

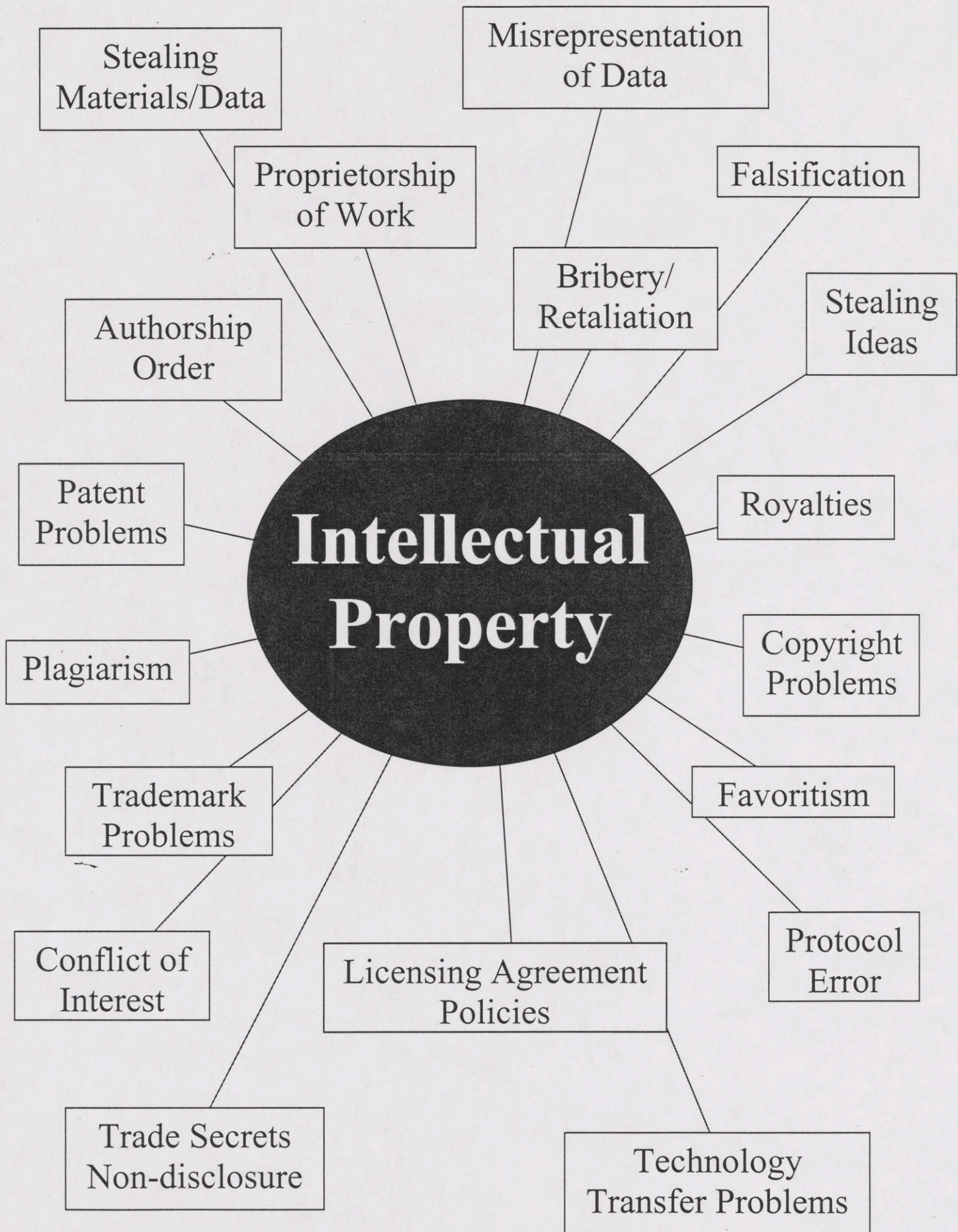
Dealing with
Intellectual Property Concerns
Fear of Violence
Complex Concerns
Reprisal

There is a
wonderful
video for
this

**Specialized Course for
Practicing Ombuds**

**The Ombuds Role in Dealing with
Intellectual Property Concerns**

1999



The Ombudsman Association specialized course
The Ombuds Role in Dealing with Intellectual Property Concerns

AGENDA

- | | |
|-------------|--|
| 8:00-8:30 | Introduction |
| 8:30-9:15 | Framework |
| 9:15-10:15 | Dr. Wilcox visits one of the OTG Pharmaceutical Ombudspersons |
| 10:15-10:45 | Break |
| 10:45-11:00 | Using conflict resolution techniques with intellectual property problems |
| 11:00-12:00 | Dr. Dickinson visits the other OTG Ombudsperson |
| 12:00-1:00 | Lunch |
| 1:00-2:00 | Dr. Zgambo visits the other OTG Ombudsperson |
| 2:00-3:00 | Dr. Zgambo discusses strategy with the Ombuds |
| 3:00-3:30 | Break |
| 3:30- 4:30 | Drs. Dickinson and Zgambo ask their OTG Ombudsperson to share their concerns with Dr. McGillicuddy |
| 4:30-4:45 | Conclusion |
| 4:45-5:00 | Certificates and Evaluation |

Intellectual Property Scenario Overview

You are one of several Ombuds people at OTG Pharmaceuticals. The founders and several of the directors and senior staff came from the Reynolds Institute of Technology. Many of them retain adjunct faculty status. In that role, they supervise masters and doctoral research programs for graduate students. Many of these students conduct their research using OTG Pharmaceutical laboratories. The Institute, as an educational institution, values publication; the Laboratory values patents, copyrights, and royalties.

Dr. and Professor Adrian McGillicuddy is the Director of Biochemistry Studies at OTG Pharmaceuticals and a full Professor of Chemistry in the Institute.

The OTG Pharmaceuticals is populated by a variety of workers: faculty, staff researchers (PhDs without faculty appointment), post-docs, graduate students, staff engineers, and staff technicians. All are part of your potential visitor base.

Among the several projects you've heard about is one called SETPOINT®. It sounds like the drug they're testing may break big. It has something to do with control of body weight in women. Pictures of Dr. Adrian McGillicuddy have been in the local papers. Someone also pointed out that the drug was mentioned in a *Wall Street Journal* article last week.

Dramatis Personae:

Professor and Director of Biochemistry Studies:

Adrian McGillicuddy, MD, PhD

Professors and Senior Researchers:

Lekani Nkosi	Mary Dickinson
Tunde Shoyinka	Thomas Zgambo

Staff Researchers:

Linda Wilcox	Allison Ho
Joan Woodard	Kay Hays
Kenyata Zulu	Mary Rowe
Marsha Wagner	Patti Lynch

Post-Docs & Graduate Students:

Effiong Etuk	Harrison McCree
Martin Chin	Roberto Alvarez

Ex-employees:

Marian Western	Benjamin Levin
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SETPOINT®

The US Women's Health Program several years ago set up a grants program to study metabolism in women. One of the labs that participated was that of Dr. Adrian McGillicuddy at OTG Pharmaceuticals. McGillicuddy, himself, has taken pride in the fact that his lab has done other work relevant to women's health. He is also well known for hiring and working with researchers who are women and people of color.

Researchers working with McGillicuddy have been tackling various aspects of blood sugar regulation. Some months ago, clinical trials were approved of a drug (DHA) that might be useful in this regard. Because of the apparently benign character of the drug (which occurs naturally in the body), McGillicuddy pushed hard for early clinical trials, and clinical trials were permitted in parallel with animal studies. Various papers and presentations ensued about DHA.

Several clinical investigators involved in the field tests began to hear of an unexpected side effect in fat metabolism. Apparently many of the older women and some of the younger women in the study appeared to be losing weight. Curiously, the heavier the woman, the more weight loss; the lower percent body fat in the woman, the lower the weight loss. Under 8% body fat, there appeared to be no weight loss. The effects on mice were very similar. No other side effects were found in women or in mice.

It took a number of weeks but when investigators in the field got together, they found that all were hearing of the extraordinary weight loss side effect. OTG Pharmaceuticals immediately began to check whether the drug would similarly affect men. McGillicuddy named the drug SETPOINT and began applications for FDA approval.

Mistakes that are easy to make:

- Giving up too fast
- Not following-up
- Involving others too soon
- Ascribing own moral values to situation
- Taking on situations which may be inappropriate to tackle
- Missing additional issues

Points to consider:

- May find multi-dimensional, multi-issue problems – making cases highly complex
- May take more time than average problem
- May involve more people than common
- May be subject to multiple laws, rules and policies
- Some parties may believe they have nothing to lose – but they do
- Some parties may believe they have something to lose – but they don't
- Some parties may deny or downplay risks
- Some parties may be suffering from mental illness which prevents them from reaching closure (e.g. obsessive-compulsive disorder and paranoia)
- Evidence is often hard to get, therefore it is hard to (effectively) use formal processes, even when desired

What may need to be safeguarded? (Rules of Evidence)

Example:

Computer tapes	Reagents
Lab access	Cell cultures
Notebooks	Figures

Ask: What is it?
 Where is it?
 How easy will it be to carry away, destroy or sabotage?
 Who else might know?
 Are there witnesses?

