

1 { DRAFTS & COMMENTS ON HBR article "Non-Union
complaint systems}

1983-1984

(for HBR)
This article was
among the first EMS
"systems"
articles

I sent drafts to a dozen
colleagues + senior
officers

04

1983

HBR
article

This may
have been (among)
the first
"systems"
article

HBR
ack

officers

04

1983

HBR
article

This may
have been (among)
the first
"systems"
article



HBR article 1983

Rowe, Baker

(Should this paper begin with an example?)

Extraordinary tension fills the whole building. Heavy new equipment is coming in, three stories high, surrounded by scaffolding and catwalks. Sullen scientists and engineers try to finish the set-up in record time; their much hated division head "wants it yesterday;" DOD visitors are due next week. An engineer high up seethes from the steady weeks of harassment from his supervisor. He is very tired. He is smoking again heavily. And two beers over lunch have in no way soothed the engineer's fury. He fails properly to ground this experimental new equipment. Next to him an engineering assistant kicks a heavy wrench which bounds off the scaffolding below. He is absolutely furious about losing the third weekend in a row; an exempt employee, he will not even get overtime like the security patrol who are also putting in long hours.

You are a middle level manager. Do you ever feel unjustly treated; have you ever thought something at the company was really wrong? Do you ever feel absolutely like blowing your top? Wish you could talk over how to deal with your boss? What should you do if you are one of the 3/4 of the labor force who are not in unions? Suppose you were an engineer or secretary or salesperson; how would you raise a serious problem or complain?

When a person feels unfairly treated at work, or perceives something there to be unethical or unsafe, ^{or inefficiently organized,} at first he or she may just want to be heard. At first one may just want to talk it over, to see if this situation is wrong, to have one's

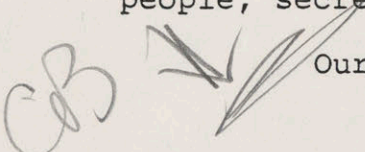
feelings affirmed. If things get worse one wishes for decisions to be reviewed, for decisions to be changed, for these problems to be prevented in the future. Then, ^{if the problem creates ill-will,} comes the need to be protected from loss of privacy and retaliation. As one gets angrier one ^{may} seeks restitution and reparation. Angrier still, the aggrieved person will look for the offender to be punished or for punitive damages. Finally a person may begin to seek revenge, at first perhaps focussed on certain people, at the end perhaps randomly, at anyone.

Managers and foremen, secretaries and engineers and scientists are as likely to feel this way as anyone else. The source of frustration and rage may be different. It's often a colleague or a subordinate who is the problem. Or it may be a vice president. "I have to be nice to the bastard because he has connections upstairs;" "affirmative action has tied my hands but this woman is making everyone completely miserable;" "because we need him, he thinks he's God;" "that plan for building new capacity is completely half-assed; how can I get him to listen?" But, manager and employee, the internal responses may be the same, and what to do?

Faced with these feelings angry people and offended people have many options. One may do nothing about the problem at work, perhaps losing one's anger in sports or taking it out on the family. One may take the concern in a peaceful way to the offender, or to a supervisor, or non-union complaint procedure, perhaps to an inhouse ombudsman. One may leave the job; one may begin to "go slow" at work. Many people turn their

anger inward and get sick. Others may engage in petty sabotage, urging fellow workers not to work so hard, or begin to pick on employees junior to themselves. Some workers will begin to organize inside or outside the company. Some will become destructive gossips, a few will go to regulatory agencies or the newspapers, some will go to court, some will begin to take active guerilla action: theft of company secrets or property, sabotage. Conscious or unconscious "ambushes" may ensue, in which a hated supervisor is set up for failure, or a coworker or oneself for an accident/ ^{as in the true incident cited above.} Worst of all come serious threats of focussed or random violence, and then, violence itself. Probably no major US company has been free from serious problems of this kind. 1982 saw celebrated cases of multiple murder, expensive whistle blowing, product contamination which may have been the work of a former employee. Behind closed doors there is a much more common picture of concern: threats against managers (many of whom feel very much alone in such circumstance), hugely expensive theft, lethal accidents.

Of the options above, only two are likely to be constructive from the point of view of management and employee: for the offended person to leave may be in the best interests of the employee and of the company (or it may not). The other constructive option is to take problems peacefully and directly back to the offender, or to a designated complaint system. What kinds of systems exist for non-union managers, professional people, secretaries and others?

