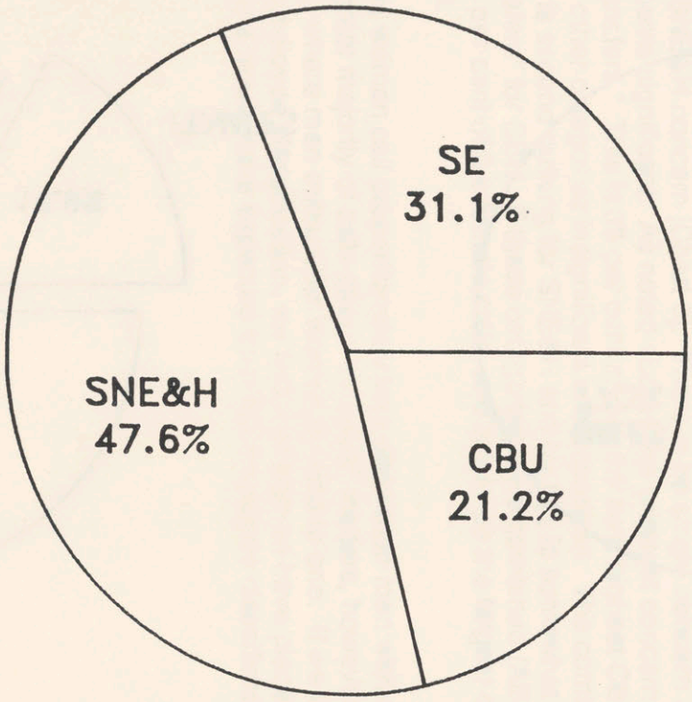
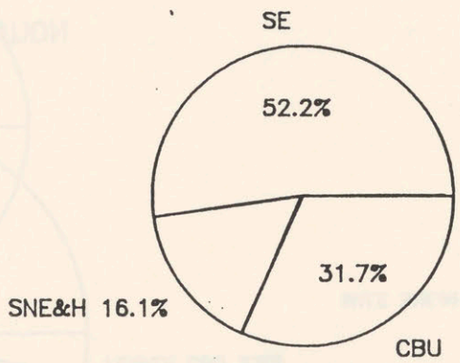
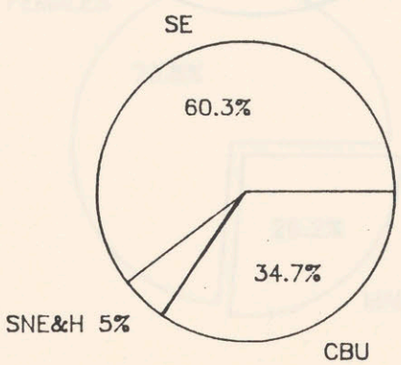



CHART 2

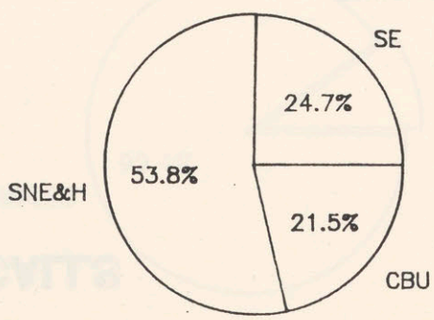
# OMBUDSMAN CUMULATIVE CASE LOAD
## OCTOBER 1986