- Retaliation possibilities – short-term, long-term
- Is there any danger to the complainant or others?
- Potential for subpoena – record-keeping
- Is there anyone you need to notify (e.g. sponsors, project officers, editors of journals, etc.)

Intellectual Property Concerns

1. Authorship Order

VIDEO: Linda Wilcox

2. Patents

VIDEO: Janice Dickinson

3. Authorship/Plagiarism

VIDEO: Thomas Zgambo

4. Stealing Ideas/Plagiarism

HANDOUT: Dr. Zgambo at the Ombuds Office

5. Respondent Interview

VIDEO: Howard Gadlin interviewing Adrian McGillicuddy

6. Trade Secrets

A graduate student, Effiong Etuk who was involved in the work is about to publish his dissertation and a couple of papers. Ph.D. candidates are required to publish three refereed articles before their oral exam and defense. Because of this discovery, the Institute and Laboratory forbids the student from submitting his paper for publication for fear of forgoing patent right, "publish and perish." The student was at the end of his tenth year at the Institute. If he misses his tenth anniversary he will be required to take the classes that he took in his first year all over again since they won't count for his Ph.D. He comes to you for help in resolving this issue. He wants to graduate. Her advisor is Tunde Shoyinka.

7. Trade Secrets

Kenyata Zulu is a young staff researcher in the Biochemistry Studies Lab. One of the reagents used in the synthesis of SETPOINT® requires several purification steps. Kenyata, who had done a post doc eighteen months earlier at Gravi-Pharmacia Labs, introduced the technique used in this process to Dr. McGillicuddy's lab. Kenyata had signed a pre-employment agreement at Gravi-Pharmacia that covered, among other things, a confidentiality agreement on the manufacturing process. Gravi-Pharmacia Labs chose to keep the purification process as proprietary knowledge. Dr. McGillicuddy wants to patent the process because he feels that it is the key to SETPOINT®'s high purity and activity. Kenyata, afraid that if Gravi-Pharmacia challenges the patent he will be discovered as the one who brought the technology to McGillicuddy's lab, has come to your office for help.

8. Trademark

Three staff scientists come to your office asking you to help them with an issue they have with the trademark † that was agreed upon for SETPOINT®. They find it very offensive. They believe it makes mockery of their religion. They know that if they approach the management at the Lab, they will be ridiculed. They would also like to keep this confidential. They have asked you to relay this information for them anonymously. They are not working in Dr. McGillicuddy's lab, but have seen the logo prominently displayed around the lab. How do you proceed?

9. Trademark

Another division of the OTG Pharmaceuticals sells blood sugar measuring devices. They have tried to revive the sales by changing the name of their indicator stick. They had settled on SETPOINT, SETPOINTE, SET POINT, SET POINTE, SET-POINT, SET-POINTE and the symbol was an arrow and a bar. They went through the trade mark office and reserved all these names and symbols. The program manager of this group called Dr. McGillicuddy when he heard that the wonder drug was going to be named SETPOINT® to let him know that the name was already taken. Dr. McGillicuddy verbally abused him on the phone and assured him that his career was over. The program manager comes to your office for help.

10. Patents/Royalties

You are visited by an ex-staff engineer, Marian Western. Since it is expensive to patent an invention, the institution carefully studies which inventions will result in sufficient economic success to warrant the effort to patent. They were in the process of patenting her carbohydrate metabolic rate calorimeter (CMRC). During the process, another, more senior scientist, Dr. Nkosi, came up with a similar, but not identical instrument. The patent office wanted to combine the two in one patent. Western has recently left the Lab and the Institute. She believes that the Institute's decision will not only lower her share of the invention's potential royalties but will hawk Dr. Nkosi's work more.

11. Copyright

Benjamin Levin wrote his thesis in Dr. McGillicuddy's lab under the advisorship of Dr. Shoyinka. He was paid by an NIH grant. He defended his thesis successfully last year and copyrighted it in accordance with the Institute's policies. Dr. Shoyinka and he wrote a draft for an article in which most of the work came directly from Benjamin's thesis. The paper was submitted to a first rate journal, *Biochemical Digest*, and was accepted on the first submission. Benjamin was listed as first author. He has now left the lab. Dr. Shoyinka wants him to make the few suggested revisions and then sign off on the paper. Benjamin is uncomfortable doing this as he believes that a few experiments should be repeated, to insure the accuracy of earlier results. Dr. Shoyinka believes that this is unnecessary and that the work is without fault. Benjamin is worried that he may have made some mistakes. If he doesn't sign off, the paper can't be published, as it is Benjamin's copyrighted work. Benjamin comes to ask you for help.

12. Proprietorship of work

Dr. Martin Chin came to Dr. McGillicuddy's lab a year ago from Asia. His project has been to work with a team to develop the experimental design to study the changes in metabolic rates of those taking SETPOINT®, as compared to the control group, and then to carry out the protocol. He is a doctor of medicine and had a good position at his university, but left to develop research skills to allow him greater opportunity for leadership in his own country. To that end, he needs at least one first-author paper when he returns. (Of course, if he were to meet with wild approval and success, he might be able to remain in the U.S. and acquire a green card.) With such promising possibilities for his future, he accepted a position as a Post Doctoral Fellow in Dr. McGillicuddy's lab.

Once here, he worked very hard, 70-90 hours a week minimum, sometimes sleeping briefly in the lab in order to insure his productivity. Now, Dr. McGillicuddy has told him that there are no funds to support his fellowship and he is expected to leave at the conclusion of this year. He has tried to convince Dr. McGillicuddy that he needs a first author paper. He wants to stay until he achieves this goal. He has been ignored. Martin suggested working part-time to reduce his expenses but he was refused. He has asked to stay just long enough to have his visa extended so that he will have time to

find another position in this country. Dr. McGillicuddy has told him that he must vacate his bench, as a new Fellow, who is coming with her own funds, will need the space. She is expected to take over the work of Martin's project. But, Martin complains to you, "This is my work. I did it. I own it. If I have to leave, I will take it with me, all of it. I will take my original notebooks, my refrigerated specimens and my computer data. I did the work and I deserve to keep it."

13. Misrepresentation of Data

At a meeting where the clinical results were being presented to VP of Research and those who approve the internal funding for the project, Dr. McGillicuddy responded to a question by stating that an "opinion" of Dr. Shoyinka was "fact." Dr. Shoyinka's preliminary studies show that this drug SETPOINT® works just as well for men with no side effects. The sponsors wanted to concentrate on the women studies since there was already ample data to support the observation the use of SETPOINT® for women. Dr. Shoyinka was at the meeting, but he did not want to argue with his boss in the meeting. Dr. Shoyinka came to you seeking advice on how to deal with the situation. If he goes public with this, it will affect the funding that has already been approved for women studies. If he does nothing, he worries that results to the contrary would ruin his career and reputation.

14. Stealing Ideas

Joan Woodard is the Principal Investigator for an independent research study, but this grant alone is not enough to fund her salary. She has been able to provide expertise and made contributions to other several projects. Joan has also been written into Dr. Nkosi grants in order to supplement her income. Though she reports directly to Dr. McGillicuddy, Dr. Nkosi is more senior and has more access to Dr. McGillicuddy. He is probably one of the most successful independent investigators in Dr. McGillicuddy's lab and he will, no doubt, attain tenure status within the next few years. Dr. Nkosi and Joan Woodard have spent many hours working on this weight loss phenomena for women. Recently, she saw a copy of his RO1 Grant Application. She found that she was not included as one of the investigators and that a section was devoted to her ideas on how to extend the research to include men. She had discussed this in great detail with Dr. Nkosi. When she confronted him about this, he told her that he didn't care where the idea came from. In fact, his response was, "So what?" Shortly after this, Joan met with Dr. McGillicuddy who told her that her salary would be reduced at the end of the academic year, and that she would have to leave the lab if her two remaining grant applications were not funded.

15. Plagiarism

Harrison McCree is writing his Ph.D. thesis in Dr. McGillicuddy's Lab. He has been working on it for the past four years. Harrison completed the work and scheduled his dissertation defense with his advisor (Dr. Zgambo) and committee last month. During the discussion, one member of the committee expressed concern that the literature review summary looked very much like a conclusion written by S. K. Hoffman from Dr. Hoffman's book, *Dealing with Metabolic Changes Within the Molecular Constructs of the Ordinary Fat Cells and in Brown Fat Cells*. Further, he was accused of failing to cite that volume. He has been denied a Ph.D. and is facing dismissal from the Institute. He can't understand how this happened; his words were not identical and he wrote them without copying from Hoffman's book.

16. Stealing Materials/Data

Roberto Alvarez is a master's degree student in the Chemistry Department doing work in Dr. McGillicuddy's lab. He is doing the work on reagent isolation and purification. One of the other workers (Kay Hays) is on a tech transfer leave-of-absence to start her own company. He knows that

the Lab has approved the arrangement, but here's the problem. Roberto went looking for the manuals that go with the OPTIMAX software they use for protein base analysis. He was told by one of the technicians that Dr. Hays took them with her, along with the master disks. He imagines that it would be hard for her to buy a copy for her new company (a license costs \$22,000). But, he doesn't think stealing a copy is right either. He knows Dr. McGillicuddy really wants her to succeed so he's afraid to just turn her in. What should he do?

