

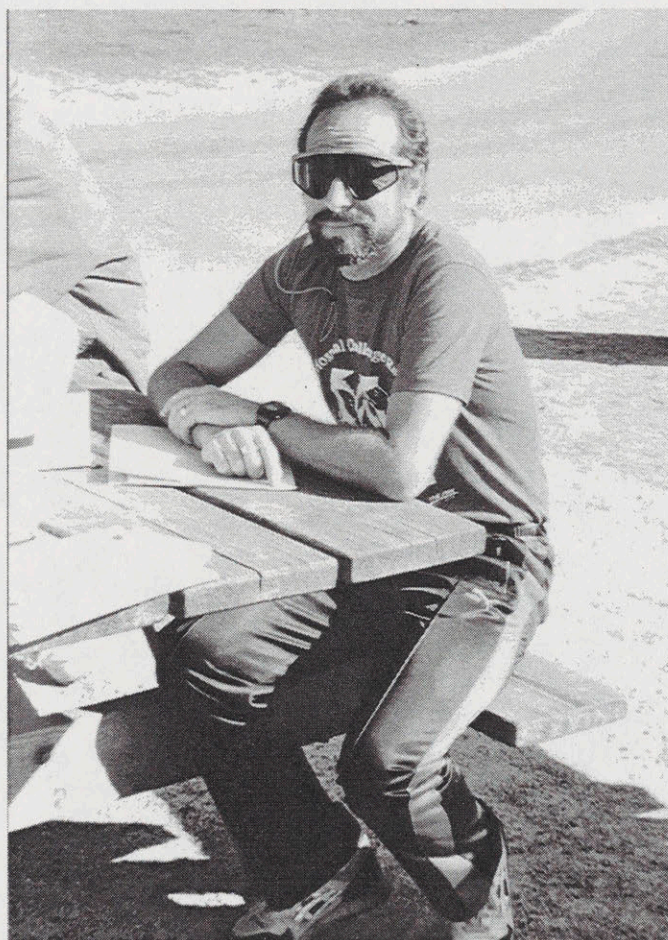
9 California Caucus of College and University Ombudsmen, The Journal

1993

California Caucus  
of  
College & University  
Ombudsmen

*The Journal - 1993*

DEDICATED TO THE MEMORY OF



*Gilbert J. Gutierrez, Jr.*

*May 14, 1950 - August 6, 1993*

## DEDICATION

Gilbert J. Gutierrez, Jr.

University Ombudsman, Colorado State University

Cool, intriguing sun glasses; a soft, flowing voice; warm, sincere laughter; a commitment to family, friends, and co-workers; and, a passion for the Ombudsman profession. These qualities personified our colleague, **Gilbert J. Gutierrez, Jr.**

Those of us who have been participating in the annual CCCUO and UCOA conferences will remember Gil as a gentle man who had a propensity for discovering the positive and the beautiful in the vicissitudes -- joyful or sad -- that life offers earth's temporary residents. We will recall and always love Gil as an easy-going person who strived to fulfill his dreams in a manner that allowed all his comrades to share his wonderful qualities and talents. Because we had the opportunity to know Gil, our own professional and personal lives became enriched with a deeper understanding of the human condition. Gil fortified our commitment to work together for the survival of the good and best that resides within all of us.

My personal remembrance of Gil is on a tape that I received from Bob Shelton after the recent UCOA Conference in Lawrence, Kansas. Because I was in the hospital and unable to attend the event that I helped to plan, my fellow Ombudsmen taped their inimitable humor for my listening pleasure. Naturally, Gil sang me a song. His joyful tone was captured to the degree that my depressed spirits were buoyed more from his singing than from the various prescribed medications that I was in the process of consuming.

Though we are denied Gil's physical presence at our beloved Asilomar gathering, let us assume the cheerful outlook and collaborative manner that he generously and lovingly bequeathed.

ACKNOWLEDGEMENT

Shirley Crawford

It is with sincere gratitude and appreciation that the California Caucus of College and University Ombudsmen acknowledges the contribution that Mrs. Shirley Crawford made to our Asilomar Conference by way of the support services she delivered toward the completion of this publication. Without her diligent and nurturing assistance, our Journal would not have been possible.

Mrs. Crawford is the Administrative Assistant to the Assistant Executive Vice Chancellor-University Ombudsman at the University of California, Irvine.