 Our experience indicates that many companies still

expect aggrieved non-union employees not to complain, especially if they are managers. If one absolutely had^s to talk, one would ~~is~~ ^{be} expected to use the supervisory chain. Going beyond one's supervisor or even to one's supervisor however is often seen as either suspect or useless. In this traditional view, subordinates, especially white collar workers, are expected always to back their supervisors loyally, and managers always to back their submanagers as a matter of principle, ^{(up until the moment of firing them).} Many companies also have no public, comprehensive set of personnel policies and procedures appropriate for and available to non-union employees and managers. ~~This is the traditional picture of untrammelled "employment at will."~~

The message from the employee's side is different. Older people, young people, minorities, high-tech professionals, and women are ^{now} very likely to feel they have a right to be heard. At least as important are the white males who see others with special protection and are beginning to want due process for themselves.* "You mean Suzie Jones has some recourse if she just gets her bottom pinched, and I can't do anything about it if my boss shouts obscenities at me and expects me to be here every goddamn weekend because he can't plan ahead?" Foremen and middle level administrative officers, who feel harassed from every side, are particularly likely to feel they need ^{but have no place} a place to go to seek support and advice.

Complicating this picture in high-tech industries is that fact that many technical supervisors are promoted for their

*See Ewing, David, HBR (Nov.-Dec. 1982); Westin, Alan in ILR Report, Fall 1982; Mark Schreiber, Mass. Law Review Spring '83.

technical competence, know little if anything about managing people and greatly resent having to learn. They don't want to be complaint handlers in the chain of command, don't know how to do it, and ^{often feel they} don't know how to handle their own concerns.

Another major question in such companies is how to capture creative suggestions where group leaders don't know how to deal with conflict and diversity. (Example here?) All in all, the supervisory chain is no longer enough, even though most supervisors most of the time do an excellent job.

Beyond supervisory channels, most major companies now allow or expect concerned and offended persons to go to Personnel. Indeed many undersung Human Resource Offices handle complaints and other problems with skill and grace. Personnel officers sometimes act as advocates as an appeal goes up the chain, sometimes join a final appeals committee; sometimes a senior Human Resources Vice President is a major point of appeal in a complaint process. In some corporations there is a separate Personnel chain of command and any employee may appeal upward through supervision, upward through Personnel, or both. A few companies such as TWA, Northrup(?), Polaroid and the Life Saver Division of Squibb offer outside arbitration as a final non-union appeal mechanism from such chains.

Most such programs do better than just the supervisory channels for several reasons. First since the extra channel is likely to be publicized, non-union people are more likely to learn they have some kind of recourse instead of no recourse. Second, trained human resource people are likely to begin to

codify and disseminate non-union policies and procedures and to help train supervisors (formally or informally). Third, any separate channel begins to provide "checks and balances;" both review of possible abuse and the threat of such review help to keep people concerned with due process. The "supervisory chain of command" is itself much more likely actually to function with respect to complaints if there is also an alternate channel that works.

But for many reasons this also may not be enough. Personnel keeps the formal files and the informal oral history about an employee; many fear loss of privacy, or subtle retribution for being a complainer. Many employees fear telling Personnel about their personal (but work-related) problems: alcoholism, drugs, affairs, harassment, divorce. They may fear being seen as a tattletale; they may fear Personnel actually taking action without permission. Also many angry employees see their problems in all or nothing terms. A "neutral" personnel manager may easily be seen as a company fink: "He who is not with me is against me." This is especially likely if Personnel people (and supervisors) are all gray flannel white males; minorities and women may not trust them. In addition some employees may really want their issues "heard at the top;" they feel Personnel underlings won't or can't affect the problems they want raised. Or they may feel only the top has the information they seek. Or they think Personnel can't handle co-worker problems: smoking, bad temper.

Technical employees may fear that Personnel people simply won't understand the issues; many engineers just don't consider such a channel. Safety issues and public policy issues may seem

inappropriate for Personnel offices. Managers may not feel they can take their frustrations, or seek advice, or expose their problems through this channel. Also, bizarre problems occur.

"My supervisor is exposing himself;" an odd scientific colleague never speaks and sleeps under his desk; a close co-worker smells; someone is thought to be contaminating reagents in a lab.

Often people just do not consider taking such problems to Personnel.

Finally there is considerable reason to believe that many people very much want to "handle their problems themselves," even though they may not be able to or believe they can't. They may then avoid formal channels, though they wish they had help. Since most people can easily find unconstructive ways to "handle things themselves," these are the employees most likely to cause difficulty for themselves and others.

*what actually most
for is that
in using
formal channels.*

Most major companies have therefore opted for other varieties of services, which either serve among other purposes as complaint systems, or are directly designed to deal with concerns and complaints. Major functions include:

- .communications and information in both directions;
- .employee assistance, medical and counselling services;
- .support to due process, both of complaints and in disciplinary matters;
- .employee contribution to policy-making and participation in policy making;
- .support to employees, and in-house management consulting for managers, to be able to act constructively on their own;

.in-house mediation of matters where there is no clear-cut or widely accepted contractual agreement or "right answer," where even the problem is unclear.

The non-union complaint systems we have observed vary considerably from company to company in many major dimensions:

1. In the scope of the issues that may be raised in the system; (some allow "any concern," some explicitly encourage suggestions and recommendations for changes in policy, some permit or except certain kinds of employee issues, for example, safety; EO; conditions of service and remuneration; discipline, personality conflicts, the handling of professional and technical disputes).