17. Technology Transfer Problems

Linda Wilcox is the project leader for reagent synthesis. Her group had a real challenge getting through a problem with one of our processes and the ownership of the process. It involved Gravi-Pharmacia and the Lab. In the end, they've come up with a fairly complicated agreement that involves royalties, non-disclosure agreements, and new patents. Gravi-Pharmacia's lawyers have signed off and so has the Institute's counsel. She thought it was a done deal. Linda just got a call from Dr. McGillicuddy's office saying the Technology Transfer Director is refusing to approve the agreement and she is meeting with McGillicuddy this afternoon. The Technology Transfer Director is saying that the agreement "isn't as good for us as it should be." Linda is certain that this is about turf and control. How should she deal with this?

18. Conflict of Interest

Allison Ho is funded by the SETPOINT® program. She has the task of developing the sensing and measuring technology for several of the important proteins involved. They've made much progress and are getting ready to write a contract to have a prototype hardware system built to test the principles. Allison is the one responsible for getting the contract placed. Now the problem, her sister is a co-owner of one of the system fabrication companies that has received the RFQ. She doesn't want to do anything unethical. She feels strongly that if her sister's company doesn't deserve the contract, they shouldn't get it. But if her company is deserving, she should get the contract. In fact, the sister's company is struggling right now and can't afford to volunteer to not bid. Allison knows that Dr. McGillicuddy has had some questions raised about his program, and so she's sure that if he heard about this he'd just prohibit her from bidding, period, no discussion. She doesn't think that's right either. What can she do?

Request for Mediation – sample form

I, the undersigned, agree to the following:

I have come to this mediation voluntarily and request the mediator(s)

to be the mediator(s) in my dispute with

in consonance with the Shield Law protecting the confidentiality of mediation and of mediators in the state of XXXXXX.

I ask for this mediation in good faith and entirely voluntarily. I understand that any participant in the mediation process is free to leave the process at any time.

I agree that I will respect the confidentiality and private nature of this process, for the sake of all concerned. In particular, I will not under any circumstances ask for the mediator(s) or his or her notes to appear in any subsequent proceeding inside or outside (name of institution).

I understand that there may or may not be a settlement of our differences, and that, if we should reach an agreement, this agreement is not legally binding and that it will not be kept, monitored or enforced by the mediator or by (name of institution). I understand that (name of institution) is not in any way responsible for what happens during mediation or as a result of the mediation.

I further understand that with respect to serious criminal matters, or apparent imminent risk of serious harm, the confidentiality of the mediator cannot be guaranteed.

Signature

Date

Obstacles to Mediation of Intellectual Property Disputes

- Lack of knowledge about mediation and mediation resources and what various options mean – how do mediation, arbitration and formal process differ?
- Fear of losing control of a decision (“If I am more powerful, why should I compromise?” or “Since I’m right, why should I compromise?”)
- Lack of facts and a framework to understand what is fair
- Reluctance to share problems with others (having a problem as a sign of weakness, belief that one should not “air the dirty linen”)
- Consequences of being discovered making an unfair decision
- Consequences of complaining: reprisal, loss of face, embarrassment
- Time and effort required to reach agreement
- Skilled mediator may not understand the subject matter and may need an expert consultant
- Less powerful people afraid to request discussion, or mediation, as it may appear as an accusation of wrongdoing by more powerful people
- Culture encourages faculty and other senior scientists to run independent “organizations” - they think the rules do not apply to them

Factors that can Foster Mediation of Intellectual Property Disputes

- Widespread understanding of mediation as a useful tool
- Reputation of mediators as competent, fair and effective
- Requests for mediation come from senior people
- Mediation can provide a confidential, safe environment to air issues and feelings
- Mediation can provide the possibility of protecting privacy and reputation for all concerned
- Create trust through mediator’s respect for individuals regardless of their views
- Ability to support the use of objective criteria in proposing options and decision-making
- Capability to review, or individually, the consequence of no agreement
- Many institutions are reluctant to deal with intellectual property issues, particularly authorship disputes

SITUATION ANALYSIS WORKSHEET

Some questions to consider:

1. Is this an emergency?
2. What are all the issues?
3. Who is involved and who else's interests may be at stake?
4. What are the interests of each?
5. What are the sources of power available to each party?
6. What are possible options (including those with negative consequences)?
7. What reasons would each party give for liking or not liking suggested options?
8. What data are missing?

What can be gathered quickly and unobtrusively?

What other data would be helpful?

9. What are the relevant policies and laws?
10. Are there any precedents for action (good or bad) with this type of case?

PROTOCOL IF THIS IS AN EMERGENCY:

LISTEN

Continually recap and check for understanding
Sort issues and options

- How urgent is this problem? How much time do you have?
 1. Is it a tangible substance emergency?
(Possible destruction of evidence)
 2. Is it a process emergency?
(Deadline: graduation, grant, editorial, patent)
- Whose interests are at stake and what are they?

Who else knows what they might likely do?
Who owns some aspect of this problem within the organization and will have to live with what happens?
- What resources are available and should be used?
 1. Policies and procedures, including multiple sets of rules.
 2. Available factual information on subject.

Examples:
Uniform Guidelines for Biomedical Journals;
Corporate or school guidelines;
Technology Licensing guidelines;
Articles discussing criteria
 3. Legal parameters (rights and/or obligations to confidentiality and privacy)
 4. Possible people to check with:

Technology Licensing; Legal Counsel; Emergency Team (in context); Supervisors; Others?
- Analysis – Think it through. Prepare, prepare.
- Develop strategy.
- Carry out strategy.
- Assess results.
- Follow-up.

PROTOCOL IF THIS IS NOT AN EMERGENCY:

LISTEN

Continually recap and check for understanding
Sort issues and options

- Consider whose interests are at stake and what they are.
- Determine and gather additional information
 - What to get.
 - How to get it.
 - Who will get it...complainant and/or Ombuds?
 - If information is being gathered confidentially, discuss downside if someone is unavoidably alerted.
- Consider options.
 - Reality test the options (risk/benefits analysis).
 - Do nothing.
 - Verbal response - What to say. How to say. Whom to speak to.
 - Written response - What to say. How to write it. Whom to send it to.
 - **OMBUDS INTERVENTION - With visitor's permission**
 - Contact with other parties – ask for help to understand situation.
 - Shuttle diplomacy – present each point of view to the other. Look for possible areas of compromise and resolution.
 - Mediation - All parties agree to meet. Allow enough time. Caucus before and/or during (?).
- Formal Options – What are they? How would they actually be employed?
- Develop strategy. Prepare, prepare.
- Carry out strategy.
- Assess results; consider next course of action in similar fashion to above.
- Follow-up.

Stealing of Ideas/Plagiarism:

Dr. Zgambo is a Principal Investigator in OTG Pharmaceuticals in Dr. McGillicuddy's lab. He has several funded projects but, due to his experience in lab instrumentation, he is able to provide his expertise to different projects in the lab. The calorimeter he designed for the carbohydrate metabolism can easily be adapted for the study of fat metabolism.

He just came across a patent disclosure by Dr. McGillicuddy for construction of a portable microcalorimeter assigned to an engineering firm with which McGillicuddy has family ties. This calorimeter is going to be sold to clinics that are involved in the SETPOINT® clinical studies. Dr. Zgambo had not been privy to these plans. He suspects that OTG Pharmaceuticals will not be the owner of this product, since no discussion of the microcalorimeter as a potential product has ever been discussed at OTG.

Additionally, Dr. McGillicuddy has recently presented a paper at a symposium in Hong Kong; he failed to give Dr. Zgambo credit for the work that he did on DHA metabolism. So, he went to the Ombuds office to seek some help. He believes that Dr. McGillicuddy is taking advantage of him because Dr. McGillicuddy does not think that Dr. Zgambo is well connected in the organization and would not have anywhere to go. Dr. Zgambo believes that he is not the only one who is being taken advantage of. Several foreign born and women investigators (scientists), specifically, Drs. Mary Rowe, Patti Lynch, and Marsha Wagner feel the same way, and he, of course, knows about Dr. Dickinson's anger on the DHA patents.

Dr. Zgambo goes to the Ombuds office requesting an investigation that will expose the director for who he really is: (Dr. McGillicuddy has been running a high tech sweatshop). Zgambo knows what he is worth to the laboratory, but is afraid that without the right recognition of his work his true worth outside of the laboratory will not be recognized. He needs his name to show up on publications. Besides, there might be some money coming his way due to the success of SETPOINT®. He is sure that a thorough investigation will serve him right.

The Ombuds suggests several options one of which is a possible face-to-face meeting with Dr. McGillicuddy with the Ombuds acting as a mediator.

Zgambo is prepared to file a formal grievance if the Ombudsman does not help to bring about an acceptable solution. He feels that he has nothing to lose. However, regardless of the outcome of the grievance or investigation, he will need to stay in the lab for a while to make sure that his contributions towards SETPOINT® have been acknowledged. More over, even if he leaves the laboratory, he will need Dr. McGillicuddy's letter of recommendation to land a meaningful appointment somewhere else (unless McGillicuddy is publicly exposed and fired).