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## INTRODUCTION

Ron Wilson

University of California, Irvine

Ironically, the 1993 articles for the California Caucus of College and University Ombudsmen Asilomar Journal address the broadest spectrum of subjects and compose the largest edition of writings since the first publication in 1988. This fact is ironic because many of the topics describe the sensitive and controversial areas in which we foray daily, monthly, or annually in our mission of reversing injustice and attaining equity. In short, this array of concerns interconnect, weave into the basic fabric, and become an integrated pattern that could almost define the Ombudsman profession.

As our Memorial attests, we are dedicating this Journal to **Gil Gutierrez**. This tribute is most appropriate because those of us who had the opportunity to converse with Gil understood his dedication and passion for resolving the same concerns that are documented in this Journal. Gil spent his Ombudsman career enmeshed totally in these issues -- never in a superficial way but in a tangible manner that left a visible and lasting work ethic for us to emulate just as the articles provide a blueprint for us to follow.

Therefore, the reader who reviews diligently or peruses lightly the following scripts will discover that they bear a proud testimony to the sincerity, versatility, and creativity of the authors, our Ombudsmen colleagues, and simultaneously, celebrate the humane spirit of Gil Gutierrez that could never be separated from his professional practices.



**Stanley Anderson** demonstrates deftly that justice is subordinate to order; that the primary function of law is the preservation of order; and that individual conflicts must be resolved for the continuance of societal order in his article, "Disaggregating the Ombudsman: Towards a Pure Theory of Conflict Resolution." Postulating that the "non-coercive solutions" achieved in Alternative Dispute Resolution are preferable to the "coercive mandates" from the Courts, Anderson provides cogent examples of the three ways to resolve conflicts: self help; a negotiated settlement between the two parties in dispute; or the use of an intervening third party such as a mediator or ombudsman. Furthermore, Anderson offers a convincing argument that in some cases, mediation can be a more effective device for eliciting the facts relevant to the dispute than direct or cross examination on the witness stand because it encompasses conscientious fact-finding, careful deliberation, rational explanation, and reasoned persuasion. Finally, within the Ombudsman concept lie the Executive Ombudsman Office and the Classical Ombudsman Office which stimulate respectively either a more efficient service or the articulation of more equitable procedures.

**R. Adolfo de Castro** casts a bright light on the shadow of our fading Democracy and reveals that our U. S. citizens no longer have faith nor enjoy meaningful participation in this form of representation. In "An Ombudsman for America," de Castro states that the present legislative representation has ceased to provide an effective guarantee that the citizens will be involved in correcting the ills plaguing society. However, de Castro suggests that a ray of hope lies in the appointment of an independent legislative Ombudsman in each of the 50 states and one at the federal level in Washington, DC. Convinced that it is difficult to motivate people to vote but easy to ask them to complain, de Castro supports the concept of an Ombudsman who would be empowered to champion the cause of the average citizen before the government and who could inquire into the improper administrative actions which are taken by federal agencies in the name of the people.

**Tim Griffin** skillfully draws the reader in and out of the perennial dilemma facing the Campus Ombudsman Office that operates on a limited budget with few staff members -- to advertise or not to advertise? Therein lies the crux of the argument regarding whether or not to announce the availability of the Ombudsman services and the willingness to alleviate injustice. As Griffin notes aptly and accurately in his article, "Techniques for Marketing the College and University Ombuds Office to Faculty, Staff, and Students," concerns cannot be identified and subsequently addressed if they are not brought to the Ombudsman Office. Therefore, the Ombudsman will be able to assist in correcting institutional behavior and circumstances which impede the academic community from achieving their professional and educational goals only to the degree that the impediments are known and confronted. However, free publicity can be found among the several print and media marketing strategies and the astute Ombudsman will take advantage of interviews, feature articles, or an "Ombudsman Column" in the Student Newspaper; giving a Personal Presentation at Freshman Orientation Programs; and writing a brief description of the Ombudsman services for the College Course Catalog or Campus Telephone Directory. Finally, if a budget surplus arises unexpectedly, Direct Mail is the most effective means of alert and costs less than a First Class Stamp.

**Norma Guerra** and **Nancy Flinchbaugh** outline an excellent blueprint for expanding the traditional grievance system and providing more options for resolving a conflict in their article, "Expanding the Ombuds Office: A Systems Approach to Dispute Resolution on Campus." Using the Problem Solving/Conflict Resolution Program model developed at the University of Texas, San Antonio, the authors explain methodically how the problem solving, mediation, and ombudsing services were incorporated under the auspices of a Central Office and offer the following advantages: the Problem Solver seeks a quick resolution at the lowest possible level; the Mediation Process matches the disputants to the appropriate mediators and uses third party neutrals to bring disputants together for the purpose of venting emotions, clarifying the problem, suggesting options, and formulating an agreement; and, the Ombudsman concentrates on resolving issues related to University policies and procedures. The total process is a unique combination of Central coordination via decentralized methods.