2. In the designation of who may use the service: (e.g., any non-union employee including managers; only certain pay classifications; only those with a certain problem, e.g. harassment).

3. In the presence or absence of other services in the system (for example, multiple different complaint systems either in different subsidiaries or for different types of employees or both; and in the role that other services may play in the system (some complaint procedures exclude the simultaneous use of other channels, e.g. appeal outside to the courts; some explicitly encourage or permit simultaneous use of other services, e.g. Personnel, a hotline, employee assistance, an ombudsman).

4. In the presence or absence of fellow employees as one brings a complaint; as one is called to an investigatory or disciplinary hearing; on an appeal committee; in a policy-making committee.

5. In the explicit presence or the de facto absence of certain kinds of people in the complaints system: e.g. "perceived

peers," such as technical professionals, fellow RN's or M.D.'s; minorities; women.

6. In the type of "final" internal authority provided under the system (final decision by someone immediately involved in the chain of command, final decision by some (internal) "third party": an Appeals Committee, the ceo, a Personnel Vice President).

7. In the presence or absence of any appeal to outside private arbitration as part of the complaint system.

8. In the basic philosophic charge to those who work in the complaints system: as neutrals with an explicit charge to safeguard the rights of everyone concerned in a complaint, as advocates for the complainant or questioner, as "defenders of the company;" and in approach: management vs. employee, or "the long-run interests of this corporation are congruent in whole or in part with those who have been wronged or partially wronged, and we solicit good ideas from every level." This latter approach is not only non-union but non-adversarial.

9. In whether the system will or will not handle anonymous concerns and complaints, in whether it is explicitly set up to provide private and confidential service, in whether it is designed mainly for hopefully rare, formal, step-by-step use or mainly for high volume, informal contacts, or has provision for both.

10. In whether the complaints system is explicitly designed to provide management with data on employee concerns, in general analysis of the use of the system, in official ombudsman reports, and/or individual feedback to specific managers in a manner consonant with confidentiality.

Discussion of Specific Programs follows here. This is an index page which will not appear in the paper.

Speak Up, Q. Line, Answer Back, suggestion and question boxes, person to person, Skip Level. (Michael?)

Attitude Surveys, exit interviews, review of performance evaluations. (Michael? Mary?)

EA, EAR, HMO's, Medical depts., nursing stations, MSW's, etc. (Sikorsky, CD, Sanders). (Michael; Mary)

Mentoring (Bell, Jewel, TRW?, MIT).

Specialized complaint processes (safety-TVA?; EO; sexual harassment procedures in government agencies and universities).

Employees' right to be accompanied in disciplinary hearings (cite the case); when bringing complaints (?, ?, MIT), in policy making committees and councils (CBS? Pitney Bowes?); on appeals committees (?, ?).

Support to formal networks (Bell operating companies, Bell Labs???? MIT).

Complaints channels (Open Door, Ear, In plant Counsellors, "housemothers," Employee Coordinators, "mediators" (Carleton), troubleshooters, ombudspeople, (McDonalds?, Anheuser-Busch?, Bell, EAR, GE, GM, MIT?), outside arbitration (TVA, Bank of A). (Michael to write Open Door and EAR? Others?)

Discussion of Specific Programs

There would follow here sections by Michael or communications mechanisms, attitude surveys, etc., and the beginning sections of EA and EAR.

Michael: Paragraph to follow on employee assistance and EAR.

Some companies have major, in-house medical facilities or access to full scale medical facilities; some have ubiquitous nursing stations. In many such situations, nurses, social workers and other head the care practitioners serve as informal complaint handlers. In some companies nurses are expected regularly to give feedback on major issues of concern to employees. In others medical practitioners serve mainly in giving strong support for employees to handle work related problems better on their own. Many cases of harassment, for example, and some kinds of safety problems are brought to health care people, who often act very skillfully to support employees in taking responsible action.

Mentoring Programs (Jewel Co., Bell Lab, MIT)

Formal and informal mentoring programs appear to be spreading, (albeit slowly,) especially in technical industries. In formal systems mentees are assigned to specific mentors (in addition to their supervisors). These assignments may be just for the first six months or regularly throughout employment. One plan assigns same-sex, same race mentors ("hosts") for the first months, and then the "host," supervisor and new employee together choose a longer term mentor if desired. Informal plans seek to teach all employees and managers their responsibility both to find mentors and also to act as guides and sponsors for others in their turn.

Mentees are usually explicitly encouraged to raise concerns to their hosts and mentors as well as to their supervisors. These sponsorship systems then serve as specific complaints channels with

the senior person often acting as a mini-ombudsman. Anyone who has been such a guide and teacher moreover may be more likely to seek a responsible channel for his or her own complaints and concerns.

Specialized Complaint Processes

Paragraph to follow discussion of specialized complaint processes on safety and EO (by Michael).