~~CONFIDENTIAL~~

VIOLENCE AND FEAR OF VIOLENCE
IN THE ORGANIZATION

JULY 20, 1998
BOSTON, MA.

Linda Wilcox
Ombudsperson
Harvard Medical School

SETTING UP AN OMBUDS OFFICE – SAFETY CONSIDERATIONS

Ombuds Office

1. Easy access to attaining help when needed.

Some Ombudspeople have installed a "Panic" button in a location that is easily accessible, though hidden from view. The button engages by the press of a finger, knee or toe. If an Ombuds suspects that danger is imminent, it may be easier to move to the hidden button without further agitating the individual than it will be to attempt to "run for the door." Some people have two buttons. One alerts the police. The other summons a support person who has been instructed to interrupt a meeting primarily to break the tension. If you choose a multi-button system, consider the location of the buttons so they will not be confused. The police button should be selected only if it is obvious that all attempts to stop the potentially violent behavior seem to be useless and you believe that you may be harmed as a result.

A prearranged plan for a designated person to stay in the area if you suspect trouble can also be helpful in allaying your fears. If you are anticipating a problem, consider contacting building security or the campus police. Alerting others who can help in the event of a disaster may sacrifice the confidentiality of your meeting, but this action does not breach the confidentiality of the discussion going on in the meeting. If you can, it might be helpful to establish relationships with the campus police or security people prior to any problems. You can describe to them the nature of Ombuds work so they understand the potential for difficulties to arise and why you may need to call upon their assistance. Having safeguards in place, such as the ones mentioned here, can enable one to think more calmly in times of high tension and uncertainty.

2. Office furniture and lay-out that is not threatening or confining.

Design a floor plan which allows the individual an unobstructed exit way. It may also be wise to have the individual sit nearer the door. An agitated person who has come with no intent to harm, or who has second thoughts about doing so, may find it easier to leave if no object or person is in his or her way. If you are anticipating a problem and if it is possible, leave the door slightly ajar. Usually this is difficult to do. However, you can easily make sure your door, while closed, is unlocked. This would at least allow someone

to open it from the outside should the need arise. Finally, avoid leaving implements around which might prove dangerous if grabbed by an angry person.

3. Decorations that might be suggestive of a safe and caring place.

People coming to the office are often very anxious. They may be feeling helpless and view the visit as very risky. They may be suspicious about what you can do to help them. You will need to establish trust in order to proceed effectively. How you communicate your service is critical and the physical appearance of the office can help to create an environment that suggests safety and respect. Having personal memorabilia such as pictures, art or crafts can help establish a more human, less institutional interaction. Imagine how difficult it is for people to muster up the courage to share a serious and painful problem with someone they have never met, who they may have heard about only through a flyer or word-of-mouth. To help visitors feel comfortable one Ombudsperson keeps a sculpture of a dinosaur holding onto a small bird. This sculpture manifests a place that will be understanding and caring. The same Ombudsperson keeps a replica of Don Quixote standing very visibly on the desk. This is often the focal point of a visitor's attention and provides an easy first dialogue. Symbolically, the character suggests someone who cares and will persist in helping even if the chances for change may be slim. (You may recall that Don Quixote spent his life tilting at windmills, as do many Ombudspeople.)

Wall hangings can also say much about the office and its safety. For instance, ethnic pictures or calendars can suggest an open-mindedness and respect for all people and cultures.

4. Managing expectations.

Clients with a clear understanding of what to expect are less likely to react negatively if their hopes are not realized. You can provide a clear, simple explanation of the role of the Ombudsperson in a brochure or other written document. Giving people a brochure or handout statement about the office upon first arriving can help explain the role of the office and point out its limitations. The information should include what can and cannot be done through the office. For instance, it might be useful to tell someone that the Ombudsperson can help an individual help him or herself, speak to someone else on behalf of the individual if given permission, or engage in some informal interventions such as shuttle diplomacy or mediation when all parties agree. At the same time, point out that an Ombudsperson cannot act as an advocate, or judge, and does not have the authority or power to force any particular action to be taken by others no matter how reasonable and fair it may seem.

It may not be sufficient to provide this information only at the onset of a first meeting. It may be wise to remind individuals of these facts a number of times during the course of

the relationship because when people are under stress they often do not process the many things they are being told at any one time.

Conclusion:

Probably most Ombudspeople will never experience a serious threat while performing their work. However, imagining the worst possibilities and having no recourse if help were needed inhibits providing the individual with the most effective help. By creating a place that will not further threaten or upset someone, and by being able to alert others for help if need were to arise, it may be possible to prevent the anger felt toward others or the organization from being misdirected. An Ombudsperson will likely feel better and perform his or her function better knowing that necessary steps have been taken to promote safety when interacting with those who come to the office.

Linda Wilcox
Ombudsperson
Harvard Medical School

DEALING WITH ANONYMOUS VICIOUS ATTACKS

Anonymous vicious attacks can come in many forms, such as getting threatening or annoying phone calls or letters, finding possessions missing or destroyed, or discovering peculiar items at one's office desk, car, or doorstep. In June of this year, researchers at Yale University and the University of California at San Francisco were the recipients of such attacks. In both instances, the individuals were sent small bombs through the mail which exploded when the packages were opened. The injuries were severe.

Increasingly, Ombuds practitioners have reported calls or visits from individuals who appear to be the victims of anonymous vicious attacks. Concern about how to best help people coming to Ombuds Offices to report anonymous vicious attacks has been the topic of conversation and debate at several Ombuds conferences. People are trying to learn as much as possible about how to understand the attackers and what responses might best help the victims.

The purpose of this article is to present an approach to deal with anonymous vicious attacks through a detailed case example. I will also share suggestions about how to best deal with this problem that were compiled by the Northeast Ombuds Group. Naturally, not all anonymous attacks should be addressed in any one manner. However, using some of these suggestions can succeed in helping discover the attacker. In the specific case described, the receiver of the attack was willing to openly disclose the nature of the accusations and threats. He sought help from his colleagues and friends. When the attacker's identity was suspected, after carefully weighing the possible consequences and in consultation with others, he decided to take the risk of having the person confronted. Since it was not easy to predict the reaction or frame of mind of the possible attacker, it was critical to determine what actions would be most appropriate to protect the individuals involved as well as end the attacks.

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A CASE EXAMPLE*

Dr. Malcolm Brown called the Ombuds Office requesting an immediate meeting. He had just received an anonymous, threatening letter. Half an hour later we met for the first time.

Dr. Brown was a heavy-set man in his mid-forties. His blond hair was long and straight, flowing loosely down his back. He was dressed in a T-shirt, blue jeans, and sandals. As a principal investigator, ten people reported directly to him in a basic research laboratory. He appeared agitated and upset with the content of a type-written letter signed with the hand-written initials M.L.

The letter stated that Dr. Brown was a menace to society, a sexual harasser, a misuser of power, and product of the 60's in his appearance and manner. It threatened to expose him if his inappropriate behavior continued. It stated that those Dr. Brown had bothered were unable to stop him because of the power imbalance in their relationships with him. Therefore, it was now

* With the exception of Mary Rowe, Special Assistant to the President at Massachusetts Institute of Technology and Robert Fein, Ph.D., Clinical Associate Psychologist at Harvard Medical School and Massachusetts General Hospital, all names cited in this case have been changed. Some identifying details have been altered as well.

necessary for someone to take matters in their own hands to stop Dr. Brown. The letter *seriously* threatened Dr. Brown's life and the safety of his wife and three children.

After listening to Dr. Brown's story and seeing the letter, I questioned him about the possible validity of the allegations. Perhaps, I thought to myself, he was unaware of his impact on others. He remained steadfast that he was not anything like the individual described by the anonymous message. He felt strongly that he must be the victim of an insane person's actions and that this person had serious intent upon damaging his career as well as harming himself and his family. He wanted to explore possible courses of action to prevent this.

We discussed who might want to damage him personally, or ruin his career. Who might have the ability to send such a letter, since it had been sent through the internal mail system? Would anyone serve to gain from Dr. Brown's "fall from grace?" Try as he might, however, Dr. Brown could not fathom why such a letter would be sent to him. Yet, by the tone of the letter he was positive that it had been written by a man and that this man posed a real danger to him and his family. He also decided that he would not be powerless and frightened.

We discussed the appropriateness of sharing the content of the letter with the members of his department. Exposing the letter to others had some potential negative side-effects, such as the chairman of his department imagining some truth to the letter's allegations, or his staff viewing the content as a weakness to be capitalized upon in order to gain favor with others in a highly political climate. Despite possibilities such as these, Dr. Brown felt that his chairman needed to know and that his staff should be made aware of the threats. Also, it was possible that someone in the department might be able to shed light on the origins of the letter.

Dr. Brown proceeded to inform his chairman and call a departmental meeting. He arranged a time after the meeting to be available for private meetings in case someone wanted to discuss the situation with him privately. Each of these actions, I felt, would be useful in both providing feedback from the group to Dr. Brown about his behavior if it was at issue, and, perhaps, surfacing the source of the letter.