"Confessions of a First Year Ombudsperson," by **Michael Kerze**, permits veteran Ombudsmen to rest, albeit momentarily, on their laurels. Kerze generously credits his present success to the valuable information that his fellow Ombudsmen provided through their articles in past copies of the Journal as well as the cases and questions they discussed on the Panels at the California Caucus of College and University Ombudsmen in Asilomar, California.

Kerze, a professor of the History of Religions, had never been an Administrator when he accepted the Director of the Chapel and Interfaith Center position with the added responsibility of developing an Ombudsman Office at Occidental College. However, from his Journal readings and personal contacts at the Ombudsmen professional conferences, Kerze knew the conditions under which he wanted to operate: neutrality, confidentiality, and independence (report to the President, if possible). Furthermore, the staff had requested an Ombudsman Office because of fermenting discord between employees and supervisors, and as the new Ombudsman, his first cases were old problems. Additional strategies that Kerze employed were: scheduling meetings with all the important Campus Administrators; attending a seminar on the legal issues of hiring, firing, bargaining units, and harassment; listening patiently while the disputing parties made a verbal assault on the problem; and, becoming convinced that Ombudsmen are sworn to the tenet, "finesse over fighting!"

**Beatrice Pearson** provides a definitive analysis of the common, but seldom acknowledged, harassment problem that occurs insidiously within universities. Pearson bases her article, "Harassment and Intimidation of Staff in University Workplace," on a study of over 100 files during a 4 1/2 year period and skillfully uncovers the similar situations, underlying reasons, personal reactions, and unfortunate conclusions which can surface in disputes between faculty and their support staff while fulfilling the University's mission of educating students.

Pearson offers an intriguing theory of a possible cause being the structure of the University which makes it easy for harassment to occur and difficult to correct. Because professors are colleagues, they possess an inherent respect and tolerance for the opinions and behavior of their peers. Because academic freedom is the founding tenet upon which the University rests, a "member of academe" can infringe more easily, and sometimes with impunity, on the freedom

of others. Because the Chair of a Department is considered a "first among equals" by his faculty, he has difficulty in addressing and correcting a harassment problem which might be occurring. Unlike his counterpart in a business enterprise who has climbed the corporate ladder in direct proportion to his skill in motivating his staff to work for company profits, the Chair has risen because of his expertise in publishing and teaching. This scholarly background can lack depth in the preparation for handling a delicate personnel situation which involves the inappropriate behavior of a supervisor toward a subordinate. Pearson concludes poignantly that humanity loses when the harassment is not curtailed because the harasser emerges unscathed; the victim can be forced to leave; and the unjust action assumes an appearance of "legality."

**Maile-Gene Sagen** and **Barbara Schwartz** join forces to write a swift-moving, tension-filled narration of the tragic events that occurred at the University of Iowa on November 1, 1991. In "Campus Violence: The University of Iowa Response" (written in 1992 after the fatal shootings but before the first anniversary in November), Sagen and Schwartz present an honest assessment of the strengths and weaknesses in the Administration's response to the disastrous ramifications experienced by the campus, the community, and the families of the deceased students, staff, and faculty.

The authors attribute the successful management of the tragedy to an "Emergency Response Team" that had existed since the 1960's for the purpose of calming emotions in student demonstrations and alleviating hardship in natural disasters. Sagen and Schwartz emphasize the importance of meeting the "three essentials" in an emergency, i.e., notifying the proper university officials and civil authorities; informing the local news media without causing jammed telephone lines; and providing psychological services to assist the families, eye witnesses, co-workers, and personal friends of the deceased.

Sagen and Schwartz strongly encourage the creation of a committee whose sole purpose is to act quickly in an emergency. The committee members should include the Directors of the offices for counselling, health care, safety, and personnel as well as the University Attorney. (One of the flaws that can surface quickly is the legal nightmare that follows in the wake of unfilled expectations and unkept promises, even if these pledges, made during shock, might not be legally deliverable.) Such an Administrative Unit reassures the entire community that the University is prepared to resolve crises intelligently and compassionately.