Another example of specialized complaint processes are the relatively common special procedures for sexual harassment complaints. EEOC Guidelines mandate development of appropriate policies and procedures (and training) in this area. Many companies and educational institutions prefer to have sexual harassment complaints handled by whatever general complaint procedures exist; (? , ?) Some, like MIT, not only direct sexual harassment concerns through general service offices and complaint procedures, but have also adopted a general "harassment policy," which covers not only sexual harassment but also other kinds of intimidating and offensive behavior.

Other companies and many universities set up unique procedures, either with a designated sexual harassment officer (Clark University) or with a particular group of specially designated managers or mediators (State Street Bank, Williams College) or a committee (Yale). Most but not all of the latter group of corporations and universities also permit harassment complaints to go through other complaint processes as well as the unique procedure (Santa Cruz).

Arguments on this subject abound. However, several points seem now increasingly clear. Sexual (and racial) harassment complaints are in many ways not like any other grievances that come to normal grievance channels. In no other area are people so likely

to have different values and so to perceive different realities, to lack conclusive proof of misbehavior, to be passionately involved and/or seriously emotionally damaged. In no other area is traditional middleman intervention so likely to cause further damage.* There is therefore strong reason at least to have special training and backup consultation for managers who deal with harassment cases.

On the other hand there are some good reasons to track harassment complaints through general complaint systems. One is that people will actually find (constructive) recourse more easily this way. Another is that employers will avoid semantic fights, ("Is this sexual harassment?") and have generally credible complaints managers dealing with these tough issues. Using general procedures also provides the possibility of having many different possibilities of men and women, minorities and non-minorities as points of access. (If general complaints procedures are used for harassment complaints it is imperative that minorities and women be well represented in the complaints system).

Employee Participation and Peer Review

Inclusion of other employees and peers is now more and more widely used in systems for complaints and concerns, ranging from ad hoc and standing faculty committees to hear faculty promotion cases in universities, to the ubiquitous use of M.D.'s in medical practitioner review, for example in HMO's and hospitals, to a spreading concern to be sure to include minorities and women and technically trained personnel in company complaint systems, to the new widening rights of "ordinary employees" to peer accompaniment,

*Rowe, (HBR, June 1981)

and employee participation in policy making.

Important generic examples of a widening right to due process are recently announced NLRB extensions of the "Weingarten principle" to non-union employees. An employer now violates the National Labor Relations Act by conducting an investigatory interview of a non-union employee after denying that employee's request to have a co-worker attend the interview. (Materials Research Corp.). Furthermore an employer now must inform an employee of the nature of the matter under investigation before the investigatory interview takes place. The employer must also give the employee a chance to consult in advance with the co-worker who will accompany her or him to the interview. (Pacific Tel & Tel Co.).

All the complaint systems known to the authors, (is this right?), permit an employee to be accompanied by a fellow employee in bringing a complaint. If there are complaint systems which do not permit the right of peer accompaniment it seems likely that the recent NLRB ruling will have the effect of widening this right of peer accompaniment, because it is often somewhat difficult to distinguish between a complaint interview and an investigatory interview, especially within supervisory channels.

From the point of view of companies which do not want unionization this right can be seen in two ways. On the one hand it appears somewhat to weaken the employer's customary wish to deal with employee concerns individually. On the other hand the right of peer accompaniment in companies which have a "cooperative family" approach, appears sharply to diminish distrust and to make union representation appear less desirable, or even undesirable, compared with the right to choose one's accompanying peer.

Many companies also systematically include employees in councils which can recommend changes in policies. Some apply only to certain pay classifications (for example MIT's Office-Clerical Working Group). Some include employees throughout the company (Pitney-Bowes, CBS-check this one) (More here? Lincoln Electric?) Such councils and working groups appear to be most effective where it is expected that participants will put in very hard work, and reasonably long hours of company time, (while otherwise also getting their own jobs done), and where these structures are very tightly and consistently in touch with appropriate executives.

Employee representation on appeals committees (do you know a good example?) appears to be reasonably common, especially in dealing with professional employees. In examples known to (one of?) the authors such committees rarely overturn the discharge of an employee, although examples do occur, probably most frequently where professional employees are concerned.

Networks

Support to formal and informal networks of special groups of employees (e.g. minorities, women) is relatively common (Bell, telephone operating companies. These networks often serve extraordinarily effectively in providing a channel to responsible female and minority managers and employees, to absorbing rage, to surfacing real concerns at an early stage, to mobilizing hard work on suggesting policy changes and in providing support services.

Here again an absolute key to success lies in the networks and top management staying in close touch. There is, more-

over no real, effective alternative for top management in this decade. Minority and female "networks" will exist covertly or overtly, wherever minorities and women begin to appear as employees; this is a ubiquitous truth, whether or not apparent to majority managers. The senior manager who confides that "in the 1980's his company will down-play the Minority Managers Group or the Women's Discussion Group" is asking for difficulty. (There is probably no clearer example of the general principles that most people want to manage things on their own and that unconstructive alternatives are always easy to find.) Specialized networks then can be very effective parts of a non-union complaint system--if they are in very close touch with top management.