At the Department meeting, people appeared genuinely surprised and horrified about the content of the letter. It was passed from person to person. Paula Jena, a lab technician, noticed the signed initials. She recalled dating someone a year earlier for about three months who had the reverse initials. After the meeting, she asked Dr. Brown if she could see the envelope in which the letter had arrived. The letter had arrived via university mail in an "in-house" envelope. Dr. Brown still had the envelope. When people use in-house envelopes they customarily cross-out the last mailing address (which is usually within their department) and write in the new address. In this case, the last crossed-out address was still readable. It was from the department where the individual she was thinking about worked. Dr. Brown's name and address were handwritten on the envelope. Paula recalled having received some cards and letters from the individual in question. She brought them to the office to compare them with the handwriting on the envelope. Though not professionally diagnosed, the handwriting seemed to Paula to be remarkably similar. This similarity and the reversed initials made it seem possible, if not likely, that the person writing the letter was her past boyfriend, Lloyd Manners. On Dr. Brown's recommendation, Paula came to see me.

In recalling past events with me, it was difficult for Paula to conceive why Lloyd Manners might write such a letter, though during their brief dating relationship, she had mentioned how much she enjoyed her job and the relaxed ambiance created by Dr. Brown for his group.

Paula described her ex-boyfriend as extremely bright, well-educated, immaculate and formal. She told me that he always wore a suit to work and sported a well-groomed, short haircut. She had found him too prim for her liking and had tried to sever the relationship after a few months.

However, Lloyd had made it clear, at that time, that he wanted to continue see her. During their dating phase he had courted her with fancy dinners and expensive activities. His insistence on these kinds of activities, even after she had voiced her discomfort, had disturbed her.

For a while Lloyd had called her continually, appeared unexpectedly in places she was, and, on a few occasions, he had followed her to the bus stops at work or near her home to offer her car rides. She had tried to be kind but firm. Could Paula's rejection of him and her comments about Dr. Brown have prompted the vicious anonymous letter?

Paula had heard from Lloyd several times since their break-up. He had asked her out and twice she had agreed. At the time Paula had told herself that she was being cordial, but now she was beginning to think she had agreed because she had been uncomfortable with his persistence. Since their break-up, Paula felt she had consistently tried to maintain a distant, but friendly relationship. As Paula had not seen or heard from Lloyd for four months, she had assumed that the relationship had finally petered out. Now, she was convinced that Lloyd was the writer of the letter.

Paula was frightened by Lloyd's behavior for both herself and Dr. Brown. She was upset about being responsible for Dr. Brown's problem and the possible repercussions for having brought this trouble to his door.

The evidence indicated that Lloyd was likely the writer of the letter. Had Dr. Brown not shared the letter with his department, he might not have discovered a likely suspect. Letting people know of the event was helpful in discovering important information. Now, Dr. Brown, Paula and I focused on if and how to confront the suspect, what to do to stop any further attacks either anonymously or openly, and what to do if the evidence collected was just coincidental.

Via telephone and meetings, we began to explore a new series of questions and concerns. Should Dr. Brown ignore the probable letter writer and hope nothing else happened? Should Dr. Brown confront, have others confront, or jointly confront the probable culprit? Should Dr. Brown file formal charges with the school or outside agencies? What were the risks of letting the letter-writer know Dr. Brown's suspicions? What kind of individual were we dealing with? How likely was Lloyd to react by carrying out any of the letter's threats? Would Lloyd lash out at Paula if exposed? How could this problem be managed to prevent any harm from occurring to Dr. Brown, his family, the woman technician, or Lloyd, himself?

Psychiatric input was sought. Advice from both Mary Rowe and Robert Fein, a nationally known forensic psychologist, helped to determine the best courses of action.

We discussed the possibilities that Dr. Brown consider changing his telephone number at work and making his home number unlisted. We talked about adding an alarm system at Dr. Brown's home. We discussed having someone present with his children and wife so that they were never alone in the house or while going to school, work, or shopping, etc. Similar concerns were discussed with Paula. As a single woman living alone, she could stay with a friend while decisions were being made about how to progress and during the time when action might be taken. We also discussed her being accompanied while walking to activities outside the home and trying not to be alone. Since we did not know Lloyd's frame of mind, it seemed best that she not contact him.

We began to explore the value of contacting either the university security and/or local police for advice or help on how next to proceed. We worried about the likely response and reaction of the police. Would they, in an effort to be helpful, inadvertently push Lloyd to carry out any of the threats? Mary Rowe told us that often the police can be immensely helpful. Taking her advice to ask them how they would deal with such a case, Dr. Brown posed a hypothetical example to the

campus security police to determine if they would manage the problem in a way that would be comfortable to Dr. Brown and not harmful to Paula. They responded in a way that seemed reasonable and effective without being threatening. Dr. Brown and Paula chose to have the police confront Lloyd directly.

Two campus security policemen met with Lloyd at his workplace. Lloyd was simply asked "have you ever seen this letter before?" It was decided by the policemen, Dr. Brown, and Paula that if Lloyd denied any knowledge of the letter, that the policemen would still make a clear disapproving statement about writing such a letter, but would not press any further. If Lloyd acknowledged himself as the author, they would do the same thing except tell him in *strong* terms to stop further harassment of Dr. Brown. In either case, they would emphasize that they were taking the matter very seriously, and were now alert to Lloyd's involvement or, if denied, suspicious about the possibility.

When confronted by the campus police, Lloyd replied that he had seen the document before and acknowledged authorship. In fact, he was incredulous that the police did not agree that the letter's statements of Dr. Brown's wrongdoing totally justified his threats, which he deemed "noble actions". They did proceed to tell him, in no uncertain terms, to leave Dr. Brown and his family alone and that if anything peculiar happened to any of them or to anyone in Dr. Brown's lab, they would be immediately suspicious of him. They did not mention their knowledge of Lloyd's past relationship with Paula. They reasoned that since Lloyd had not contacted Paula for many months, bringing up specific knowledge of her at this point might cause Lloyd to take action against her. They told Lloyd that any further suspicions about his involvement might cause them to speak directly with his employer. They pressed for Lloyd to seek psychiatric help.

Since the confrontation, which occurred a year ago, Lloyd has not bothered or contacted Dr. Brown, his family, or Paula. I do not know if Lloyd sought additional outside help. Dr. Brown, of course, recognized that his technician was not in any way at fault for the letter and has not held the event against her.

Having the campus police confront Lloyd succeeded in letting him know that he was suspected of having written the letter. Had he denied it and other threatening events continued, they would perhaps have been able to keep an eye on Lloyd. Once he admitted to writing it, had he persisted in bothering Dr. Brown, knowing who had written the letter would be immensely helpful in seeking further help for Dr. Brown or Paula. Had Dr. Brown not chosen to share the bizarre letter with his department, he might still be pondering what to do and how to protect himself and his family from an unknown threat. Lloyd might have thought he had gotten away with one anonymous attack and proceeded with others, further harassing and frightening Dr. Brown. Once he knew who had written the letter, Dr. Brown could have requested a restraining order be issued to keep Lloyd away from him and his family under criminal law in Massachusetts which, if defied, means a year in jail. Dr. Brown chose not to do so, though he is now prepared to, if any further actions or threats occur.¹

¹ Mary Rowe reported that in other incidents of anonymous vicious attacks handled by ombudspersons this past year, an ombudsman helped for an hour to brainstorm, with the target of a letter, who might be the perpetrator. The two came up with an idea which panned out, and the attacker was identified. (in this case as in our longer example a name was modified in an ultimately identifiable way). In another incident, a professor who was the target of anonymous attacks went to his ombudsperson who counseled that he should consider making the matter known to his large lab group. He agreed to do so. The attacker has not been identified but the attacks have ceased. In a more difficult case that went on for months, an ombudsperson sat down with the target and helped that person brainstorm all the areas of his life where the attacker might have known him. The target then convened small groups of friends from each area of his life, to brainstorm who the attacker might be. The fourth such group came up with a name that proved correct....a person whom the target says he would never otherwise have identified. In yet another case the ombudsperson helped the target to work with local security people to catch an attacker in the act of entering the target's car to search for papers.

The NORTHEAST OMBUDS GROUP, met and discussed how best to go about dealing with Anonymous Vicious Attacks. Together, under Mary Rowe's stewardship, on February 3, 1993, we developed the following list of suggestions. Any additions are welcome.