TOTAL CASES

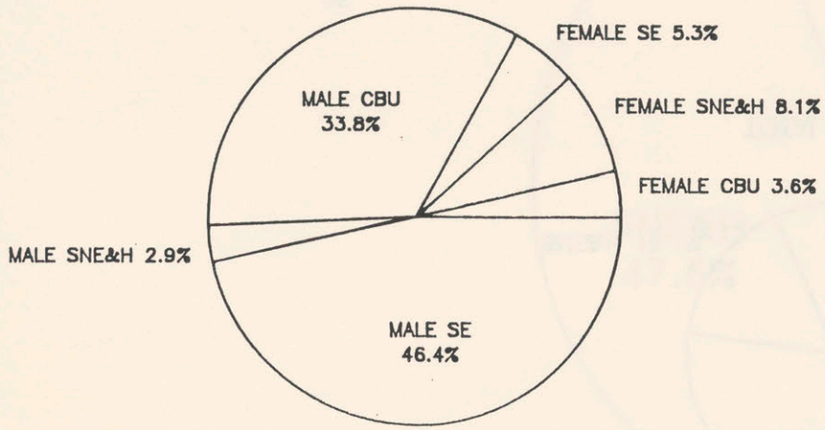



MALE CASES

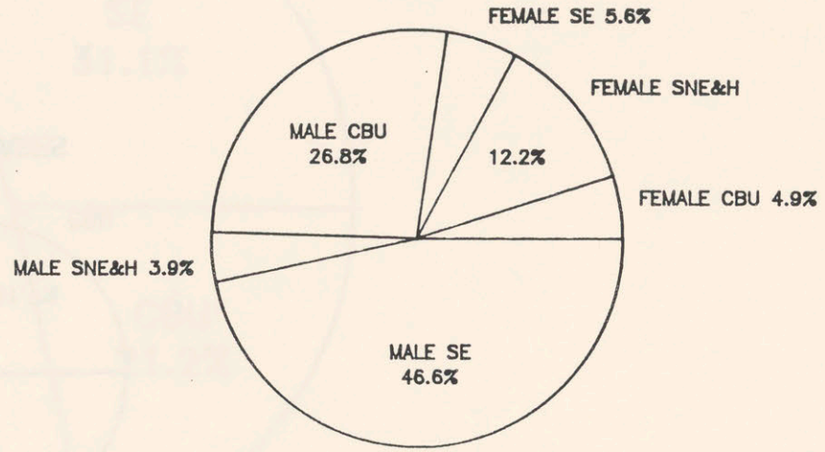



FEMALE CASES

# POPULATION DISTRIBUTION
# VS
# DISTRIBUTION OF CALLS
## OCTOBER 1986



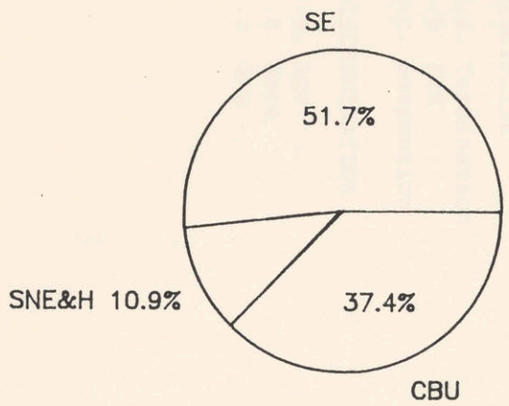

POPULATION DISTRIBUTION



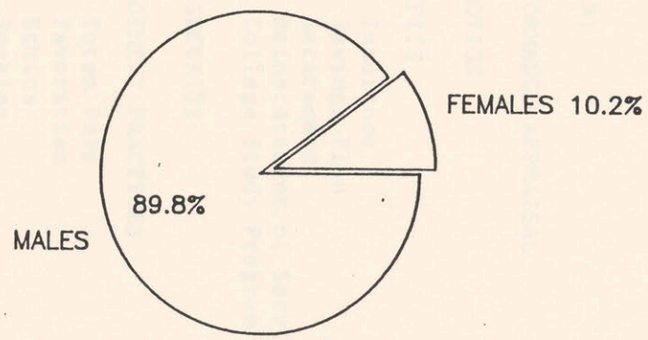

DISTRIBUTION OF CALLS

CHART 4

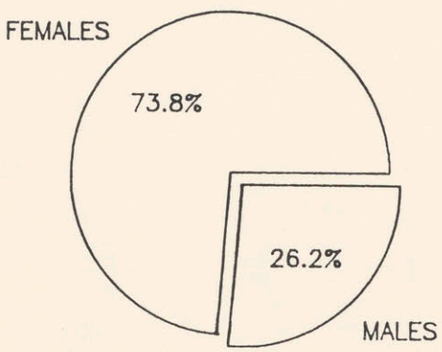
# EMPLOYEE DISTRIBUTION



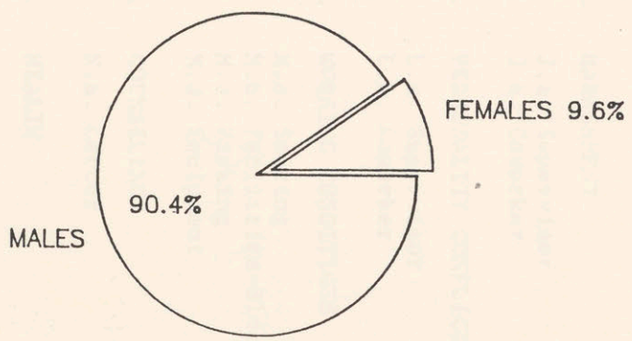

**COMPANY TOTAL**




**SE**

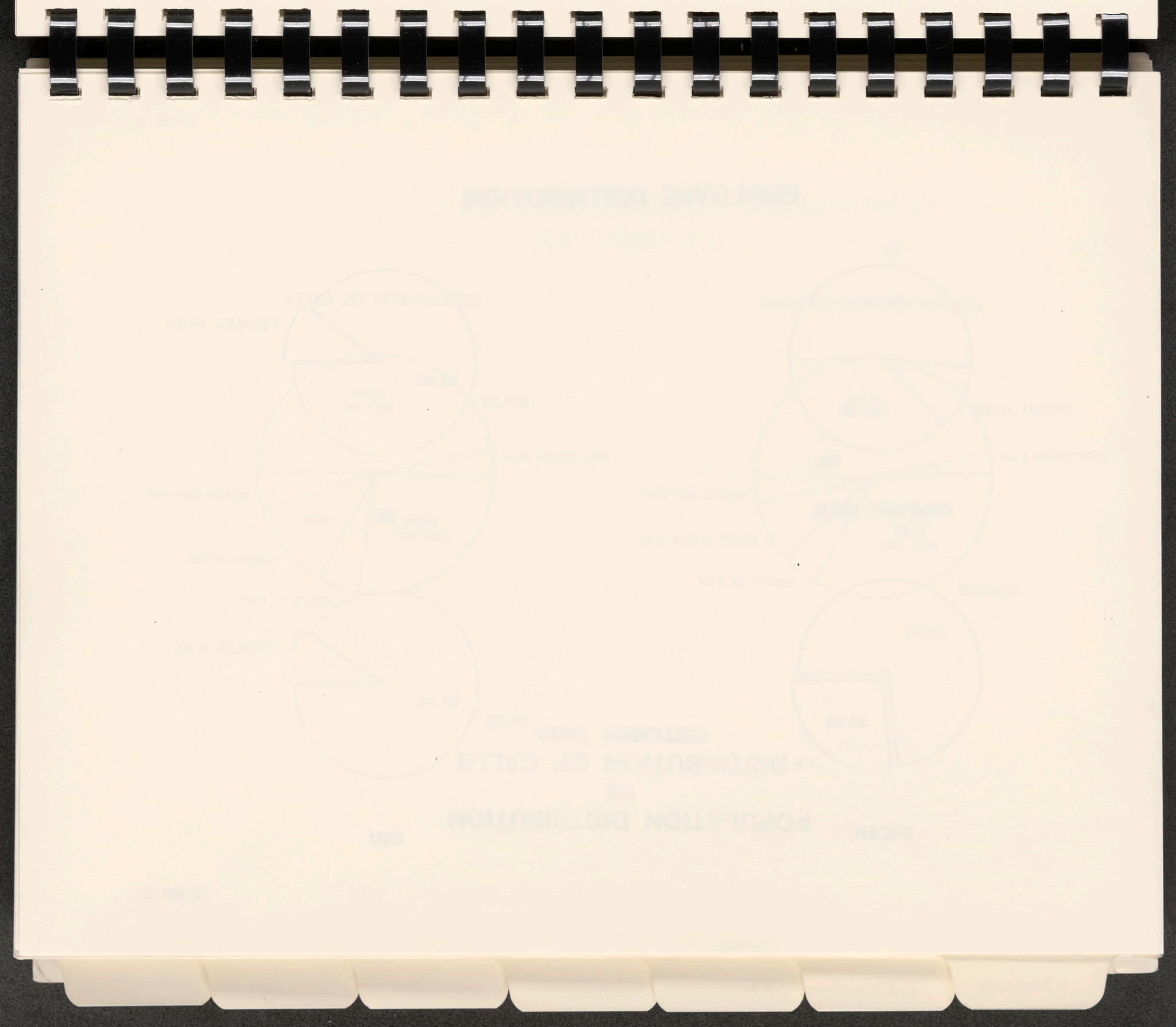



**SNE&H**




**CBU**

CHART 5



## TYPES OF CONCERN EXPRESSED BY STAFF

A. SALARY

B. PERFORMANCE APPRAISAL

C. PROMOTION

D. BENEFITS
- D.a. Insurance
- D.b. Savings Plan
- D.c. Retirement
- D.d. Reinstatement of Service
- D.e. College Study Program

E. JOB SECURITY

F. MANAGEMENT PRACTICES
- F.a. Totem Pole
- F.b. Favoritism
- F.c. Ethics
- F.d. Smoking
- F.e. Overtime
- F.f. Supervisor Style
- F.g. Attendance

G. COMPANY POLICY
- G.a. Attendance
- G.b. Presentee Award
- G.c. Vanpool
- G.d. Hiring Practices
- G.e. Holiday Pay
- G.f. Travel & Relocation
- G.g. Company Car
- G.h. Part-time 2nd Shift Premium