There is one further reason to support such nets. One recent general finding in studies of alternative dispute processing mechanisms* is that new forms, as well as old forms, of complaint systems often work less well for minorities and women (and for other "non-traditional" people however defined in a specific situation).

An extraordinary effort must therefore be made to include very able minority and female managers within the complaint system, if the system is to be seen as accessible to non-traditional employees. In addition, an explicit expectation of contact between other parts of the complaint system and formal networks of minorities and women, can help to foster true "equal access" to all parts of a company's complaint system.

*Len and Suzy Buckle; citation.

Explicit Complaints Channels

Open Door

EAR - by Michael?

"Natural Mediators" (to follow Open Door and EAR)

The existence of known "troubleshooters," whether or not they have that title, is often an important complaint channel for employees and also for managers. Such people are usually staff to a major manager. Sometimes they arise in line management simply by being very competent, very evenhanded and discreet and accessible to certain groups or on certain subjects. Such people are a major asset wherever they occur, on whatever level.

Companies can explicitly encourage the emergence of such "natural mediators." They must be extraordinarily credible in whatever terms matter in a given environment. It may help to give formal titles (and training) to people who have been designated to serve this role, for example, "inplant counsellors," "housemothers," "mediators," "employee coordinators." Some such employees serve full-time for designated periods. In smaller institutions, for example Carleton College, they are a wide assortment of ordinary employees who continue in their normal responsibilities but are also available as mediators. (Where designated mediators continue at their ordinary jobs, it is particularly important that they be charged, and seen as neutrals, rather than advocates).

As an example, the Carleton program uses the following guidelines for mediators:

-Mediators welcome visitors with any kind of inquiry or concern. The mediators do not intend to seek out people with concerns. Under ordinary circumstances they will not agree to hear a third-party complaint.

-It is expected that visitors will go to only one mediator with any one concern, unless a visitor or a mediator suggests that two mediators work together.

-Mediation is a voluntary procedure; wherever possible the mediators will seek to help people help themselves directly and to help people bring their concerns directly to normally constituted administrative offices whenever that route is acceptable to the visitor.

-Mediators welcome those who wish to come in with any other member of the community.

-One may make an appointment with any of the mediators by phone, or by a note requesting a call, or in person.

-Under ordinary circumstances, mediators will keep no formal written records of visits to them.

-Visitors to the mediators are assured of confidentiality, unless a visitor and a mediator agree that some action will be undertaken which will require discussion of the visit, or unless a mediator explicitly suggests some such discussion with a third person or persons and the visitor approves.

-While (the company) assures the visitor that the process is confidential, the discussions are not legally "privileged," and there can be no absolute guarantee that some party may not be entitled to the information in the unlikely event of some court-governed procedure.

Ombudspeople

Some corporations (Bell Lab, Anheuser-Busch, GE, many universities) have ombudspeople, or senior staff who function as ombudspeople. Ombudspeople characteristically serve as staff to a ceo or plant manager. They usually have exceptionally wide latitude to hear concerns, (e.g., "anyone who feels unjustly treated for any reason"). Some serve all managers and employees, some serve only certain pay classifications.

An ombudsperson may hear concerns, review processes and decisions, act as a factfinder, mediate among warring parties, make oral and written recommendations to line management. With very few exceptions they are not arbitrators; they may not reverse

management decisions; "theirs is the power of reason and persuasion."

They are interpreters among different cultures but do not make the rules.

Typically ombudspeople will receive anyone at any level. Typically they do not formally review the substance of decisions of top managers who also report to the ceo, (although ombudspeople often work together on a collegial basis with top managers and are also frequently sought out by top managers). Otherwise an ombuds office usually has very wide latitude for fact-finding and for talking with anyone at any level.

As with most other forms of complaints offices, ombuds offices do whatever they can to protect the confidentiality of visitors, unless and until permission by the visitor for the ombuds-person to speak to others. In the case of one of the authors, she does not even keep records of most visits, especially if she has heard "only one side of a story." (In practice, this confidentiality has been supported by the courts. The authors know of only one case where an ombudsperson has been subpoenaed; the subpoena was ultimately withdrawn in the public interest.) Confidentiality and protection of privacy is considered by most ombudspeople to be the single most important attribute of their offices. Most ombudspeople care very much that they are seen as neutral parties and they are usually formally charged to be so. They are there simultaneously to serve the interests of complainants, to protect the rights of anyone else involved in a complaint and to protect the welfare of the employer. In order to protect their neutrality most ombudspeople will not agree to see people accompanied by their lawyers, although complainants are usually welcome to bring in a fellow-employee.