The recipient of an anonymous attack might:

- Tell their local security department or campus police. (If they are not sure what this department might do, and are worried about over-reaction or under-reaction, the recipient or the ombudsman could first ask security "what they'd do in a like situation".)
- Tell people in the department what is going on. In many cases the recipient will hate having to expose the subject matter of the attack, but it may be best to inform all near-by colleagues, since this group may well have ideas about the identity of the offender, or may otherwise be able to help protect the recipient.
- The Department Head or other unit head might speak out against the offense. The idea is to show leadership – to ask for anyone who might know the offender to speak up – to affirm the pain of such offenses in personal terms so that no one can think of the recipient as an object or a "symbol," but take steps such that the offender and others have to deal with the recipient as a real person with feelings. Anyone who speaks officially should make a clear statement – and show leadership in rejecting abuse.
- The recipient should be helped to form and stay in touch with a support group or religious counselors or others who can help re-affirm the wrongfulness of the attack and affirm the worth of the recipient. An ombudsperson dealing with such an attack might well reach out to other ombudspeople for support and advice as well as talking with other local resource people.
- Both the ombudsperson and the recipient should check relevant institutional policies. For example is there an Honors Code or an Ethics Code requiring people to report offenders? If the attack was launched through inter-departmental mail or the US Postal Service was there inappropriate use of the mail system? Can the address on the envelope give a clue to the location from which the attack was mailed?
- If the recipient has reasonable ideas – reasonableness to be assessed by a trained third party such as an ombudsperson – he or she might ask to have these suspects confronted by appropriate third parties. For example this might be the local police or security department. It is often best in such circumstances for the investigator to ask simple, specific, direct questions such as "have you seen this poster before" or do you know who sent this letter" rather than make accusations?
- Experience indicates that brainstorming with the recipient and appropriate others may lead to identification of the offender. Examples cited by practicing ombudspeople included an hour or more of steady, imaginative thinking that resulted in positive identification. Who has the motivation? Who had the means to do this? What clues were left? Whose interests might have been served? The ombudsperson should also follow-up periodically with the recipient at least until the offender has been identified and whenever possible at appropriate times thereafter.
- The ombudsperson and others might think of generic intervention and systems change. With respect to "generic intervention"....should the school, or other unit larger than the department,

schedule a session on all kinds of harassment, and include anonymous attacks as one form of harassment to be discussed? With respect to systems change: Should there be a discussion in the institution about collecting information on this type of case? Should there be an institutional protocol of a simple nature? Should department heads be informed from time to time about the existence of these cases and what they might do?

- The ombudsperson might inform him/herself about specific subject matter that comes up in these cases, for example, what is happening around the country with allegations about satanic cults, voodoo-connected episodes, specific religiously oriented issues, or other culturally-relevant phenomena.
- By the same token, in unusual cases, the ombudsperson might consult with relevant experts (for example, with people of the relevant cultural background.)
- The ombudsperson and the recipient should work out with local security experts and supervisors reasonable steps to affirm the safety of anyone who might be in harm's way, such as:
 - practical steps – don't be alone, change locks, etc.
 - if attack is over the phone consider:
 - having the phone company tap the phone
 - changing the phone number, having it unlisted
 - keeping the tape of any messages left on the answering machine
 - temporary or permanent change of residence, re-assignment of complainant
 - security systems/panic buttons
 - appropriate changes in personal and professional routines.

Although following the foregoing suggestions cannot guarantee that the target will be safe from an anonymous attack nor that the attacker will cease the harassment, nevertheless, a systematic investigation of the facts should prove helpful and can serve as a useful resource in determining the correct course of action.

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SITUATION ANALYSIS WORKSHEET

Some questions to consider:

1. Is this an emergency?
2. What are all the issues?
3. Who is involved and who else's interests may be at stake?
4. What are the interests of each?
5. What are the sources of power available to each party?
6. What are possible options (including those with negative consequences)?
7. What reasons would each party give for liking or not liking suggested options?
8. What data are missing?

What can be gathered quickly and unobtrusively?

What other data would be helpful?

9. What are the relevant policies and laws?
10. Are there any precedents for action (good or bad) with this type of case?

<p>MORE EFFECTIVE APPROACH FOR THREATS OF VIOLENCE¹</p>	<p>LESS EFFECTIVE APPROACH: MISTAKES MANAGERS MAKE REGARDING THREATS OF VIOLENCE²</p>
<p>Adopts and publicizes strong policy</p>	<p>Fails to adopt/publicize a zero tolerance policy</p>
<p>Trains all supervisors and managers in conflict resolution and violence policies: a “zero barrier” practice</p>	<p>Fails to train supervisors and managers in implementation of policy</p>
<p>Uses specially trained criminal justice and mental health professionals</p>	<p>Uses standard psychiatric/psychological services to assess threat of violence</p>
<p>Takes threats and threatening behavior seriously</p>	<p>Ignores “vague” or indirect threats</p>
<p>Performs appropriate investigation before taking actions (except in dire emergencies)</p>	<p>Presses charges/petitions court before conducting inquiry, speaking to employee</p>
<p>Takes a systems approach</p>	<p>Assigns responsibility to one particular function (e.g. legal, human resources, security)</p>

¹ Assembled by Mary Rowe and Linda Wilcox, 1997.

² Source: American Occupational Health Conference, quoted in the Journal of the American Medical Association, June 12, 1996, Vol. 275, No. 22, page 1711.

A FRAMEWORK FOR ANALYSIS OF VIOLENCE AND FEAR OF VIOLENCE

CONSIDER:

WHAT KIND OF PROBLEM	WHAT IS THE PROBLEM	WHO MAY BE AFFECTED
<input type="checkbox"/> Must act	<input type="checkbox"/> Visitor as Target <input type="checkbox"/> Visitor as Violator	<input type="checkbox"/> Violator <input type="checkbox"/> Target <input type="checkbox"/> Third Parties <input type="checkbox"/> Institution
<input type="checkbox"/> Not emergency (but serious concern)	<input type="checkbox"/> Visitor as Target <input type="checkbox"/> Visitor as Violator	<input type="checkbox"/> Violator <input type="checkbox"/> Target <input type="checkbox"/> Third Parties <input type="checkbox"/> Institution
<input type="checkbox"/> Other Illegal Behavior	<input type="checkbox"/> Visitor as Target <input type="checkbox"/> Visitor as Violator	<input type="checkbox"/> Violator <input type="checkbox"/> Target <input type="checkbox"/> Third Parties <input type="checkbox"/> Institution
<input type="checkbox"/> Workplace Mistreatment, Meanness	<input type="checkbox"/> Visitor as Target <input type="checkbox"/> Visitor as Violator	<input type="checkbox"/> Violator <input type="checkbox"/> Target <input type="checkbox"/> Third Parties <input type="checkbox"/> Institution
<input type="checkbox"/> Anonymous Complaint	<input type="checkbox"/> Visitor as Target <input type="checkbox"/> Visitor as Violator	<input type="checkbox"/> Violator <input type="checkbox"/> Target <input type="checkbox"/> Third Parties <input type="checkbox"/> Institution
<input type="checkbox"/> Cross-cultural Misunderstanding	<input type="checkbox"/> Visitor as Target <input type="checkbox"/> Visitor as Violator	<input type="checkbox"/> Violator <input type="checkbox"/> Target <input type="checkbox"/> Third Parties <input type="checkbox"/> Institution
<input type="checkbox"/> Malicious Defamation	<input type="checkbox"/> Visitor as Target <input type="checkbox"/> Visitor as Violator	<input type="checkbox"/> Violator <input type="checkbox"/> Target <input type="checkbox"/> Third Parties <input type="checkbox"/> Institution

Some Points to Consider

Introduction:

- Evaluate your information and your time frame. **Is this an emergency?** If so, act accordingly and call your security department or the Campus Police. If you have a little time, read these pages, evaluate your information, see what you do and do not know, what you might find out unobtrusively, what would be difficult to find out.
- Contrary to some newspaper accounts, violence does not usually “come out of the blue”. **Think of violence as a process.** Try to assess how far along things are in a process that might lead to violence.
- It is less effective to ask “Is X a dangerous person?” (since almost anybody could be dangerous) and more useful to ask, “**Is this a dangerous situation?**” Think about the person(s) of concern, about targets, about the setting, about recent events.
- **Take a systems approach.** Think of your information in context. Think of your resources in context. Work with appropriate others. Don’t handle this alone. Ask others to help evaluate the information you have and the options. This is especially important if there are cross-cultural, cross-gender, and ethnic issues to consider.
- Take all threats seriously but be sensitive to the fact **that making a threat and actually posing a threat may be different matters.** Many people who pose a threat do not make a threat. Many people who make a threat do not really pose a threat.

This list was compiled by Mary Rowe and Linda Wilcox. Much of this list comes from Gavin de Becker, The Gift of Fear, Little Brown, 1997, the International Chiefs of Police, Combating Workplace Violence, and especially from the work of Dr. Robert Fein and SA Bryan Vossekuil of the USSS, (for example, see Threat Assessment, NIJ, 1995). The list is organized into categories suggested by the work of Robert Fein and Bryan Vossekuil.

Violence and Fear of Violence in the Organization

- Violence is the end result of an understandable and usually discernible process.
- Some persons who pose threats make threats. Some persons who pose threats *do not* make threats. There is a difference between being a threat and making a threat.
- Assessment of gender-related tensions requires care, especially if there is sexism in the situation. Females, as well as males, are capable of acts of violence.
- Some persons who make threats *do* pose threats. Take all threats seriously.
- A person who poses a threat to one person may pose a threat to others.
- Cross-cultural assessment requires care, especially if there is racism or ethnic tension in the environment.
- A person who is prepared to kill himself/herself may also pose a risk to others.
- Some people don't know the rules. Some people can't or won't hear or abide by the rules.
- The 'fear of violence' includes a wide spectrum of issues to consider. Be sure to consider other relevant issues as well.