H. DISCIPLINE
- H.a. Termination
- H.b. EIR
- H.c. Suspension

I. DISCRIMINATION
- I.a. Age
- I.b. Race
- I.c. Sex

J. HARASSMENT
- J.a. Supervisor
- J.b. Coworker

L. PERSONALITY CONFLICT
- L.a. Supervisor
- L.b. Coworker

M. WORKING CONDITIONS
- M.a. Smoking
- M.b. Facilities-Bldg Conditions
- M.c. Parking
- M.d. Equipment

N. COUNSELING
- N.a. Career

O. HEALTH

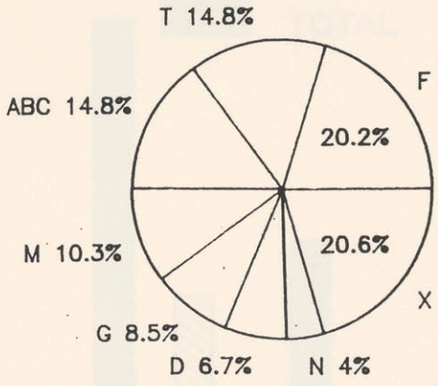
P. INFORMATION

Q. EMPLOYEE SUGGESTION

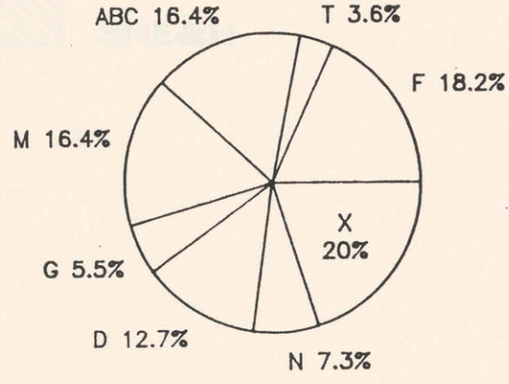
R. OTHER

T. TRANSFER
- T.a. Shift
- T.b. Classification
- T.c. Department

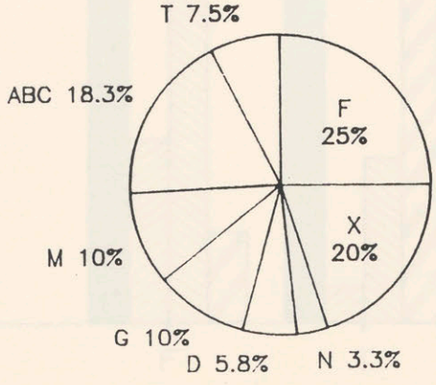
# FEMALE CALLS BY
# EMPLOYEE CLASSIFICATION/CONCERN TYPE
## OCTOBER 1986



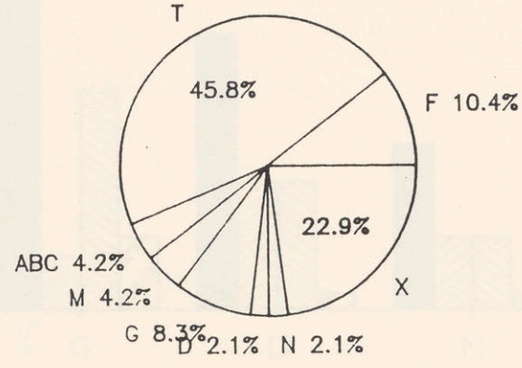

TOTAL FEMALE CALLS




SE FEMALE CALLS



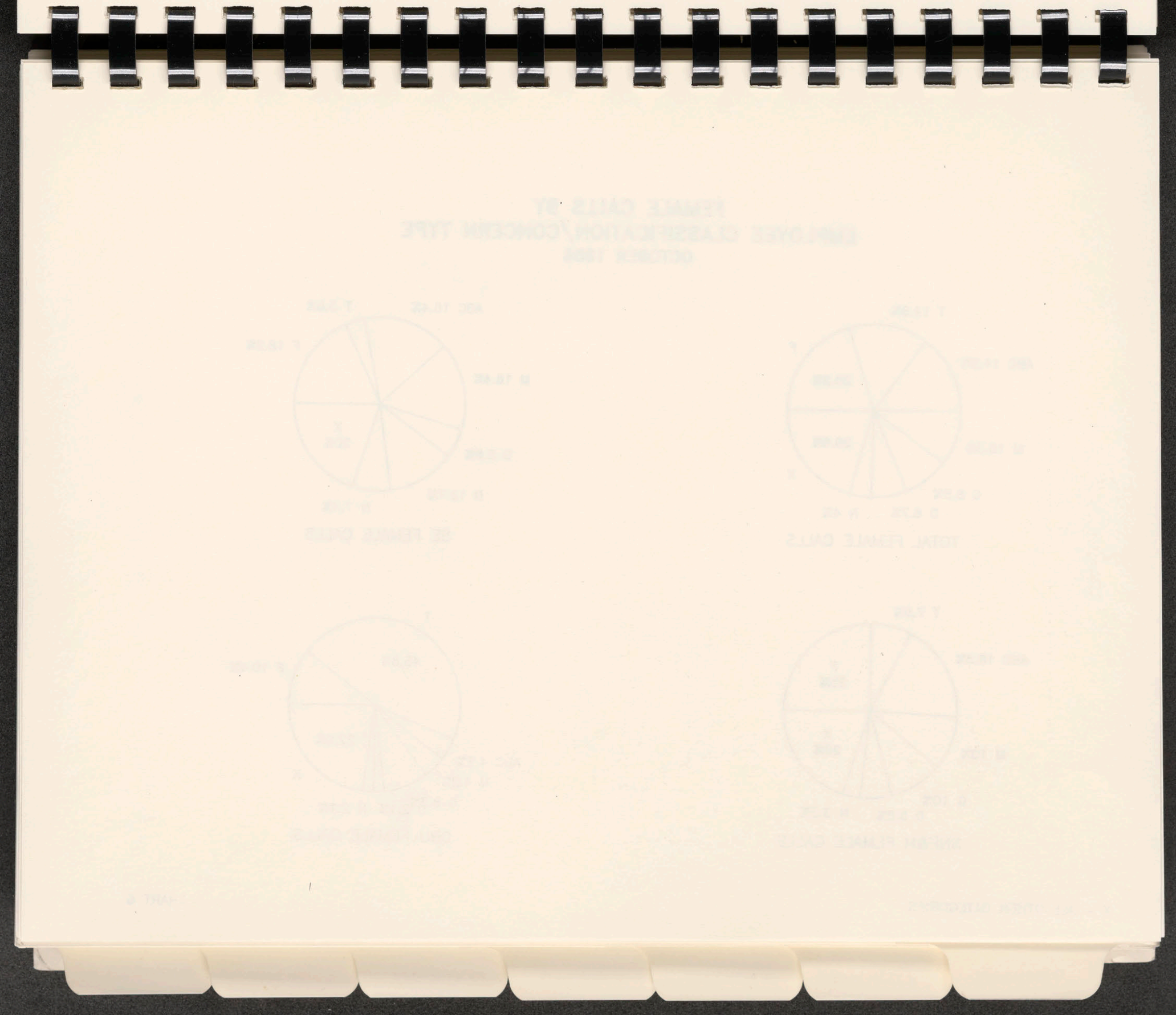

SNE&H FEMALE CALLS




CBU FEMALE CALLS

X = ALL OTHER CATEGORIES

CHART 6



# FEMALE CALLS BY EMPLOYEE CLASSIFICATION/CONCERN TYPE CUMULATIVE OCTOBER 1986

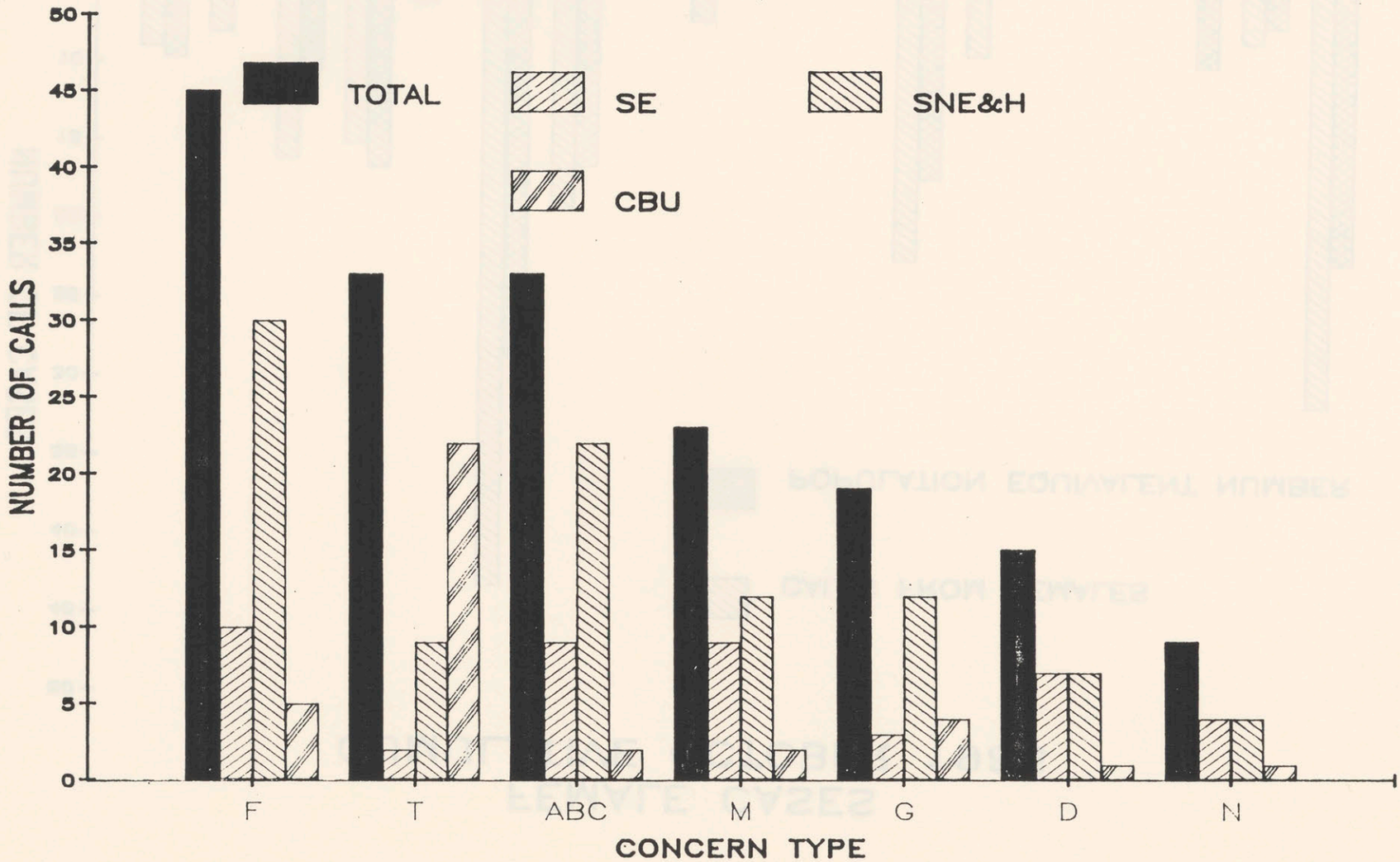



FIGURE 1

# FEMALE CASES
# CUMULATIVE OCTOBER 1986

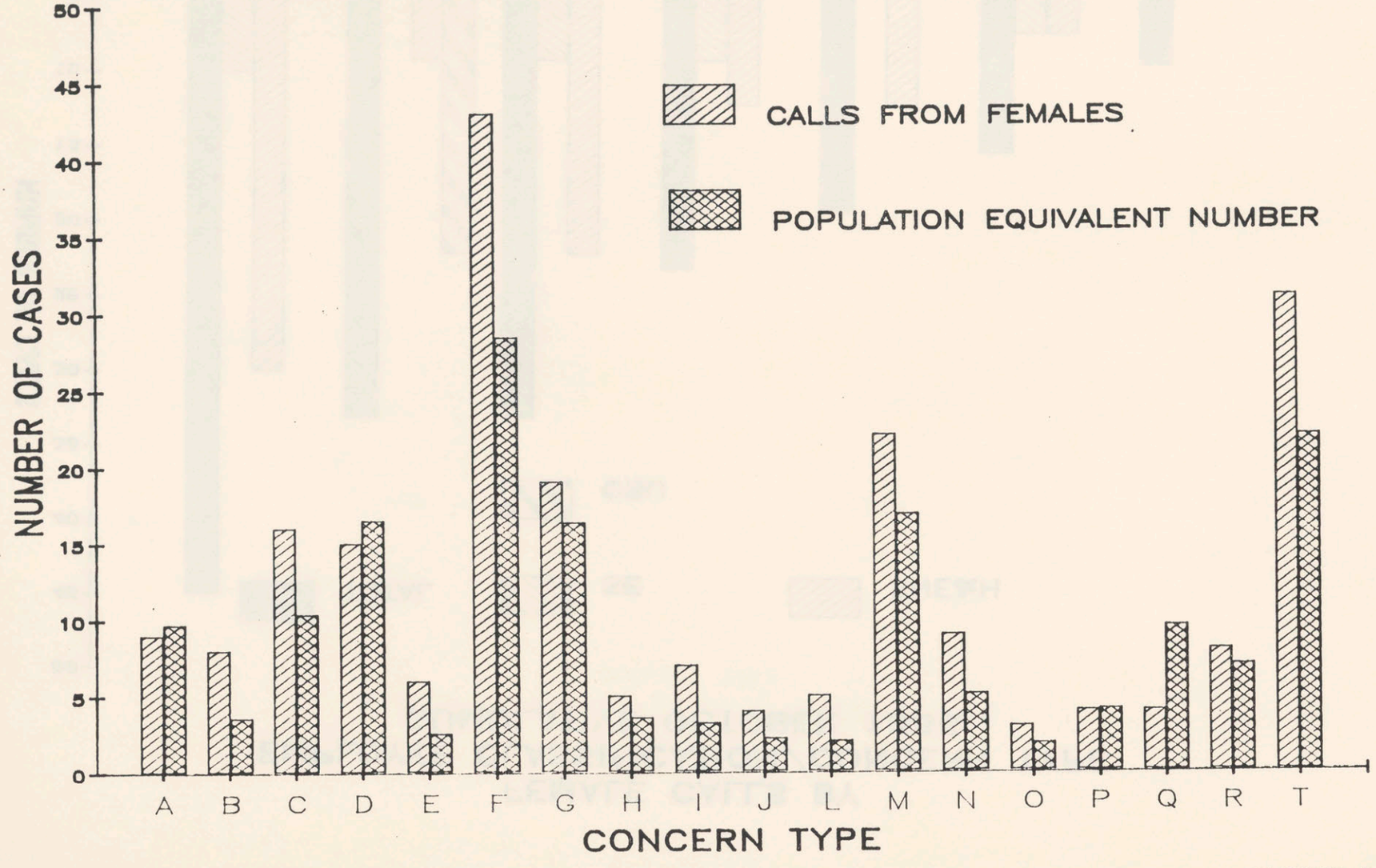



FIGURE 2

APPENDIX H

APPENDIX I

APPENDIX J

APPENDIX K

APPENDIX L

## APPENDIX H

Listed below are the names, addresses and organizational affiliations of members of the Corporate Ombudsman Association who have indicated they would be available for consultation about the ombudsman function. If one were to contact any of these members, they would be willing to discuss problems by telephone, or in their own offices, without charge. In cases requiring more extensive consultation, however, particularly consultation which would require a substantial amount of time and possibly some travel, the terms would have to be mutually agreed upon by the parties concerned.

Ann Bensinger, Office of the Ombudsman -- United Technologies Corp., One Financial Plaza, Hartford, CT 06101 Tel: (203) 728-6447.

Catherine Buckler, Ombudsman -- General Electric Company, 1 Neuman Way, Cincinnati, OH 45215 Tel: (513) 243-3561.

James B. Hendry, COA Exec. Officer -- 14 Wynkoop Court, Bethesda, MD 20817 Tel: (301) 229-5110.

Kitt Kitterman, Ombudsman -- AT&T Bell Labs, Naperville-Wheaton Rds., Room 6T-103, Naperville, IL 60566 Tel: (312) 979-6100.

H.H. Luetjen, Ombudsman --McDonnell Douglas Astronautics Co., 701 Columbia Blvd., M/S 28, Titusville, FL 52780 Tel: (305) 268-7592/7109.

Virgil Marti, Vice President and Ombudsman -- McDonnell Aircraft Company, Dept. 002, Bld. I, Level 2, Room 248, St. Louis, MO 63166 Tel: (314) 234-7052.

Tony Perneski, Area 52 Alternate Communication Channel -- ATT&T Bell Labs, Murray Hill, NJ 07974 Tel: (201) 582-6795.

Gregg Raudabaugh, Liaison Programs Mgr. -- The Southland Corporation, 2828 No. Haskell Ave., Dallas, TX 75204 Tel: (214) 828-7945.

Lewis Redding, Ass't Personnel Mgr., Labor Relations -- MIT/Lincoln Laboratory A -120, 244 Wood Street, Lexington, MA 02173 Tel: (617) 863-5500, X7064 or (617) 961-7604.

Vincent Riley, Ombudsman -- World Bank, 1818 H Street N.W., Washington, D.C. 20433 Tel: (202) 477-5472.

Lee Robbins, Ass't. Prof. -- Temple University, Dept. of Human Resource Adm., 2013 Pine Street, Philadelphia, PA 19103 Tel: (215) 545-1269/546-5377.

Mary Rowe, Special Assistant to the President -- Mass. Institute of Technology, Room 10-213, 77 Mass. Ave., Cambridge, MA 02139 Tel: (617) 253-5921.

Carole M. Trocchio, Francise Liaison Manager -- The Southland Coproration, 2828 N. Haskell Ave., Dallas, TX 75204 Tel: (214) 828-7944.

James T. Ziegenfuss, Assoc. Prof. -- Graduate Program - Public Adm., Pennsylvania State University, Capitol Campus - W164, Middletown, PA 17057 Tel: (717) 948-6053.

APPENDIX I

APPENDIX J

APPENDIX K

APPENDIX L

## APPENDIX I

This Appendix contains the By-Laws of the Corporate Ombudsman Association.

CORPORATE OMBUDSMAN ASSOCIATION

# BY-LAWS

## ARTICLE I

## MEMBERS

Section 1.1. **Classes of Members**. There shall be two (2) classes of Members of the Corporation which shall be known and referred to as "Members" and "Associate Members". The term "Members" as used herein shall refer to both classes of membership unless otherwise expressly provided.

Section 1.2. **Election of Members and Duration of Membership**. The charter Members of the Corporation shall consist of the Incorporator or Incorporators. Prior to the first meeting of the Board of Directors, the Members shall consist of the charter Member or Members and such additional persons as the Incorporators or Incorporator shall elect or appoint as Directors or officers. At and following the first meeting of the Board of Directors, Members of the Corporation shall consist of those persons already Members as aforesaid, plus such additional persons who may at any time submit applications for membership to an officer of the Corporation, accompanied by a membership fee the amount of which shall be determined for each class of membership from time to time by the Board of Directors. Qualification for membership shall be determined by the Board of Directors which shall consider whether such person will further the ideals and aims of the Corporation. Any person accepted as a Member shall remain a Member, for so long as such Member regularly and timely pays the Membership dues established by the Board of Directors for such Member's class of Membership, until his death, resignation or removal.

Section 1.3. **Removal**. Any Member may be removed by a two-thirds vote of the Directors present and voting at any regular or special meeting of the Board of Directors.