The philosophic basis for an ombudsman office is that the long-run interests of the company are congruent with those of a wronged employee, and that the employer may have a partial common interest with each of two employees (for example, supervisor and supervisee) who have wronged each other. This is a point of view very different from the "battle of the sexes," from "union vs. management" or the polarization of interests involved in antagonists and advocates in court. It seeks to build bridges, to find common ground, to seek third alternatives, to build a team, to be explicitly non-adversarial.

The traditional view of always backing one's boss or always backing one's staff is of course brought into question with all grievance procedures. (If the traditional view were followed to the end there would be no explicit grievance procedures). This question is particularly clear where there are ombudspeople. Someone is always asking the ombudsperson, "Whose side are you on?" That the ombudsperson is an advocate for process, and not "for management" or a particular person or point of view, is the key to the office.

"Helping a visitor, protecting the rights of anyone who may be involved in a complaint and protecting the welfare of the company" all of this simultaneously--is sometimes a tall order for even the most skillful ombudsperson. This will be especially true where policy is uncertain (should people be allowed to smoke in an office?), where there is no obvious "right answer" that everyone would agree on, (should a brilliant, erratic supervisor be allowed to rage and shout at employees, if he shouts equally at all employees?) or where there is no conclusive proof of

alleged misbehavior (my boss propositioned me on a trip).

In these situations an ombudsperson may well find that the most successful path will be to help a visitor help him or herself. Long-term listening, imaginative role-playing, careful support in writing a letter to an alleged offender may support an aggrieved person to be able to cope personally and successfully. Since most employees greatly prefer to be able to act effectively on their own, this mode may well be the best. For managers it will usually be essential for the ombudsperson to serve essentially as an in-house management consultant rather than intervening. One may refer, one may help a manager find other guides and experts and mentors, one may help develop "third alternatives," role play, be a sounding board; only rarely should one be asked by a manager to intervene.

(Box here? Guidelines for an Ombudsperson?)

1. Listen at length, especially if a visitor is angry, or should be angry, given the concern. Be discreet. Be objective. Be patient.

2. Ask gently, "Whom else have you talked with about this?" You may wish to explore this a bit.

3. Try to imagine to yourself, and develop with your visitor, all the possible "other sides" to the story, especially any reasonable explanation of the facts presented. Also consider, (together if possible,) whose rights are involved and how to protect them.

4. Try to figure out who is in charge of each piece of this problem. Supervisors? Normally constituted management offices and committees? Do they know of this concern?

5. Lay out all the possible alternatives you can see, including always the option of "neither of you doing anything and your both forgetting the visit," through fact-finding, up to the immediate, senior level action by the ombudsperson. If the ombudsperson is to take action should the complaint be in writing? Consider this carefully.

6. If there is to be action, explore the possibilities of your visitor's handling the problem directly (with role playing or other support from you first). If you choose this option, will your visitor tell you how it goes?

7. If you or your visitor needs more time, agree to meet again. This is especially important if all alternatives appear to be bad. You may need time to develop new options.

8. If you learn of a problem that really worries you, believe your intuitions. Try to get permission to talk it over, perhaps in abstract terms, with another, appropriate person. (In the rare case of some immediate serious danger, you do not need permission and have an obligation to act; you should be sure to tell your visitor if possible. Under all ordinary circumstances you can get permission.)

9. Before your visitor leaves, affirm in some detail the option chosen and the terms in which it will be followed. Also decide whether or not you will meet again or leave the situation open. Who will get back to whom and when?

10. Find polite ways throughout the company never to answer the question: "Have you seen (the visitor)?" Your success depends on confidentiality, on defending peoples' privacy.

In the experience of the authors, corporate ombudspeople exist where there are also other counselling, communication and complaint structures. Most believe that the existence of options to turn to is very important and report good relations with Personnel with Employee Assistance staff, with Medical staff and other services, and with the line management in the given corporation. Often it is the collective net of such services and managers which rescues really serious situations. One ombudsperson works within the covention, with her colleagues in the other services, that if anyone runs into a particularly dangerous or troubling problem the problem will be discussed with at least one other colleague on a basis which does not and cannot identify individuals.

A classic paradox of non-union complaint systems is that middle-level managers tend initially to be very suspicious of

them. Typically most managers (and most employees) come greatly to value ombuds offices if they are in fact equally and evenhandedly accessible to all. Available evidence indicates that the great majority of cases taken on by ombuds people result in affirmation of management decisions, and also in greater comfort for the complainant, usually because he or she now knows more and has been heard.

Ombuds offices spend much of their time functioning as communications channels. They tend to get many of the most delicate problems, stories which the visitor feels are humiliating or frightening. A principal function is to defuse rumors and misunderstandings especially in times of difficulty, (major adverse publicity against the company; layoffs; extraordinary economic uncertainty). The process is, purposefully, to deal with individuals as individuals, but an important part of the message from an ombudsperson may be "this is happening to everybody."