In "Cults on Campus: How the Ombudsman Can Intervene," **Janis Schonauer** champions the cause of assisting the Cult defector's return to the ranks in academe that involve continued study to earn a college degree. Because academic offices might not understand the total control over a person's actions and the destructive consequences on the student's education that a Cult can inflict, the unfortunate student can meet indifference and scorn when attempting to make a fresh start. This bureaucratic apathy to a present plight caused by a past mistake could serve as the justification for another withdrawal by this hapless student, and the courageous decision to quit the Cult and resume the studies will become null and void. However, as Schonauer emphasizes, the Ombudsman Office can offer hope and help that might be overlooked by offices rendering routine services. Because the Ombudsman Office operates independently and offers the sanctuary of confidentiality, the

beleaguered former Cult member can talk about past errors to objective and impartial listeners who will not sit in judgement. To effect these results, Schonauer outlines the following steps: identify the Cult; inform the campus community of the Cult's presence on campus; train staff to recognize the telltale signs that might be exhibited by a "Cult-Courted student"; and, document the involvement of the student in the Cult if possible with a physician, pastor, or law enforcement agency. Then, using logic and persuasion, the Ombudsman can explain these debilitating effects to the professors and staff who can remove the deficient grades which might prevent the student's enrollment in college courses as well as promote the retaking of lost academic ground.

**Marsha Wagner** devotes her attention to "neutrality," an attribute that is extolled, expected, desired, and even demanded in several of the other Journal articles. In "Neutrality in Listening," Wagner deftly portrays the traps into which the objective third party can fall unwittingly if the reserved, removed, respectful manner becomes prey to empathy. In contrast, successful resolution lies in the neutral listener feeding back the speaker's main points within a familiar frame of reference while guiding the individual toward a logical conclusion. Moreover, these objective responses can foster candor and trust as well as become reliable statements of fact upon which the complainant can base future actions. Wagner provides perceptive "signposts" and undeniable "danger signals" in her examples of the "noxious don'ts" . . . smiles and nods can be taken as partisan support; empathetic statements can mislead and imply bias or approval; and autobiographical details can be misinterpreted as indifference or unwanted distractions. The key lies in the ability of the neutral listener to correctly answer the following question, "Would I respond in the same way to the opposing disputant?"

In "Recent Role Variations in the Ombudsman in Education," **Geoffrey Wallace** tackles, defines, and assesses the inherent differences that lie in the traditional Ombudsman and the modern Mediator as they attempt to fulfill their contrasting goals of equity and neutrality. The former is an agent for equity, is concerned about fairness, and is seeking a just resolution. The traditional Ombudsman is an involved party who, as an advocate of equity, negotiates justice by offering persuasive criticism based on preexisting standards. In this process, the Ombudsman advises, recommends, persuades, and, perhaps, alludes or "hints" to the potential unsavory publicity that might come as an unwelcome consequence of inaction or indifference. Because the Ombudsman is an independent agent with broad powers of investigation and excels in the art of "rational persuasion," the marginal abuses of power can be rectified; the mishandling of authority can be corrected; and the conditions that caused the complaint can be mitigated or improved.

In contrast, the latter is a third party neutral and maintains a respectable distance from the issue by bringing the disputants together and letting them solve their own problem. The Mediator takes the stand that the dispute belongs to the disputants. Therefore, as an objective, but uninvolved witness, the Mediator leaves equity in the hands of the contenders. However, lest the reader conclude the superiority of the former over the latter, Wallace, a true believer in and practitioner of "bridge building," emphasizes that the clear distinction of roles will advance the cause of both professions.

In "Institutional Conflict Work in Democratic Societies," **Geoffrey Wallace**, Ombudsman, and R. Adolfo de Castro, Defensor del Pueblo, are separated only by the distance between Santa Barbara, California and San Juan, Puerto Rico. Both authors concur adamantly on the inferior position of the average citizen in a modern democracy when attempting to resolve a complaint against the superior forces of bureaucracy. Wallace confirms the inherent power imbalance between the lone citizen and an autocratic government agency and stresses that the broad investigative privileges of the independent Ombudsman can balance the pervasive control of bureaucratic management. Moreover, the Ombudsman services are analogous to the ballot box -- the vote gives the populace a choice in electing their government and the Ombudsman Office allows the citizen to question the abusive actions of the state. Because democracy implies "in theory" that citizens have a measure of self-determination, the opportunity to participate in the resolution of one's own differences -- without yielding the dispute to others -- demonstrates individual power in action and "in fact."

In "Mentoring, Role Modeling and the Career Development of Junior Faculty," **Merle Waxman** presents a compelling argument and provocative solution to the conflicts surrounding the "tenuous" position of the intellectual debutante in academe whose present goal of "tenure" seems illusive and beyond reach. Having been guided through undergraduate education, graduate study, and postdoctoral training, the new instructors find themselves on the threshold of another beginning as they enter the classroom for the first time. Unlike their previous undertakings, they receive little advice on how to balance the delicate requisites of teaching, research, and professional activities. The dual goals of promotion and tenure are well-known, but finding and following the correct path to their attainment is not easily discerned.