Section 1.4. **Resignations**. A Member may resign his or her membership at any time by written resignation delivered to the Corporation at its principal office or to any officer of the Corporation. Acceptance thereof shall not be necessary to make such resignation effective unless so stated in the resignation, and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

## ARTICLE II

## DIRECTORS, COMMITTEES AND OFFICERS: ELECTION, POWERS AND DUTIES

Section 2.1. Directors and Officers. The Board of Directors of the Corporation shall consist of not less than three (3) nor more than ten (10) Directors. The exact number of Directors (within such limits) constituting the Board of Directors shall be fixed by the Incorporators or, after incorporation, at each annual meeting by the Members, provided that by vote of the Members at a special meeting called for the purpose the number of Directors may be increased or decreased (subject to said limitation) and provided further that by vote of a majority of the Directors then in office the number of Directors may be increased (subject to said limitation). The officers of the Corporation shall be a President, one or more Vice Presidents, a Treasurer, a Clerk, and such other officers as the Incorporator or Incorporators or the Board of Directors may from time to time elect or appoint. Except as otherwise specifically required by law, the same person may simultaneously occupy more than one office. Directors must be Members as distinguished from Associate Members of the Corporation.

Section 2.2. Terms of Office: Vacancies. The Directors, President, Vice President(s), Treasurer and Clerk shall hold office, except as otherwise hereinafter provided, until the next annual meeting of Members or Directors at which they are regularly elected and until their respective successors are chosen and qualified. All other officers shall hold office during the pleasure of the Board of Directors. In case a vacancy shall occur for any cause in the Board of Directors or in any other office, including a vacancy resulting from enlargement of the Board, the Board of Directors (or the remaining Directors, although less than a quorum) may fill such vacancy by the affirmative vote of a majority of the Directors then in office. Any vacancy in the Board of Directors may also be filled by the Members at any annual or special meeting unless such vacancy shall have been previously filled by the Board of Directors. A Director or officer so elected by the Board of Directors or the Members to fill such vacancy shall hold office only until the next meeting of the Members or Directors at which the office would regularly be filled and until a successor is chosen and qualified.

Section 2.3. Resignation and Removal. Any Director may be removed from his or her office with or without cause by the vote, at a meeting at which a quorum is present, of a majority of Members who are present; or duly represented by proxy and any officer may be removed from his or her office with or without cause by the vote of a majority of the Directors then in office.

Section 2.4 Board of Directors. Directors shall be elected by the Members at each annual meeting of the Members or at any meeting of the Members held in lieu thereof in accordance with the Provisions of Section 3.1. The Board of Directors shall have the general management and control of all the property and affairs of the Corporation, and shall exercise all of the powers of the Corporation, except such as are conferred by law or by the Articles of Organization of the Corporation or by these By-Laws upon the Members. Without limiting the generality of the foregoing, the Board of Directors shall have full power to fix the compensation of any and all employees of the Corporation.

Section 2.5. Standing Committees. At each annual meeting of the Board of Directors, or any meeting held in lieu thereof, the President shall appoint persons to such standing committees as the Board by resolution may create from time to time.

Section 2.6. Ad Hoc Committees. The Board of Directors may from time to time appoint such ad hoc committees as it deems necessary or desirable with such powers as the Board of Directors may determine. The members of any such committee, who need not be members of the Board of Directors, shall hold office subject to the pleasure of the Board of Directors. Each such committee so appointed shall keep regular minutes of its proceedings and report the same to the Board of Directors upon request.

Section 2.7 President and Vice Presidents. The President shall be elected annually by and from the Board of Directors at the first meeting of the Board following the annual meeting of the Members. The President shall have, subject to the supervision of the Board of Directors, general management, charge and control of all the affairs of the Corporation, and shall be its chief executive officer. The President, if in attendance, shall preside at all meetings of the Members and of the Board of Directors.

One or more Vice Presidents may be elected from time to time by the Board of Directors. A Vice President shall have such powers and be charged with such duties, including (to the extent permitted by law) during the absence or inability to act of the President, such of the powers and duties of the President as the Board of Directors may prescribe or as the President may designate.

Section 2.8. Treasurer. The Treasurer shall be elected annually by the Board of Directors at its first meeting following the annual meeting of the Members. The Treasurer shall keep or cause to be kept regular books of account which are to be available at all times for inspection by any Director, and the Treasurer shall report to the Board of Directors on the financial condition of the Corporation whenever requested to do so by the Board of Directors. The Treasurer shall have the custody of all documents of title and valuable papers. Subject to the supervision and control of the Board of Directors, the Treasurer shall receive and disburse the funds of the Corporation.

One or more Assistant Treasurers may be appointed from time to time by the Board of Directors. An Assistant Treasurer shall have such powers and be charged with such duties, including (to the extent permitted by law) any or all of the powers and duties of the Treasurer, as the Board of Directors may prescribe or as the Treasurer shall delegate.

Section 2.9. Clerk. The Clerk, who shall be a resident of the Commonwealth of Massachusetts (except that such residence shall not be required during any period in which the Corporation has a duly appointed resident agent), shall be elected annually by the Board of Directors at its first meeting following the annual meeting of the Members. The Clerk shall be present at and keep minutes of all meetings of the Members and of the Board of Directors, shall give notice of meetings of the Members and of the Board of Directors and shall perform all duties commonly incident to such office or which may be properly required of the Clerk by the Board or the President.

The Board of Directors from time to time may appoint one or more Assistant Clerks who, in the absence of the Clerk, shall perform the duties of that office.

In the event of the absence of the Clerk and the Assistant Clerks, if any, from any meeting of the Members or of the Board of Directors, the Members or Directors at such meeting may appoint a Temporary Clerk to keep the records of the meeting and to perform such other duties in connection with that office as the meeting may prescribe.

Section 2.10. Miscellaneous Duties and Powers. In addition to the foregoing specifically enumerated duties and powers, the several officers and individual Directors of the Corporation shall be charged with such other duties and shall have such other powers (to the extent permitted by law) as may be delegated to them from time to time by the Board of Directors or any officer herein authorized to do so or as may be imposed upon by law.

## ARTICLE III

## MEETINGS OF MEMBERS

Section 3.1. Annual Meeting. The annual meeting of the Members shall be held in every year on the third Tuesday in May at 8 o'clock p.m. (or if that day falls on a legal holiday in the place where the meeting is to be held, on the next succeeding business day) at the principal office of the Corporation within the Commonwealth of Massachusetts, unless the Directors appoint some other date or place either within or without the Commonwealth. At such annual meeting the Members shall elect Directors, hear the report of the Treasurer and transact such other business as may otherwise properly come before the meeting. In the event that for any reason the annual meeting shall not be

held as herein provided, a subsequent special meeting of the Members shall be held in lieu of and for the purposes of the annual meeting with all the force and effect of an annual meeting and for such other purposes as may be specified in the notice of said special meeting.

Section 3.2. Special Meetings. Special meetings of the Members may be called at any time by the President, or by a majority of the Directors. Special meetings shall be called by the Clerk, or in the case of the death, absence, incapacity or refusal of the Clerk, by any other officer, upon written application of three or more of the Members entitled to vote at such meeting, stating the place, day, hour and purposes of the meeting. Special meetings of Members may be held within or without the Commonwealth of Massachusetts.

Section 3.3. Notice. A written or printed notice of any annual or special meeting of the Members, stating the place, day, hour, and purposes thereof, shall be given to each Member by the Clerk or Assistant Clerk or such other person authorized by these By-Laws to call a meeting, at least seven (7) days before the date of the meeting by leaving such notice with the Member or by delivering it to his or her residence or usual place of business by mailing the same, postage prepaid, directed to the address of the Member as last recorded on the books of the Corporation. It shall be the duty of each Member to notify the Corporation of his or her post office address. Whenever notice of a meeting is required to be given to a Member under any provision of the General Laws of the Commonwealth of Massachusetts or of the Articles of Organization or By-Laws of the Corporation, a written waiver thereof, executed before or after the meeting by such Member or by an attorney representing such Member, duly authorized and filed with the records of the meeting, whether or not such Member continues to be a Member at the time of his execution of such waiver, shall be deemed equivalent to such notice.

Section 3.4. Quorum. A majority of the total number of Members, present or duly represented by proxy at the meeting, shall constitute a quorum for the transaction of business at any meeting of the Members, provided, however, that if there shall be at least ten (10) Members who are present or fully represented by proxy at the meeting, then such number shall constitute a quorum for the transaction of business thereat, irrespective of the total number of Members.

Any meeting may be adjourned from time to time by a majority of the votes properly cast upon the question, whether or not a quorum is present and the meeting may be held as adjourned without further notice. At any such adjourned meeting at which a quorum shall be represented, any business may be transacted which might have been transacted at the meeting as originally called.

Section 3.5. **Vote Required.** If a quorum is represented at a meeting, the affirmative vote of a majority of the Members who are present or duly represented by proxy at the meeting shall be sufficient to elect any Director or to transact any business unless the matter is one upon which, by express provision of law or of the Articles of Organization or the By-Laws of the Corporation, as amended from time to time, a different vote is required or permitted, in which case such express provision shall govern. Any election by Members shall be determined by a plurality of the votes cast by the Members who are present or duly represented by proxy at the meeting.

Section 3.6. **Method of Voting and Proxies.** Each Member of the Corporation shall be entitled to one vote at any meeting of the Members of the Corporation or at any adjournment thereof. Any Member not present in person at any such meeting of the Members of the Corporation may vote thereat by a proxy signed by such Member and filed with the Clerk prior to the commencement of the meeting, but no such instrument which is dated more than six months before the meeting specified therein shall be accepted. Except as otherwise limited therein, proxies shall entitle the persons who are authorized to vote thereby to vote at any adjournment of such meeting but no such proxy instrument shall be valid after the final adjournment of such meeting. All proxies shall be filed with the Clerk at the meeting, or at any adjournment thereof, before being voted.

Action in respect of any matter shall be by ballot upon request of any Member.

Section 3.7. **Action by Consent.** Any action required or permitted to be taken at any meeting of Members may be taken without a meeting if all of the Members entitled to vote on the matter consent to the action in writing and the written consents are filed with the records of the meetings of the Members. Such consents shall be treated for all purposes as a vote at a meeting.

## ARTICLE IV

## DIRECTORS MEETINGS

Section 4.1. **Meetings of Directors.** An annual meeting of the Board of Directors shall be held in every year immediately after the annual meeting of Members or special meeting of the Members, held in lieu of such annual meeting, at the same place as such annual or special meeting, for the election of officers and for the transaction of such other business as may properly come before such meeting, unless the Board of Directors agree to and establish a different time or place for such annual meeting. Any other regular meeting of the Board of Directors may be held at such time and place as may be fixed from time to time by the Board of Directors. Special meetings of the Board of Directors may be called by the President, or by a majority of the

Directors, or in case the number of Directors as fixed by the Members or by the Board of Directors shall be an even number, then one-half of the number of Directors constituting the full Board of Directors as fixed by the Members or by the Board of Directors for the time being. Any regular or special meeting of the Board of Directors may be held either within or without the Commonwealth.