For example there was the case of a major and greatly valued scientist, in one high tech firm, who sought out an ombudsperson in 1978, looking depressed and upset: "I suppose I should get out. The division head doesn't want me here any more. I'm interviewing (across the country), next week." The ombudsperson was quite startled. She knew the scientist was not only wanted, but in fact crucial to his project, "What makes you think we don't want you anymore? Please, let's talk about it?" "My raise was tiny. Not even inflation." "How much did you get, Dr. X?" "I'm ashamed to tell you....7%".... "Dr. X, did you know we are bound by President Carter's wage and price guidelines? That we are limited to a maximum of 7%?"

In a way this incident is a classic; lack of a tiny piece of information might well have lost a vital (if absent minded) creative scientist for this highly competitive company. In the event, the scientist cancelled the appointment with the competitor. The ombudsperson took up with top management the need to help highly technical division heads communicate better with their highly technical staff, and the need to find multiple ways of recognizing the most valued employees.

Most ombudspeople in fact are charged not only to help each visitor as well as possible but also (and explicitly) to bring data back to line management in ways consonant with confidentiality and with the privacy needs of complainants and line managers. Numerous small and large changes in policies and procedures will then ensue from "upward feedback" which has funneled through an ombuds office to the line managers who actually plan and effect and get credit for the changes. "I believe this aspect of the pension plan is unfair" may (three years later) turn into a change in some aspect of the plan. "We should be using XYZ equipment in the following way" may result in change in a few weeks. "Old people are catching it on the layoffs" may result in careful computer analysis by Personnel, in changes in layoff guidelines, in review of performance evaluations in a certain division of the company.

Many ombuds offices handle a high case load of informal "concerns and inquiries" in their efforts to be a "low barrier" complaints system. Especially with safety problems, and concerns about illegal behavior including discrimination and harassment complaints, this is extraordinarily important to reducing the

costs of whistle blowing, theft, lawsuits, etc.

Most ombudspeople, like managers everywhere, do not seek out complainants, dislike anonymous written complaints, and try very hard not to receive "third parties;" "You say McNoodle is being mistreated? Would McNoodle be willing to come in directly? To call me on the phone? "Obviously in cases of anonymous internal whistle blowing" an ombudsperson must use her or his own judgment and follow up immediately and carefully where indicated. Sometimes a generic address to an anonymous complaint will help stop a problem without infringing on someone's rights. An unsigned note that says, "Joe McNutt is using pot on security detail," may often be handled effectively by a long ("routine") discussion with all the security guards about the rules.

Most ombudspeople will, on the other hand, be willing to receive visitors who come in person but wish to be known only as Jane or John Doe. As in the case of many company hotlines, sometimes information and counselling in an ombuds office may help a John or Jane Doe. In the experience of one of the authors however nearly all of the Does will with relief at some point identify themselves (although they are in no way pushed to do so).

Possibly the chief advantage of ombuds-type offices of all kinds (including systems like EAR and Open Door, is their uniform accessibility, their centrality, their ability to see the big picture to synthesize data on concerns, to help people at all levels to understand how The System works (or isn't working), to cut through red tape in urgent situations. They can treat the milien as well as the patient in many cases. They help to prevent further problems of a given kind that come to light and to affirm

a reasonable uniformity of treatment of employees.

If such offices are in fact to be seen as uniformly accessible by everyone however it is important to have men and women, minorities and non-minorities and technically credible people to serve as ombudspeople. This is particularly important where the role of the ombudsperson is to be "Devil's Advocate for both sides."*

Problems

There are several classic problems for non-union complaint systems. One is that until a sufficient number of managers have come in, or been part of, or backed up by the system, many may be suspicious. Moreover except where a sturdy top management has founded the system (Donnelly? Lincoln? Control Data) there are often one or two unconvinced senior managers who try to own or stymy the system. These people are often suddenly, happily convinced by data from their own areas that they need the system but sometimes there are areas of a company where communications remain poor and difficulties abound because a senior person simply hates complaints.

These senior people are exceptionally difficult to deal with because they usually have no conception of a neutral ("he who is not entirely with me is against me") and are also prone to believe in killing the messenger who brings the bad news. People around such senior managers almost always stop communicating honestly, unless they are extraordinarily courageous and loyal to the company. Complaints persons absolutely must be willing to continue dealing with senior managers like this, but it can be very hard, and often takes years of experience to learn. Areas like this

*Silver, HBR, May-June 1967, p. 82.

generate rage on both sides (manager and employees), and complaints people often need guidance and training to be able to deal effectively with acute anger and pain.

Since many complaints people, especially perhaps those who are minority and/or female, believe that a principal function of their offices is to absorb and defuse rage, and to turn rage into constructive channels, there is little use in wishing away anger and pain in modern corporations. It is however very important that employers understand this phenomenon. EAR's counsellors work limited hours on the phone. Most complaints people need training experience and confidential back-up consultation in at least some cases.