This page accompanies the 1997 TOA teaching tape on Violence and Fear of Violence in the Organization. Consult with appropriate resource persons when dealing with a specific case.

^{The}
Ombudsman
A S S O C I A T I O N

**Specialized Course For
Practicing Ombuds**

**VIOLENCE AND FEAR OF VIOLENCE
IN THE ORGANIZATION**

SYSTEMS APPROACH TO VIOLENCE AND SABOTAGE

INTERNAL SYSTEMS APPROACH	→ LINK ¹ ←	EXTERNAL SYSTEMS APPROACH
Policies and Procedures		
Training Employees		Police/Criminal Justice System
Emergency Assessment Team		Mental Health System
Crisis Plan		Crisis Consultants
Post Crisis Plan		
Difficult and Dangerous Problems Group ²		

SOME TASKS:

- Assessing internal resources
- Build a “difficult and dangerous problems” group that meets regularly
- Review of draft OSHA requirements in other relevant state and federal laws and NIOSH data
- Review/develop policies and procedures
- Assemble an assessment team based upon the nature of the crisis
- Think through crisis plan
- Think through a post crisis plan

¹ Internal people should have access to external resources to develop a crisis plan and for help in time of crisis.

² A typical group might have the senior professionals from security, human resources, the Ombuds office, student affairs, EAP, medical department, general counsel, etc. meeting together with two or three senior managers. From “People Who Won’t Let Go,” ©1994 Mary Rowe, MIT 10-213, Cambridge, MA 02139–Page 17.

COMMON MISCONCEPTIONS ABOUT SUICIDE

FALSE	TRUE
<i>1. People who talk about suicide rarely commit suicide.</i>	1. People who commit suicide have given some clue or warning of intent. Suicide threats and attempts must be taken seriously.
<i>2. The tendency toward suicide is inherited and passed on from one generation to another.</i>	2. Suicide does not "run in families." It has no characteristic genetic quality.
<i>3. The suicidal person wants to die and feels there is no turning back.</i>	3. Suicidal persons most often reveal ambivalence about living versus dying and frequently call for help immediately following the suicide attempt.
<i>4. Everyone who commits suicide is depressed.</i>	4. Although depression is often associated with suicidal feelings, not all people who kill themselves are obviously depressed: some are anxious, agitated, psychotic, organically impaired, or wish to escape their life situation.
<i>5. There is very little correlation between alcoholism and suicide.</i>	5. Alcoholism and suicide often go hand in hand; that is, a person who commits suicide is often also an alcoholic.
<i>6. A person who commits suicide is mentally ill.</i>	6. Although persons who commit suicide were often distraught, upset, or depressed, many of them would not have been medically diagnosed mentally ill.
<i>7. A suicide attempt means that the attempter will always entertain thoughts of suicide.</i>	7. Often a suicide attempt is made during a particularly stressful period. If the remainder of that period can be appropriately managed, then the attempter can go on with life.
<i>8. If you ask a Person of Concern directly, "Do you feel like killing yourself?" this will lead him to make a suicide attempt.</i>	8. Asking a Person of Concern directly about suicidal intent will often minimize the anxiety surrounding the feeling and act as a deterrent to the suicidal behavior.
<i>9. Suicide is more common among the lower socioeconomic groups than anywhere in our society.</i>	9. Suicide crosses all socioeconomic groups and no one group is more susceptible than another.
<i>10. Suicidal persons rarely seek medical help.</i>	10. In retrospective studies of those who had committed suicide, more than half had sought medical help within the six months preceding the suicide.
<i>11. Suicide and homicide are very different activities.</i>	11. A person who is prepared to commit suicide or kill others may also do both.

Consult the appropriate professional for specific cases.

WE ARE GRATEFUL TO AN UNKNOWN AUTHOR FOR THESE MATERIALS

FACTS TO CONSIDER (A)

	PROBABLY LOWER RISK	PROBABLY HIGHER RISK
Demographic Factors	<input type="checkbox"/> lives with others <input type="checkbox"/> adequate resources <input type="checkbox"/> <50 <input type="checkbox"/> employed <input type="checkbox"/> socially involved	<input type="checkbox"/> live alone <input type="checkbox"/> few resources <input type="checkbox"/> >50 <input type="checkbox"/> unemployed <input type="checkbox"/> social withdrawal
Psychological	<input type="checkbox"/> few/mild medical problems <input type="checkbox"/> no drug/alcohol dependency <input type="checkbox"/> little disturbance of sleep, appetite, weight, energy	<input type="checkbox"/> chronic illness, pain, debility <input type="checkbox"/> drug/alcohol dependency <input type="checkbox"/> persistent/marked disturbance of sleep, appetite, weight, energy
Past and Present Psychological Status	<input type="checkbox"/> stable life pattern <input type="checkbox"/> no prior psychiatric treatment <input type="checkbox"/> no prior suicide attempts <input type="checkbox"/> mild depressive symptoms <input type="checkbox"/> motivated for help <input type="checkbox"/> few present psychiatric problems	<input type="checkbox"/> unstable life pattern <input type="checkbox"/> prior psychiatric treatment <input type="checkbox"/> prior suicide attempts esp. high lethality <input type="checkbox"/> prominent depressive symptoms <input type="checkbox"/> poorly motivated <input type="checkbox"/> impaired reality testing (O.B.D., psychosis, agitation, self-recrimination)
Social Resources	<input type="checkbox"/> concerned family/friends; <input type="checkbox"/> stable finances	<input type="checkbox"/> lives alone, no close friends; <input type="checkbox"/> poor finances
Medical History	<input type="checkbox"/> few or mild medical problems; no drug/alcohol dependency	<input type="checkbox"/> severe medical problems/pain; drug/alcohol dependency
History of Mental Health	<input type="checkbox"/> generally stable, good life adjustment	<input type="checkbox"/> prior psychiatric hospitalization; suicide attempts, poor life adjustment, familiar suicide
Precipitating Events	<input type="checkbox"/> Occurred recently, potentially solvable	<input type="checkbox"/> Long-term problems, no solution in sight
Psychological Status	<input type="checkbox"/> Mild to moderate problems; cooperative, wants help	<input type="checkbox"/> Severe problems, blames self, reluctant to accept help
Physiological Status	<input type="checkbox"/> Mild to moderate symptoms; little disturbance of sleep, appetite, sex drive, few/mild somatic complaints	<input type="checkbox"/> Severe symptoms; trouble eating, sleeping, low energy, many somatic complaints
Daily Activities	<input type="checkbox"/> Mostly contains usual routine, remains involved with people and activities	<input type="checkbox"/> Less and less daily activity, withdrawing from people
Suicidal/Homicidal Ideation	<input type="checkbox"/> Occasional, no specific plan, low lethality <input type="checkbox"/> means unavailable	<input type="checkbox"/> Persistent, specific detailed plan, high lethality <input type="checkbox"/> means unavailable

Core Question: Does the Person of Concern have a detailed, workable, well thought-out suicide plan?

Consult the appropriate professional for specific cases.

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FACTS TO CONSIDER (B)

BEHAVIOR or SYMPTOM	INTENSITY OF RISK		
	Lower	Moderate	Higher
Anxiety	Mild	Moderate	High, or panic state
Depression	Mild	Moderate	Severe
Isolation/ withdrawal	Vague feelings of depression, no withdrawal	Some feelings of helplessness, hopelessness, and withdrawal	Hopelessness, helplessness, withdrawn, and self-deprecating
Daily functioning	Fairly good in most activities	Moderately good in some activities	Not good in any activities
Resources	Several	Some	Few or none
Coping strategies/ devices being utilized	Generally constructive	Some that are constructive	Predominantly destructive
Significant others	Several who are available	Few or only one available	Only one, or none available
Psychiatric help in past	None, or positive attitude toward	Yes, and moderately satisfied with	Negative view of help received
Life style	Stable	Moderately stable or unstable	Unstable
Alcohol/drug use	Infrequently to excess	Frequently to excess	Continual abuse
Previous suicide attempts or attack on others	None, or of low lethality	None to one or more of moderate lethality	None to multiple attempts of high lethality
Disorientation/ disorganization	None	Some	Marked
Hostility/Agres-sion toward others	Little or none	Some	Marked
Suicidal Plan	Vague, fleeting thoughts but no plan	Frequent thoughts, occasional ideas about a plan	Frequent or constant thought with a specific plan

Consult the appropriate professional for specific cases.