Section 4.2. Notice. The first meeting of the Board of Directors following the annual meeting of the Members and any other regular meetings of the Board of Directors, as fixed in place and time by the Board of Directors, may be held without notice except as otherwise required in these By-Laws. Notice of special meetings of the Board of Directors or of a change in the time or place of the annual meeting or any other regular meeting shall be given by the Clerk, Assistant Clerk, or other officer calling the meeting, orally, or by mail, telephone, cable, or telegraph, stating the date, time and place appointed for the holding thereof and generally the business proposed to be transacted thereat. Notice so given or sent to a Director's usual and last known place of business or residence at least forty-eight hours before the time of the meeting shall be sufficient notice in all cases, and any notice received by a Director in time to enable him or her to attend the meeting concerning which such notice is given shall be likewise sufficient. Notice of a meeting need not be given to any Director if a written waiver of notice executed by such Director is filed with the records of the meeting before or after the meeting. Notice of a meeting need not be given to a Director who attends the meeting without protesting prior thereto or at its commencement the lack of notice thereof. Any business whatever may be transacted at a meeting of the Board of Directors although it may not have been specified in the notice or waiver of notice of the meeting. No notice of an adjourned meeting of the Board of Directors shall be necessary.

Section 4.3. Quorum. At any meeting of the Board of Directors a majority of the Directors, or in case the number of Directors as fixed by the Incorporators, Members or Directors (or as resulting from vacancies) shall be an even number, then one-half of the number of Directors, then in office, shall constitute a quorum for the transaction of business. Any meeting may be adjourned from time to time by a majority of the votes properly cast upon the question, whether or not a quorum is present and the meeting may be held as adjourned without further notice. Except as otherwise expressly provided by law or by the Articles of Organization or by the By-Laws of the Corporation, as amended from time to time, the affirmative vote of a majority of the Directors present at any meeting at which a quorum is present shall be sufficient to transact any business which may properly come before the meeting.

Section 4.4. Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if all of the Directors consent to the action in writing and the written consents are filed with the records of the meetings of the Board of Directors. Such consents shall be treated for all purposes as a vote at a meeting.

ARTICLE V

MISCELLANEOUS

Section 5.1. Fiscal Year. Unless otherwise fixed by the Board of Directors, the fiscal year of the Corporation shall end on the thirty-first day of December in each year.

Section 5.2. Bonds. The Board of Directors may from time to time require from any one or more of the officers or agents of the Corporation that he, she or they shall give bond for the faithful performance of duties. Any such bond shall be in such form, in such sum and with such sureties as the Board of Directors may determine. The premiums for all such bonds shall be paid by the Corporation.

Section 5.3. Execution of Writings. Unless the Board of Directors shall otherwise generally or in any specific instance provide:

(a) any bill or note or check shall be made or signed in the name and on behalf of the Corporation by the President or the Treasurer or an Assistant Treasurer or such other officer or officers as shall be authorized to do so from time to time by the Board of Directors; and

(b) any other contract or written instrument shall be signed in the name and on behalf of the Corporation by the President and the Treasurer, unless otherwise specifically designated by the Board of Directors by resolution or ratification, or such other officer or officers as shall be authorized to do so from time to time by resolution or ratification by the Board of Directors, and such officer so signing such instrument may also acknowledge and deliver the same. Any instrument purporting to affect an interest in real estate shall be executed in the name of the Corporation by two of its officers, jointly, of whom one is the President (or any Vice President) and the other is the Treasurer (or any Assistant Treasurer).

Section 5.4. Respecting Certain Contracts. Directors of this Corporation may be connected with other corporations with which from time to time this Corporation has business dealings. No contract or other transaction between this Corporation and any other corporation and no act of this Corporation shall be affected by the fact that a Director of this Corporation is pecuniarily or otherwise interested in, or is a Director or officer of, such other corporation. In the absence of fraud, any Director, officer or Member of this Corporation, individually, or any firm in which such Director, officer or Member may have an

interest, may be a party to or may be pecuniarily or otherwise interested in, any contract or transaction to which this Corporation is a party, provided that the fact that such individual or firm is so interested shall be disclosed or shall have been known to the Board of Directors or to a majority thereof. With respect to any profit or benefit realized on any such contract or transaction, no such Director, officer or Member shall be liable to account to the Corporation therefor. Any such Director may be counted in determining the existence of a quorum at any meeting of the Board of Directors and may validly vote for the purpose of authorizing, approving or ratifying any such contract or transaction.

Section 5.5. Dividends, Profits and Compensation. No Member or Director shall receive by reason of such membership or directorship, any dividend, profit, or compensation from the Corporation, provided however, that there shall be allowed reimbursement by the Corporation of reasonable expenses incurred on behalf of the Corporation in the course of any activity for the Corporation, by any Member, Director, or officer of the Corporation.

Section 5.6. Corporate Employees. The Board of Directors may from time to time employ or appoint a full-time or part-time Executive Director and such other personnel as may be desirable and necessary to supervise the facilities of the Corporation and to plan and conduct its activities, and the Board of Directors may fix reasonable compensation for such Executive Director or other personnel so employed or appointed.

## ARTICLE VI

## AMENDMENT OF BY-LAWS

These By-Laws may be repealed or amended, or additional by-laws may be adopted, at: any meeting of the Members of the Corporation, at which a quorum shall be present, by a majority vote of the Members present in person or represented by proxy, provided that the substance of any proposed amendment shall have been set forth in the notice of the meeting. These By-Laws may also be repealed or amended, or additional by-laws may be adopted, at any meeting of the Board of Directors at which a quorum shall be present, by a majority vote of the Directors present, provided that the substance of any proposed amendment shall have been set forth in a notice of the meeting at which a final vote is to be taken thereon.

A true record.

ATTEST:

_____

, Clerk

CORPORATE OMBUDSMAN ASSOCIATION

Action by Consent of Sole Incorporator

July 28, 1986

I, the undersigned, being the sole incorporator of the CORPORATE OMBUDSMAN ASSOCIATION, a corporation formed under Massachusetts General Laws, chapter 180, do hereby intend that the following votes shall be and each of them hereby is adopted with the same force and effect as if presented and enacted at a duly constituted meeting of incorporators of said corporation:

VOTED: That the proposed By-Laws in the form attached to this action by consent be and they hereby are approved and adopted as the By-Laws of the CORPORATE OMBUDSMAN ASSOCIATION.

VOTED: That the number of Directors of the Corporation be and it hereby is fixed at eight (8) and that the following persons be and each of them hereby is elected a Director of the Corporation to serve until the next annual meeting of the Members and until his or her successor is chosen and qualified.

Mary Rowe
Martha Maselko
Carole Trocchio
Virgil Marti
James Hendry
Catherine I. Buckler
Lee Pledger
Lewis Redding

VOTED: That the following persons be and each of them hereby is elected to the offices indicated opposite their respective names to serve until the next annual meeting of the Board of Directors and until his or her successor is chosen and qualified:

| | |
|---|---|
| President: | Mary Rowe |
| President Elect and Treasurer: | Martha Maselko |
| Vice President and Clerk: | Carole Trocchio |
| Assistant Clerk: | Jerome N. Weinstein |

Voted: That the proposed Articles of Organization of the Corporation in the form attached to this action by consent be and they hereby are approved; and that said Articles after execution by the incorporator be submitted to the Secretary of the Commonwealth for his approval and filing in accordance with Chapter 180 of the Massachusetts General Laws.

DATED: July 28, 1986

Jerome N. Weinstein, sole incorporator

4080Y

APPENDIX J

APPENDIX K

APPENDIX L

APPENDIX J

This Appendix contains examples of agendas for the annual conferences of the Corporate Ombudsman Association.

# Corporate Ombudsman

AGENDA

1986 CORPORATE OMBUDSMAN CONFERENCE
St. Louis, Missouri

| DATE/TIME | ITEM |
|---|---|
| **Wednesday, May 14** | |
| 8:30 - 12:00 | Company Tours (Anheuser-Busch, McDonnell Aircraft) |
| 12:00 - 2:00 | Lunch and Conference/Hotel Registration |
| 2:00 - 2:30 | Welcome (Conference Introduction) |
| 2:30 - 5:30 | Ethics - Open discussion involving the use of a case study dealing with the principals of conduct governing an individual or group as it applies to the Ombudsman function in a corporate environment. |
| Evening | Reception, Dinner, Hospitality Room |
| **Thursday, May 15** | |
| 7:00 - 8:00 | Breakfast |
| 8:30 - 10:00 | Dealing with corporate culture differences (case study). |
| 10:00 - 10:30 | Break |
| 10:30 - 12:00 | Practical Considerations: Critical issues need to be examined in establishing and maintaining the effectiveness of am Ombudsman's office. We will discuss aspects such as level of reporting, structure and interchange with others. |
| | What is our role? - Research group |
| 12:00 - 1:30 | Lunch |
| 1:30 - 3:00 | Mediation Skills (cases) |
| 3:00 - 3:30 | Break |
| 3:30 - 4:30 | Mediation Skills (cases) continued |

ombudsman \'öm-bodz-men\ One skilled in dealing with reported complaints to help achieve equitable settlements

APPENDIX K

APPENDIX L

| DATE/TIME | ITEM |
|---|---|
| 4:30 - 5:30 | Options - Virg Marti of McDonnell Aircraft Company - St. Louis will discuss their program start up phase. This will include some discussion of the initial planning program, kickoff, anticipated problems and the realities they had to face. |
| Evening | Mississippi Riverboat dinner/cruise sponsored by Anheuser-Busch and McDonnell Aircraft. |
| **Friday, May 16** | |
| 7:00 - 8:00 | Breakfast |
| 8:30 - 10:30 | Panel - The role of the ombudsman in dealing with unique and difficult problems. |
| 10:30 - 11:00 | Break |
| 11:00 - 12:00 | What's Next? |
| 12:00 - 1:00 | Lunch (on own) |

# Corporate Ombudsman
## ASSOCIATION

### CONFERENCE AGENDA

May 20 and 21, 1987
Hosted by GTE, Marina Beach Hotel, Marina del Rey, CA.

TUESDAY, May 19

| | |
|---|---|
| 6:00 - 9:00 p.m. | Registration and Hospitality |

WEDNESDAY, May 20

| | |
|---|---|
| 7:30 - 8:30 a.m. | Breakfast |
| 8:30 - 9:15 a.m. | WELCOME AND KEYNOTE BY A CEO ON BUSINESS ETHICS AND OMBUDSMANRY. |
| 9:15 - 10:30 a.m. | FOCUSING ON REAL WORLD ETHICAL DILEMMAS. |
| 10:30 - 10:45 a.m. | Break |
| 10:45 - 12:00 noon | RESULTS FROM THE 1987 RESEARCH COMMITTEE QUESTIONNAIRE. |
| 12:00 - 1:30 p.m. | Lunch |
| 1:30 - 2:30 p.m. | PEER REVIEW - How it works. |
| 2:30 - 2:45 p.m. | Break |
| 2:45 - 5:00 p.m. | WORKING WITH HUMAN RESOURCE COLLEAGUES. |

THURSDAY, MAY 21

| | |
|---|---|
| 7:30 - 8:30 a.m. | Breakfast |
| 8:30 - 10:15 a.m | HOW TO DEAL WITH IMMORAL, UNSAFE, AND ILLEGAL PROBLEMS. |
| 10:15 - 10:30 a.m. | Break |
| 10:30 - 12:00 noon | LEGAL ISSUES: Drugs, Genetic Testing, AIDS, and other future critical issues. |
| 12:00 - 1:30 p.m. | Lunch |
| 1:30 - 2:45 p.m. | SYSTEM FEEDBACK AND DEALING WITH LINE MANAGEMENT. |
| 2:45 - 3:00 p.m. | Break |
| 3:00 - 4:00 p.m. | THE 3 Rs...Retirement, Retention, and Retraining. |
| 4:00 - 5:00 p.m. | LOOKING AHEAD. |
| 5:00 p.m. | Adjournment |

ombudsman \'öm-bodz-men\ One skilled in dealing with reported complaints to help achieve equitable settlements

APPENDIX K

APPENDIX L

APPENDIX K

APPENDIX L

## APPENDIX K

This Appendix provides a sample Newsletter issued by the Corporate Ombudsman Association.