Another problem is that the ubiquitous company pronouncement of "no retaliation or reprisals against complainants" is sometimes difficult to enforce. Usually top management can prevent formal management reprisal but informal and peer retaliation is commonplace. Also sometimes an untrained manager simply acts out, as in the 1982 case of a woman who won in court after being fired some weeks after she put a suggestion in a suggestion box. Nearly all companies have senior managers who react to complaints with anger or even rage. Many ceos have discovered that there has to be constant training in the use of a complaints system.*

Another set of problems are the variations on the theme of "What is my 'duty to warn'?" All companies with complaints systems should instruct all the people in those systems about situations where they may be legally required to warn persons who may be in danger. Company policy on reporting illegal behavior, for example in banks and insurance companies, should

*Ewing - My Way, Donnelly case.

be made very clear to all employees as well as to all complaints personnel.

Reasonable guidelines are also needed as to when and how complaints people can or should go to senior managers when trouble is known to exist in a certain area. (Usually complaints persons must learn how and when to get permission from visitors to let senior managers know of difficulties. Except in grossly illegal or dangerous circumstances most experts in this area agree that keeping confidentiality when it is expected is the single most important attribute of complaints persons, since otherwise employees and especially managers will not use the system, especially in the circumstances where company welfare most needs the system to be used)!

Having said that many complaints people, especially ombudspople, struggle very hard indeed to be neutral, one must add the problem that this can become difficult, especially if top management is fundamentally ambivalent about the neutrality. (Sometime one ceo will start a system and be succeeded by a traditionalist who believes the manager is always right). Technically internal ombudspople are quasi-ombudsmen, that is, not completely free from reprisal themselves since they are paid by the system they serve. And conflicts of interest then can ensue.

Where complaints do go to court, or serious trouble making and violence do ensue in a company with a major non-union complaints system, almost always the complaints people have known for some time of trouble brewing but feel powerless to stop it without serious reprisals against themselves. The

only way to help prevent this problem is for top management to stay in touch with the complaints people, not using them as inspectors-general or tattle-tales, but asking periodically about trouble-spots, for example, "Where should the next attitude survey be taken by Personnel?"

Criteria for Success

The two major indices of success for non-union complaint structures will of course be that costs are lowered and productivity improved. The major costs which may be reduced by an excellent set of complaint systems are: absenteeism, turnover, lateness, unwanted turnover, errors and unsafe conditions that are not caught, wastage, legal costs, fights and other bitter polarizations within the work force, union drives, accidents, theft, sabotage and ambushes, injuries, threats and murder. Major contributions to productivity are the availability of good ideas and good suggestions from below, (so prized by Japanese management) and the availability of in-house consulting on personnel management.

Characteristic problems which dispute resolution theorists feel must be addressed are; truly equal access, and helping people help themselves constructively in the context that unconstructive alternatives are so often seen to be more accessible.

The first measure of success is, then, that people use the system, preferably at an early, non-polarized stage of "inquiries and concerns." A good system will be used fairly randomly with regard to pay classification, status, race, and

sex. In a good system complaints will come in promptly (within hours or days). Long lags between alleged offenses or problem occurrence, and the report of these matters, is an index of a problem in the complaints system. A good complaints system regularly picks up some truly serious problems and some bizarre behavior. Since these things occur everywhere, a complaints system that gets few or no terrible problems probably isn't working well.

In a good system, experts agree, there will be some reversal in whole or in part, of management decisions which have been questioned formally (a circumstance which is itself usually rare). Because of the general experience that most formally challenged management decisions are backed by a complaints system, a good system is usually backed by 75-80% of the managers who have had serious contact with it. Where there are out of court settlements, union drives, high legal costs and other high costs in any part of a company, top management should always investigate why the complaints system is not working well there.

Practitioners and experts seem generally to agree on the likely characteristics of good complaints systems.

1) The system has a formal mode which is occasionally used. 99% of contacts to the system are low-key and informal; informal contact is seen to be extremely easy and convenient.

2) The formal system has at the end an uninvolved ceo, manager or committee, an "internal third party," widely seen as neutral and fair. Formal sub-systems in various areas and with "internal third parties" also, wherever possible for example in a given plant.

3) The informal system has many uninvolved third parties available (employee assistance, Personnel, mediators); there are various varieties of these structures which are seen to work together well when they need to; there are minorities and non-minorities, women and men, and technically competent people in the system.

4) There is a right of peer accompaniment.

5) There are stated no reprisal, confidentiality and privacy provisions. Protection is offered both to complainants and to anyone else involved in a complaint.

6) The company has a general ethos of sensitivity and responsiveness to feedback, and feedback is encouraged.

Should there be a summary?



Department of Distinctive Collections
Massachusetts Institute of Technology
77 Massachusetts Avenue
Cambridge, MA 02139-4307
libraries.mit.edu



The remaining contents of this folder have been redacted.

If you would like to see the full folder, please email the

Department of Distinctive Collections at

distinctive-collections@mit.edu