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POSSIBLE INTERVENTION TECHNIQUES

Techniques	Possible Risks		
	Lower	Moderate	Higher
Assess Emergency	No plan to suicide within next 24 hours	No plan within next 24 hours	Plans suicide in next 24 hours. What, when, where: what has already been done.
Focused on hazard and crisis	Primary	Primary after emergency is ruled out	May be secondary until Person of Concern is safe
Clarify the hazard/crisis	Assist Person of Concern to arrive at clearer idea	Person of Concern needs more help from caregiver	Person of Concern needs most help from caregiver
Reduce imminent danger	Help Person of Concern reduce future danger. Obtain verbal contract to avoid suicide.	Help Person of Concern reduce danger. Obtain verbal contract.	Direct Person of Concern to reduce danger. Provide first aid if necessary. Obtain verbal contract.
Assess need for medication	Evaluate	Evaluate	Most often—but must be monitored
Assess need for someone to stay with Person of Concern	Often a good idea to have someone available for support	Frequently necessary	Essential precaution to prevent hospitalization or suicide.
Mobilize internal and external resources	Very important; usually can mobilize internal resources.	Very important. Can mobilize some internal resources.	Essential. Few internal resources. Need help to mobilize external resources.
Contact significant others	Important	Very important	Essential
Harness coping devices	Minimal help needed	Needs more help	Needs command and directions
Give structure	Minimal help needed	Needs more help	Needs specific directions
Continue daily activities	Needs encouragement	Needs encouragement and some direction	Needs directions and assessment of what is possible
Direct to planned/organized action	Needs encouragement	Needs encouragement and some direction	Needs commands

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Notes on

SUICIDE ASSESSMENT

Suicide assessment may be appropriate when a visitor talks of being depressed, or feeling despair, or wishing to die, and you believe these symptoms are moderate to severe.

Consider asking the individual direct questions:

“Have you thought about killing yourself?” (or hurting yourself)

“How often?”

“Have you thought how you would do it?”

You may wish to encourage the visitor to talk about his or her thoughts and feelings.

Most people think about suicide occasionally – but as a fleeting thought. Individuals with symptoms of major depression who think about suicide regularly, and/or have a well-delineated plan with the lethal means available, are at risk.

It is important to refer visitors who are at risk to a mental health professional, and to follow up to make sure they make the contact and receive appropriate treatment. This is a situation in which the Ombudsperson would usually seek a way to report the risk with the visitor's permission. In the rare case in which permission is not given, the ombudsman may still have a responsibility to report the danger, to prevent serious harm or loss of life.

Other possible increased risk factors for suicide may include: use of alcohol or drugs, impulsivity, legal or disciplinary problems, recent losses, prior suicide attempts, history of suicide in the immediate family, serious desire to murder another person, recent writing of a will or giving away possessions, recent “accidental” injuries, lack of commitment to future plans, and absence of a positive social support system. Individuals who talk about using guns may be more dangerous than those who talk about slitting their wrists, but all should be taken seriously.

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**Some Questions the Employer or Ombuds Might Want to Ask
Potential Consultants – When Searching for Help with a Crisis Event or for
Concerns about Violence and the Fear of Violence in the Workplace**

PREVIOUS CRISIS WORK EXPERIENCE OF THIS CONSULTING GROUP

- Geographical Areas Covered, in the US and elsewhere.
- How many cases have they handled per year, for how many years? What kinds of cases? (Do they keep records and do they talk about other employers?)
- Response time (is this guaranteed?) Phone and in person response time?
- What is the number of professionals in the consulting group and the number available in your area of the country?
- What languages, cultural experience, gender, professional degrees, relevant professional experience, or other special expertise are included on or available as associates of the team?
- Mode (how do they work?) Alone/in teams?
- Cost per hour?
- Copies of literature – brochures, etc. – read these carefully

Experience of the SPECIFIC professionals your employer will be working with (not just the head of the firm):

- How many years has this consulting group been in business, and how many years have these specific professionals worked with this firm?
- How many violent criminals has each professional personally interviewed, assessed, or dealt with?
- What is the experience of the specific professionals you will be dealing with: coordinating/working with internal security departments, law enforcement authorities and the criminal justice system? Have these professionals testified as expert witnesses?
- What is their experience coordinating with the mental health system? with EAPs?
- How many employers have they worked with? (References? What kind of workplace?)
- What is their understanding of employment law, and what is their experience working with internal counsel?

SURVEY WORK

- Do they have experience with surveys about fear of violence or violence?
- Do they have experience in workplace assessment? (E.g. How is your workplace setting – what are its strengths and weaknesses with respect to issues of violence?)

TRAINING/CONSULTING

- Training managers
- Training HR/internal crisis staff
- Experience helping design/set up internal crisis teams? crisis systems?
- Experience helping design/set up on-going “difficult problems” teams?

POST CRISIS WORK (aftermath)

- How many episodes and of what type? short-term or longer?
-

OVERALL:

- Does the proposed consultant simply offer a package or does s/he help the employee be thoughtful about needs assessment and program development?
- There may be no perfect consultant. Some may be helpful with internal systems training and assessment and others with crises.

The Ombudsman Association specialized course
VIOLENCE AND FEAR OF VIOLENCE IN THE ORGANIZATION

EVALUATION FORM

Please rate each section of this course (with 5 being excellent)					
Introduction	5	4	3	2	1
Making a Threat versus Being a Threat <i>"The Rabbit Hunter"</i>	5	4	3	2	1
Confidentiality and Neutrality: <i>Tom Jones has been fired</i>	5	4	3	2	1
How Serious is This Case?: <i>Wilcox versus Wilcox</i>	5	4	3	2	1
Ingredients for Violence: Person, Setting, Situation, Target: <i>"You're the problem"</i>	5	4	3	2	1
What is the Problem: Culture? Malice? Violence? <i>"I'm sure it's T.K. Lee"</i>	5	4	3	2	1
Dealing With a Potentially Vengeful Visitor <i>She has access to the whole computer system</i>	5	4	3	2	1
Dealing with Fear in the Workplace <i>I'm gonna getcha!</i>	5	4	3	2	1
Systems Approach and the Role of the Ombuds in the System	5	4	3	2	1
What was missing?					
What should be left out?					
What was most useful?					
Other comments?					

I. INTRODUCTION

- How to look at booklet
- What's different about violence
- Things to consider before brainstorming, creating options, and choosing courses of action
- NIOSH – Data
- suggest there are more and less effective ways to understand and analyze a problem. (Newest points to consider)
- Understand and analyze a problem. (Situation analysis. Learning points – here or in appendix)
- Possible model to consider – framework

(Mention suicide sheet, as appropriate)

II. A more effective model ⇒ using a system approach

- b) concern of organization – whom system does what, can access outside, who in introduction can be called in, regular meetings. (System to violence and sabotage)
- c) Ombuds as part of system
 - ♦ Non-tolerance policy
- d) Ombuds in office
 - ♦ Use of outside consultants
 - 1. Safe office design
 - 2. Framework and ex.
 - 3. Points to consider

III. NIOSH statistics suggests violence not on increase (1997) but fear of violence on rise. Make a threat vs. pose a threat.

IV. Appendix

Non-tolerance policy
Use of outside consultants
Learning points (?)
Situation analysis worksheet
Systems approach to violence and sabotage
Suicide sheets

Mary's sources of power

V. Bibliography – every Ombuds should read:

NIOSH
Delusional
Anonymous
Fear
OSHA reg. on violence
Chief of Police booklet
Books w/difficult people

VI. Back cover – graphic



FORMS OF REPRISAL

- Perceived
- Actual
- Contrived

EXAMPLES OF INTIMIDATION/REPRISAL

- Absence of support
- Veiled or clear threats
- Public humiliation
- Social ostracism
- Performance evaluations
- Termination

THE CHALLENGE TO THE OMBUDSMAN

- Climate of fear
- Calculated actions
- Patience of the retaliator
- Cover-up by proper paperwork

REPRISAL -- SPECIAL ISSUES

- Paranoia
- Conflicting stories
- Conspiracy
- Climate for reprisal
- Emotions

RETALIATION

FOUR REQUIREMENTS

1. PERSON ENGAGED IN PROTECTED ACTIVITY
2. EMPLOYER LEARNED OF THIS ACTIVITY
3. EMPLOYER SUBSEQUENTLY TOOK ADVERSE ACTION AGAINST EMPLOYEE
4. THERE WAS A CAUSAL LINK BETWEEN THE PROTECTED ACTIVITY AND THE ADVERSE ACTION

TYPO

N

- in good faith

- notice

For packet:
a plan for dealing
with a dispute

Spelling
on slide
+ respondent

Reprisal
Workshop

Schedule

TOA REPRISAL WORKSHOP

Boston July 27, 1999

Remember Ombuds Rules

1999

- 8:00 Introduction
- 8:15 Basic Concepts
- 9:00 Whistleblower Case - Scene 1: Complainant Discussion
- 9:45 Break
- 10:15 Scene 2: Respondant Discussion
- 11:00 Scene 3: Third Party Discussion
Proving Retaliation
Breakout and Reports
- 12:00 Lunch
- 1:00 Superior/Subordinate Relationship Scene 1: Complainant Discussion
- 1:45 Scene 2: Respondant Discussion
- 2:30 Breakout and Reports
- 3:15 Break
- 3:45 Executive Retaliation Discussion
- 4:30 Wrapup

Goodlin
went to
Hicks
Safety
Air Force

Wilson
character
women

Rowe
as
Labhead

Wagner - Furtado
Relationship
writing herup

Hicks: should have
asked TG for a
copy of the letter
+ is this an
emergency +

Credibility
of @ on
tape?

Stalking



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