OMBUDSMAN News

Issue Three
Fall, 1987

## Budding Ideas

Dear Ombudsman:

At the end of our last conference, when we were discussing the contents of the Corporate Ombudsman Newsletter, one of the many good ideas thrown out was for Ombudsman to share ideas that they found helpful and useful in their function.

I would hope that some of you out there are thinking about just that...sharing your good ideas. And I would like to start the ball rolling by sharing with you one idea that I had that worked very well.

With the encouragement of Mary Rowe I have been, for the past year and a half, studying the process of MEDIATION believing that it would be of value in helping both employees and franchisees resolve problems. I began by reading a wonderful book by Christopher Moore entitled, appropriately enough, *Mediation*. Having really gotten hooked by then, I made it a point, when attending a conference, to sit in on those forums pertaining to mediation. Finally, I contacted a local non-profit agency here in Dallas, The Dispute Mediation Service, and offered my services as a volunteer mediator in return for their formal training.

As sometimes happens, when opportunity knocks, you are ready for it. Opportunity knocked in the form of a franchisee of ours who had a problem that could have eventually turned into a lawsuit. The franchisee, valuing the good relationship he has with the Company, suggested mediation! I contacted the management person involved in the dispute and he agreed to the process! We spent a total of about eight hours in mediation and both parties, working together with the guidance of yours truly as the mediator, resolved the dispute to the satisfaction of all concerned.

(Continued on page 3)

## 1987 CORPORATE OMBUDSMAN CONFERENCE

### The Association Reaches Maturity

by Carole Trocchio

*Based on the feedback from the 1987 Ombudsman Conference which was held in Marina Del Ray, California, May 19 – 21, 1987, the Corporate Ombudsman Association's fourth annual conference marked a milestone in the maturity of the Association. Comments reflected the solid substance of the talks and discussions, the sense of cohesiveness among members, and the rewarding exchange of ideas and support among professionals. A report on the Conference by Carole Trocchio follows.*

Fifty-one people, who serve a designated ombudsman function, attended the conference, representing thirty-one companies. In addition, attendees included some representatives who were interested in setting up such a function in their respective companies, and independent researchers and attorneys interested in the growth and development of the ombudsman profession.

The 1987 Conference was hosted by General Telephone of California through the efforts of Jim Webb, Marcina Thompson, and Georgia Byers.

Mary Rowe, Special Assistant to the President of MIT and President of the Corporate Ombudsman Association, opened the meeting and welcomed the participants. Ms. Rowe emphasized the need for participants to agree to maintain confidentiality concerning issues and/or case studies that would be discussed at the meeting and during the social hours.

After welcoming participants Ms. Rowe introduced the Keynote Speaker, Richard "Dick" Randall, Vice President, Douglas Aircraft. Mr. Randall discussed the resurgence of teamwork to the culture at McDonnell Douglas and remarked that the watch words to today's productive work environment were "sensitivity and the ability to listen."

Carole Trocchio, Franchise Liaison Manager, The Southland Corporation, conducted an audience participation case study which identified the many approaches an ombudsman might take when helping an employee with a problem, the ethical questions involved, and the consequences of the alternative courses of action that an ombudsman might pursue.

The results from the 1987 Research Committee Questionnaire were reviewed by James T. Ziegenfuss, Ph.D., and Lee P. Robbins, Ph.D. The questionnaire covered such topics as: ombudsman responsibilities, the nature and activities of the ombudsman role in private corporations, and the background and characteristics of those persons performing this function.

The afternoon session began with Harvey S. Caras, President, Caras & Associates, Inc., an Employee Relations Consultant who presented the Peer Review Grievance procedure for participants. Peer Review, Harvey stated, utilizes a fair and just process for resolving day-to-day workplace disagreements.

(Continued on page 3)

# FROM THE OUTSIDE LOOKING IN:

## Manager and Employee Perspectives on the Ombudsman Function (Research in Progress)

by Lee Robbins

Research on corporate ombudsmen has drawn almost entirely on data from ombudsman themselves. Researchers have obtained similar answers from widely different corporate situations signifying reliability of the data. Validity, however, (confidence in the model of the situation developed from the data) is threatened by sole dependence on a single perspective within a complex social system.

Our intention in the study now underway is to draw upon a wide variety of perspectives internal to the corporate system – and upon some external perspectives as well. Comparison with other models of conflict resolution will illuminate and validate the conclusions. Currently, the primary methodology is a series of open-ended interviews with individuals and organizational units with whom the ombudsman interacts – and with some who coexist in the same corporate system though they may have no direct contact with the function (e.g., the OD department may be influenced by knowing of the existence and nature of the ombudsman's work even without direct contact).

Those interviewed include senior and junior managers, ordinary blue-collar, and salaried employees (who may include past clients and their co-workers), and representatives of various employee groups (e.g., a minority employee's group). In addition some interviews with union officials are projected. To eliminate any concerns about possible sensitivity, these may need to be union officials not connected with the settings in which the ombudsmen work; though this reduces the relevance and face validity of responses, it increases the likelihood of answers not slanted for political or personal reasons.

The results will provide information allowing the function to be designed and developed taking into account the perspectives of the corporation and *all* its members, both managers and workforce employees.

**Current hypotheses:**

As the work is still in progress, no conclusions can be stated, but a number of hypotheses have emerged from early data. Readers of this newsletter should treat these as uncertain points to be considered for relevance and validity in their own corporate settings. The author would appreciate feedback from readers – *as well as hearing from readers who may wish to participate in the research.**

**Current hypotheses include:**

- A high level of satisfaction with handling of individual complaints by ombudsman clients and top corporate managers,
- but some dissatisfaction by middle and lower level managers who consider their decisions overridden or their competence questioned (e.g., "giving up the right to manage"; "our frustration is the people who go to the ombudsman first" though some also balance this with "the other alternative would be a higher level supervisor.")
- Lack of clarity as to *how* the function is to be integrated with other managerial practices particularly at the lower levels,
- possibly produced by initiation and design of the function from the top down *for* but not *by* the lower levels –
- a view suggested and further buttressed by unwillingness of top level managers to use the ombudsman in dealing with their *own* problems which they believe a top manager "should be able to solve for himself,"
- but *no dissatisfaction* expressed by union members or officials who tacitly support the function without official discussion,
- a position which may be explained by the view that "in traditional companies, management at lower levels is less ethically concerned...but the ombudsman is different from the traditional manager who has a bottom line, bonuses, meetings to attend and so forth on his mind" and by some indications that even relatively traditional manager appointed to the ombudsman position shift towards greater concern with the rights and feelings of individual employees.
- A heavy personalization of the ombudsman function occurs among top managers who refer to the individual occupant rather than the role in discussing the ombudsman office.
- Even top managers suggest a heavier policy advocacy focus by the ombudsman particularly on topics which are "hot", affect employees directly, and have no designated ownership (e.g., smoking). This position may indicate respect and support for the ombudsman function and also some concern about interference with managerial judgment when ombudsmen deal with specific cases. (Ombudsmen perceive themselves as having a stronger policy focus than do others.)
- In situations where the ombudsman serves a large population, clear knowledge about the nature and uses of the function is limited among both middle and lower level managers and workforce employees. It is possible that such a situation may be agreeable 1) to top management and 2) to an ombudsman already heavily burdened by the caseload.

*Contact Dr. Robbins at Human Systems Research/Management, 2013 Pine St., Philadelphia, PA 19103; (215) 545-1269; 546-5377 or Professor Robbins, Speakman Hall (006-00), Department of Human Resource Administration, Temple University, Philadelphia, PA 19122; (215) 787-6902.

## BUDDING IDEAS

(Continued from page 1)

With the help and support of our management and our legal department, we are now working to communicate that the mediation process is available to franchisees and management as an alternate method of dispute resolution.

Mediation is not a cure-all, nor is it appropriate in all situations. But, I believe that it is another skill that the Ombudsman will find useful in helping to achieve equitable settlements. I have also used the mediation process to help resolve problems between a supervisor and a subordinate. This was over a year ago, and they are still working together.

I know some others of you are trying new ideas and new skills in the performance of your job...let us hear from you!

Sincerely,
Carole Trocchio

## CONFERENCE

(Continued from page 1)

Lewis Redding, MIT Lincoln Labs, moderated a panel discussion addressing the subject of the ombudsman working with other Human Resource colleagues. The panel consisted of Gregg Raudabaugh, The Southland Corporation, who discussed the opportunities of working with the Security personnel; Hugh Harrington of McDonnell Douglas, working with the Human Resource Department personnel; and James Hendry (retired) of the World Bank and his experiences in working with Employee Assistance Personnel. Lewis discussed the Lincoln Lab relationship with the ombudsman.

On the morning of the second day, Mary Rowe discussed "How to Deal With Immoral, Unsafe and Illegal Problems" and presented several case studies in which the audience actively participated.

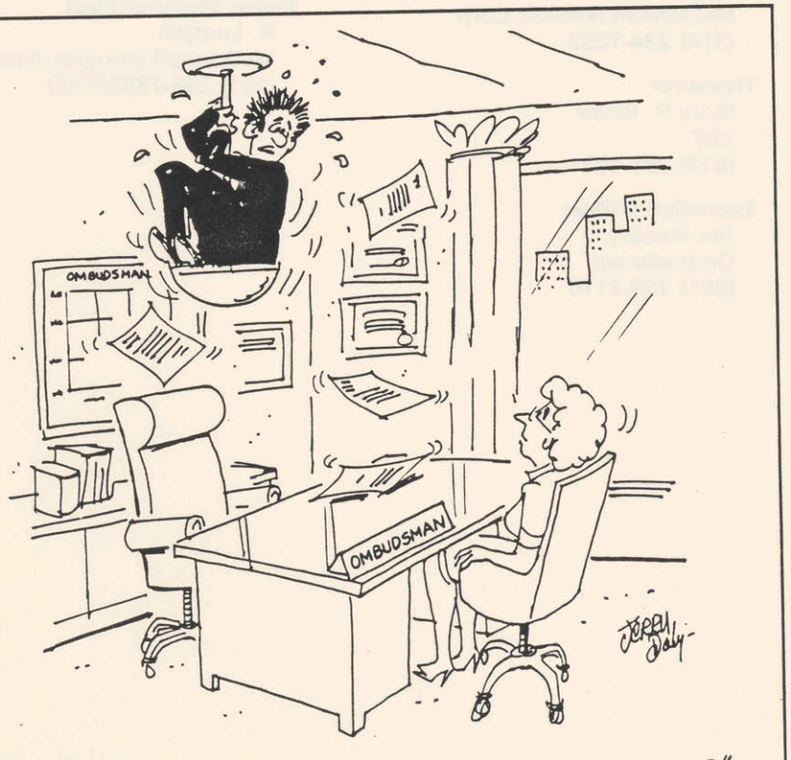
Ms. Rowe was followed by James Simon, Esq., who discussed the most recent aspects of an ombudsman's duty to warn, and Jerome Weinstein, Esq., who offered some thoughts on the ombudsman's relations with the Union.

Other legal issues were discussed and handouts distributed concerning New Issues in Testing the Work Force: Genetic Diseases.

How an ombudsman may provide System Feedback to their respective management was the topic of the last panel of the conference with examples presented by: Jim Hendry, (retired) World Bank; Virgil Marti, McDonnell Aircraft Company; Tony Perneski, AT&T Bell Labs; and Hugh Harrington, McDonnell Douglas Astronautics Co.

James Hendry, (retired) World Bank, then discussed the draft of the Corporate Ombudsman Handbook that he had developed and that had been distributed to all participants. He requested that everyone review its contents as soon as possible and provide feedback on the contents by September 15, 1987.

Mary Rowe then turned the Presidency of the Corporate Ombudsman Association over to Carole Trocchio for the coming year. All Board Member positions having been filled for 1987-88, the meeting was adjourned. The next Corporate Ombudsman Conference is tentatively scheduled for May 24 – 26, 1988 in the Boston, MA, area.




"WHAT MAKES YOU THINK YOUR PROBLEM STARTLED ME?"

Contributed by E. F. Dubil, Douglas Aircraft Co.

## LETTER FROM THE EDITOR

Dear Colleagues:

Our next issue is scheduled for Spring, 1987. As stated in Carole Trocchio's column BUDDING IDEAS we want you to share your thoughts and creative ideas. I especially ask for your suggestions on special columns or articles. What else would you like? I welcome feedback about the newsletter. Please call or write.

Kitt Kitterman

## CODE OF ETHICS

This Code of Ethics was adopted in 1986 by the Board of Directors.

**I.** The Ombudsman, as a designated neutral, has the responsibility of maintaining strict confidentiality concerning matters that are brought to his/her attention. The only exception, at the sole discretion of the ombudsman, is the instance of threat to the physical safety of others and/or threat to company assets. This duty to warn, however, shall be initiated only after the ombudsman has strongly counseled with the client involved to encourage the client to personally come forth. In the event the client still refuses, the ombudsman has an obligation to notify the client of the intended breach of confidentiality in this situation. Even then, the ombudsman has the responsibility and obligation to discuss the situation only with those who have a need to know.

**II.** The ombudsman has the responsibility to insure that any records or files pertaining to confidential discussions with clients are safe from inspection at all times by other employees, including management at all levels.

**III.** The ombudsman has the responsibility, when recommending actions as a result of impartial investigations, to make recommendations that will be equitable to all parties and reflect good business practice.

**IV.** The ombudsman has the responsibility to behave in a professional manner at all times, to maintain the credibility of the ombudsman function.

**Fall, 1987**

THE OMBUDSMAN NEWS is published under the auspices of the Corporate Ombudsman Association, a nonprofit organization, incorporated under the laws of the State of Massachusetts.

**PUBLISHER & DISTRIBUTION**
Virgil Marti
McDonnell Aircraft Corp.

**EDITOR**
Kitt Kitterman
AT&T Bell Laboratories
Room 6T-103
Naperville-Wheaton Rd.
Naperville, IL 60566
(312) 979-6100

**LAYOUT AND DESIGN**
McDonnell Aircraft Company
Graphics Department

**ASSOCIATION BOARD OF DIRECTORS:**

**President and Secretary**
Carole Trocchio
The Southland Corp.
(214) 828-7944

**President-Elect**
Virgil Marti
McDonnell Aircraft Corp.
(314) 234-7052

**Treasurer**
Mary P. Rowe
MIT
(617) 253-5921

**Executive Officer**
Jim Hendry
Ombudsman
(301) 229-5110

**Board Members**
Ann Bensinger
United Technologies Corp.
(203) 728-6447

Kay Buckler
General Electric Co.
(513) 243-3561

Kitt Kitterman
AT&T Bell Labs
(312) 979-6100

Tony Perneski
AT&T Bell Labs
(201) 582-6795

Gregg Raudabaugh
The Southland Corp.
(214) 828-7945

Lewis Redding
MIT
(617) 863-7064, x70

**Board Member-Elect**
H. Luetjen
McDonnell Douglas Astronautics
(305) 268-7592/7109

APPENDIX L

## APPENDIX L

This Appendix contains several case studies, selected to illustrate the range of problems with which an ombudsman comes into contact.

Case Study -- Handling Stress

Donna Reeves joined a manufacturing firm about ten years ago as a secretary. She was personable and pleasant, got along well with colleagues and supervisors, and was hardworking and willing to help others when the work load was heavy. She was very quick to learn word-processing when this was first introduced, and she subsequently began to familiarize herself with computers. Her evaluations were always very good and her work was much appreciated, but there was an undercurrent throughout that her attendance was occasionally a problem -- she would be late for work, or would take more than average sick leave (though usually this would be within the sick leave to which she was entitled), or would take long lunch periods. This problem was discussed with Donna from time to time, and she would agree that her attendance had been erratic; for some time thereafter there would be improvement. Eventually, however, the erratic attendance would recur.

While Donna would agree that her attendance had been poor at times, she also placed part of the blame for this on her generally poor health status. She had a child about five years ago, and subsequent to that her health had never been robust. It was not until early 1984 that her problem was accurately diagnosed for the first time and a difficult surgical procedure was performed, after which Donna felt much better and her attendance improved. Her technical skills were so much appreciated that she was recommended for promotion in mid-year, but her supervisor held up the promotion on grounds that more time was needed to ensure the attendance problem was indeed solved. Donna was naturally disappointed, but continued in the improved attendance pattern in hopes the promotion would soon materialize.

Later in the year, Donna had a leg injury which required hospital treatment, and as a result she was absent from work for about ten days. Although she had used both sick and annual leave freely, she had enough annual leave left to cover a vacation in December-January of 1985. She applied for this leave, and her supervisor approved it. Upon her return in January she had a miscarriage, which

required some days away from work, and shortly thereafter she was in an automobile accident. Her injuries were not serious, but she did remain out of the office for a few days. By March of l985 she had used up all accumulated sick and annual leave.

At that point her supervisor showed her a draft memo which said that the promising performance of early 1984 had reverted to the troublesome attendance of earlier days. It further noted that she had exhausted her annual and sick leave and the supervisor was uncertain whether any accomodation would be made to cover the leave deficiencies, and she was warned that if her attendance did not improve she would be removed from her unit and probably the company as well. The language and tone of the memo were cold and formal, there was nothing to indicate awareness of the verified medical basis for the extensive leave-taking, and little scope for resolving the different perceptions of why attendance had been erratic.

Donna became extremely distraught, and in this anguished state sought help from both the Employee Assistance Program (EAP) and ombudsman. With her full agreement, these two consulted on how to resolve the problem and agreed that the first step would be a thorough review of Donna's health status. This revealed she was in an extremely upset mental state which required treatment, and that this had been building for some time accounting for poor attendance and frequent absences from her desk. The ombudsman and EAP, working together, were able to make arrangements to place Donna on leave at less than full pay because her leave had been used up. This could not be extended indefinitely, but it was a basis on which to start Donna's treatment.

When Donna's therapist considered she was ready to resume work, she did not want to return to her former unit because of the negative associations this entailed for her, but also found it hard to contemplate interviews elsewhere without breaking down. All of this increased her anxieties because she faced the likelihood she would reach the end of her leave-at-reduced-salary without landing another assignment, and would then be terminated. This was hard enough to accept in her emotional state, but the irony was enhanced by the fact she was in this predicament not

because of deficiencies in her skills, ability, work attitude or personality, all of which are excellent, but because long-standing medical problems were improperly diagnosed at early stages.

1. Do you agree with the actions taken by EAP and the ombudsman?
2. Should this case have been reported to the supervisor's manager?
3. Should some limit be placed on the time allowed to restore Donna to full operational effectiveness? How determine the limit?
4. What are the key issues posed here?

Case Study -- Substance Abuse

Anne Pratt was an assistant level staff who combined some secretarial duties with research and editorial assignments. She had worked for the corporation, a banking firm, for about 15 years and had compiled a very good file. She had risen quite rapidly from entry level secretary, and supervisors commented on her conscientous performance, her high standards and her professional attitude. She was something of a "loner," however, and did not have any close friends in the organization; she had made several transfers in the course of her career, each time at a level equal to or better than the one she had at the time of transfer. Anne was in her late forties, lived by herself, and did not have family living in the city where she had worked for so many years.

When Anne came to the ombudsman she was very upset and emotional about the harassment she was receiving from her supervisor and from her colleagues in the office. The latter were telling stories about her --"malicious gossip" in her view -- and the supervisor had shown her a draft evaluation that said her performance was unsatisfactory in several respects and would have to improve substantially. Points singled out included inability to get along with colleagues, unreliability in dealing with work assignments, erratic attendance and unwillingness to help other colleagues when needed. Since this was so contrary to what appeared in her file from earlier assignments in other units, Anne was very concerned over what this would mean for any future career with the bank. She said that she would resign rather than permit the unfavorable assessment to go into her file, and asked the ombudsman if there were any way to correct the evaluation so that it would be more positive. The ombudsman agreed to look into the situation if Anne agreed that others might be consulted, which she did.

The ombudsman read Anne's file, talked with the personnel officer handling Anne's unit, and talked with people who had worked with her. A pattern emerged from these discussions that seemed quite clear. Anne would start off in an

assignment with much enthusiasm and in a general atmosphere of support and pleasure that she had joined the new unit, but in time this began to erode. She became demanding of others, refused assignments that did not please her, became unreliable in attendance and in completing work on time. The attendance record showed a long-standing tendency to take leave on a Friday, or Monday, or both. Her personal relationships with colleagues and supervisor would grow increasingly acrimonious, and she was regarded as a "difficult" person to have around. Little of this appeared in her file, however, because supervisors were afraid that poor evaluations would make it difficult for her to transfer elsewhere, and to a person the supervisors saw their solution to the problem as moving Anne to some other unit.

The ombudsman consulted Employee Assistance Program (EAP) on a "blind" basis, i.e., the facts of the situation were related but without identifying the staff member. EAP felt that, from the information the ombudsman provided, the case seemed to follow a pattern of alcoholism, and suggested the ombudsman refer the staff member to EAP for an assessment. The ombudsman did this at a subsequent meeting with Anne, saying that a meeting with EAP seemed indicated by the facts that had been uncovered about Anne's record and her relationships with other staff. These were consistent over a considerable period of time and from a wide variety of people, and were difficult to reconcile with Anne's perception of the same body of experience. Since the ombudsman was a lay person, there was no way to determine whether some health-related problem might be responsible for the discrepancy. The only course was to consult with EAP, which was in a position to make a professional assessment, and after that there might be some way for the ombudsman to assist in sorting out the problems.

Anne considered this response briefly, but rejected it on grounds "there was nothing wrong with her," and she didn't want it on her record that she had consulted EAP. Efforts to reassure her that nothing of the visit to EAP, or any subsequent medical treatment which might grow out of the visit, would appear in her personnel record were unavailing. She thereupon resigned within two days of this last meeting.

1. What are the legal and ethical issues of this case?
2. Did the ombudsman act properly, in your opinion?
3. What should an ombudsman do if no EAP were in place?

Case Study -- Racial Issues

Mr. Harding, now 58, has been considered the best plant manager anywhere in his company, Stratego Aero Corp. A genius at keeping production running on schedule, Mr. Harding has turned in an impressive performance, year after year, in Minnesota, in upper New York State and in New Hampshire. Top management at the corporation has hoped that Mr. Harding would stay until age 65, and has decided to try to use him to train the next generation of plant managers. With defense funding on the increase Mr. Harding is a very highly valued manager. Some months ago he was sent south to a new plant.

Mr. King is the up and coming assistant plant manager at this new plant in the south. Stratego Aero has been particularly pleased with Mr. King, who is black. They are happy to have a minority person in a position to grow into the top job at a plant where well over half the employees are members of a minority. Even more to the point, Mr. King's technical skills are superb. Stratego's management is particularly hoping that Mr. King will be a successful apprentice to Mr. Harding and take over the plant in a year or so.

Back at corporate headquarters a call came in for the division head. He was surprised to hear a very angry Mr. King upset with Mr. Harding. "I do not need this job," said Mr. King, "but I wouldn't quit without giving you fair warning." The problems mainly concern Mr. Harding's style. He had decided the plant would not observe January 20th as a holiday (for Stratego, nationally, this had been made a local option). Mr. King did not like the decision, but was particularly hurt when Mr. Harding made a crack about wanting a "King holiday." Mr. King also alleged that Mr. Harding was often patronizing, and occasionally told offensive jokes about Africans that relate to cannibalism, gorilla behavior and worse. He charged that Mr. Harding did not wish to delegate responsibility, had downplayed Mr. King's superior technical expertise, interrupted Mr. King in meetings, and failed to invite him appropriately to dinners with visitors from corporate headquarters.

Mr. King reports that he tried to stay calm for several weeks, to be reasonable and learn everything possible from this incredibly experienced superior. Nevertheless, he hates the feeling of either being invisible or being treated as a not-too-able EEO statistic. Until recently Mr. King thought things might improve when the two senior managers got to know each other better, especially since Mr. Harding had been quite circumspect in public, and was possibly uneasy because he had never had a black colleague before.

The day previously, however, Mr. Harding had shown his true nature in public. Several black employees had come to the central office concerned that equipment manufactured by Stratego was getting to South Africa via a European intermediary. Mr. Harding, in dealing with the question, had focused on Stratego's economic importance to the local community, managing to imply that these black employees would never have been able to find employment without Stratego's help. What was worse, Mr. Harding had gotten off on the subject of how black South Africans would never be able to run their own country, even if they had a chance. The employees were very angry, and Mr. King warned that either Mr. Harding goes or he does.

The division head placed a call to Mr. Harding, who saw the whole affair quite differently. Mr. King had potential, was learning the ropes as fast as might be expected, but seemed a bit sensitive on racial issues. In fact, Mr. King had missed a chance to show real leadership over the South Africa question, and this made one wonder how fast responsibility can be delegated to Mr. King. It had been an opportunity for Mr. King to show some company loyalty, since it was "obviously absurd" that Stratego would send equipment to South Africa and, in any event, the employees were Mr. King's "own people." In light of these comments by Mr. Harding it was clear to the division head that some steps were necessary to resolve what had emerged as an extremely serious problem, with the prospect of serious loss for the company if not handled properly.

1. What should the division head do?
2. Is there a role here for an ombudsman?
3. How would you classify this situation -- discrimination, harassment, other?

Case Study -- Disciplinary Action

Mr. Tobin is an engineer with a long and successful career with Construction International. His career entailed frequent travel and discussions with senior officials throughout the world. His personality was somewhat reserved and aloof, but on the whole he was polite and proper in his dealings with clients and colleagues. Some people enjoyed his dry and sardonic wit; others found it condescending and biting. Mr. Tobin was a "workaholic" who pushed himself and colleagues to high levels of performance, and the results of his efforts were well-received by managers. Nevertheless, he was not regarded as an easy person to manage, in part because he was independent-minded and held strong views on technical matters, which he made little effort to present in diplomatic terms. As the result of his solid professional performance he was given a managerial position at the starting level for such posts; he had served in that capacity for three years.

In the summer of 19__, Mr. Tobin's managers received notice that he had been charged with child abuse. The charge reflected incidents occuring over a period of time, and on several occasions, with children of visitors to his home. The managers did nothing to inform staff of the department about this, although an account of the charges was carried in local newspapers and the situation became widely known within the corporation.

The case was brought to trial in December of the same year, at which time Mr. Tobin pleaded guilty to the charges. Some of Mr. Tobin's colleagues and managers submitted written references to the Court on his behalf. The maximum sentence under the circumstances was ten years, but after reviewing the submissions by prosecution and defense the Court handed down a very light prison sentence, plus some community service and probation for the period of maximum sentence, with the stipulation that Mr. Tobin participate in psychological/psychiatric treatment as recommended by his Probation Officer.

After lengthy discussion between managers and the Personnel Department, a

decision was made to allow Mr. Tobin to return to his department in a non-managerial capacity for a six-month term to see whether his return to full active status would be feasible. The reason for this was largely a "compassionate" one -- there was no desire to punish Mr. Tobin further for something which the Court had treated with a high degree of leniency under the circumstances.

This decision was communicated to staff in a departmental meeting. When the meeting ended, the department head came away feeling that staff had been receptive to the idea of Mr. Tobin returning to duty. There had been no discussion of details of the case or the Court's findings.

Shortly after the meeting, however, several of the staff protested the decision vigorously to personnel officers and others in the corporation. First-level managers were also becoming aware of strong negative reactions by many employees. In an effort to defuse the situation, the ombudsman was asked to look into the matter and make recommendations to the Dirrector of Personnel on how to handle Mr. Tobin's case.

The ombudsman made himself available to meet with any member of the department who wished to discuss the case. The views of staff members were by no means uniform, but a few patterns did emerge -- a sizeable majority felt that some position should be found for Mr. Tobin in the corporation, but not in his old department; women were divided evenly on the question of return, but men were heavily in favor of reinstatement; most professional staff favored the return, but a majority of support staff were opposed.

Reasons for opposition included revulsion over the nature of the crime, sympathy for the victims, and a feeling that light treatment was given Mr. Tobin because he had been a manager and that support staff would have been treated more harshly, even for lesser offenses.

Those favoring his reinstatement in the corporation cited religious beliefs which led them to favor clemency in the case, Mr. Tobin's previous record of high performance levels and good behavior, a feeling that the Court had decided the

punishment which the crime deserved and further punishment was not called for, and a need to provide an environment and an opportunity for Mr. Tobin to proceed with the rehabilitation efforts which the Court had ordered.

1. What would your recommendations be, as ombudsman?
2. As a senior manager, responsible for a decision, what would your decision be? How would you carry it out?

Case Study -- "Whistleblowing"

Don Goluff is an international division manager with an oil drilling equipment manufacturer. He has long years of service with the company, and is a respected and highly skilled manager in the social and political maneuverings needed to do business abroad. Don and his subordinate operations manager have received kickbacks from some of their large foreign accounts in exchange for early delivery dates on drilling equipment. The unexpected death of the operations manager has led to a reassignment in management positions. By default, Harry Jones, operations manager for the North America Division of the company, has been reassignmed to the vacated position.

Shortly after being reassigned, Harry found out through the plant manager that equipment orders and expected delivery dates for the country of Suliya were given top priority. This caused chronic late deliveries to other foreign countries, and subsequent loss of repeat sales in some cases. The division struggles to win and maintain new foreign accounts. In a discussion with Don, however, Harry is given to understand that the division's business operations are in good shape and in no need for an overhaul, i.e., don't rock the boat.

Several months later, Harry goes to Suliya on his own to negotiate his first foreign contract. In the midst of contract negotiations he realizes that kickbacks are going to be paid to the division through an elaborate scheme. Not knowing who the kickback recipient is, Harry contacts Don and asks for guidance. Don suggests that Harry do the "right" thing, adding that Suliya is the division's most important foreign account.

Harry is panic-stricken and realizes that he has been put in a "no-win" situation. He quickly mulls over as many facts as he can to determine his plan of action. These facts include the following:

(a) Don's secretary is an expatriate of Suliya, the foreign country that generates 50 percent of the division's profits. She is married to the division

controller's son.

(b) The Foreign Minister of Suliya is surprised and visibly upset that Harry is unaware of Suliya's methods of doing business.

(c) Harry realizes that the sales to Suliya are the foundation for the success of his division.

(d) Harry is responsible for bringing back a successfully negotiated contract from Suliya.

1. What should an ombudsman advise, if consulted on this?

2. What are the legal and ethical issues raised by this situation?

3. Is it possible to provide safeguards for Harry if he tells what he has discovered?

Case Study -- Harassment

Sally Meek had a problem. She has worked at Lemon Communications for about one year. She is one of two female employees who were hired at the same time by the same male supervisor. During the course of her employment, Sally has noticed that her co-worker appears to receive "meatier" work assignments, even though Sally has greater experience and a more advanced degree. Sally also notices their boss spends more time with her co-worker than he does with her, and that he is more tolerant of her co-worker's "stupid" questions than he is of Sally's.

As time passes, Sally's boss makes derogatory remarks about Sally's appearance and lifestyle, and makes lewd comments in front of both women. He even makes rudely obvious comments about the logo of a company for whom they are creating an advertising campaign (the company's logo is that of a large bull). In addition, Sally's boss is often short and curt with her.

Since he is her supervisor and a "star" in Lemon Communications, Sally feels she cannot speak to him or to his boss about his behavior. However, she has gone to Personnel for advice and counsel several times. During these visits she does not request Personnel's intervention. She also seeks out the Company's Ombudsman, but requests that the Ombudsman "not do anything."

Finally, Sally can take it no longer and resigns. She also sends a letter to the President of Lemon Communications claiming she has been sexually harassed and implying that no one has lifted a finger to help her. The President flies into a rage and demands that the Director of Personnel and the Ombudsman come to his office immediately.

1. Why might the President of Lemon Communications be enraged?
2. Is there anything the Director of Personnel might have done in this situation?
3. Is there anything the Ombudsman might have done in this situation?
4. What legal issues are raised by these events?