However, Waxman, from the vantage of three roles -- Associate Dean for Academic Development, Ombudsperson, and Director of the Office for Women in Medicine -- is convinced that faculty are the most important resource for academic institutions and she offers the following practical, innovative, and remedial suggestions: appoint Emeritus Faculty to serve as advisors to junior faculty; provide seminars on teaching techniques, grant writing, and publishing criteria; and develop offices to serve the unrepresented constituency, i.e., women in academia and junior faculty. If these steps are taken, the pool of future talent will be preserved; the human capital that is crucial to the academic enterprise will be maximized; and the vulnerability of the junior faculty in the academic hierarchy will be lessened. Finally, individual justice will triumph because the neophyte scholars will receive the proper information to evaluate their potential, to perform to their full ability, and to keep their careers on the correct course.

**Linda Wilcox** documents a practical and forceful response to an insidious and unknown threat in "Dealing With Anonymous Vicious Attacks." By airing the thought-provoking dilemmas in this detailed example of a case in which an Administrator receives an anonymous threat on his life and the safety of his family, Linda reaches sound deductions and provides helpful suggestions that could be applicable to similar situations. A cogent example lies in the victim's first unpalatable choice of whether or not to confide in others because "Superiors" might believe the allegations and "Subordinates" might capitalize upon a potential weakness. Weighing in the balance is the

possibility that a Chairman, Dean, or co-worker might be able to shed light upon the identity of the harasser. However, a possible identification poses the additional predicaments of whether to ignore, confront, or file formal charges against the perpetrator. Each choice must be considered carefully and thoroughly; each decision must be viewed from the vantage of the ensuing ill or beneficial consequences. For example, if the police are involved, will they respond in a reasonable, effective, non-threatening manner by asking simple, direct questions rather than accusations or will this "show of force" push the attacker toward more violent acts? Because "the known" can be addressed and resolved in contrast to "the unknown" which can be questioned only in the abstract, Linda advises the prudent use of "brainstorming" with the appropriate persons to gather related facts and draw logical conclusions.

Although the counselling profession is not "akin" to the buying or brokering of real estate, nevertheless, **Shannon Williams** takes "pen in hand" with "tongue in cheek" to depict their subtle differences and striking similarities in her article, "What Buying Real Estate Taught Me About Employee Assistance Programming."

Humor aside (or as a cunning companion), Williams outlines skillfully and concisely the basic requisites for a successful EAP program. As Manager of the UCI Faculty & Staff Assistance Program, Williams experienced the negative consequences that can occur when an Employee Assistance Program is a component of the Office of Human Resources or Personnel Office. Because the latter offices are involved in personnel matters regarding employee discipline, corrective action, and termination, the staff members are reluctant to confide confidential problems to someone who appears to be in the same camp as the Supervisor who might be the cause that brought them to counselling. Therefore, just as compromising the confidentiality process can destroy the program, neutrality and independence can provide the salubrious ingredients for success and expansion.

Another comforting conclusion that can be drawn from William's masterful portrayal of likenesses and dissimilarities is the following moral: Should the world become wonderful, without strife, and no longer need Ombudsmen to resolve disputes and mediate conflicts, their skills can transfer easily to the open market of buying and selling real estate.

Finally, in reading these Ombudsman Journal articles, one recognizes the respect for our profession that appears in this written collaboration as well as the spirit of collegiality that brings us together at our Annual Asilomar Conference. As Ombudsmen professionals, we strive to practice and to record our daily efforts to meet the obligations of our profession by fulfilling the

expectations of our clients -- the students, faculty, and staff -- at the colleges and universities that we serve.

Once again, we have come full circle in our memory of Gil Gutierrez whose spirit will remain with us because Gil was a man who communicated the Ombuds ideals by generously sharing his gentleness, patience, and quiet humor with every individual he met through his pledge to serve those in need of an Ombudsman.

Ron Wilson  
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Editor of the CCCUO Journal

DISAGGREGATING THE OMBUDSMAN:  
TOWARDS A PURE THEORY<sup>1</sup> OF CONFLICT RESOLUTION<sup>2</sup>

Stanley Anderson

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PURE THEORY

Order is prior to justice. The concept of justice does not become relevant until a political order is established. Without order, "might makes right." As Thomas Hobbes postulated, in a state of nature (i.e., anarchy), human life is "nasty, mean, brutish, solitary, and short." Even the strong have to sleep and everyone is vulnerable. To alleviate this precarious condition, said Hobbes, people enter into a social compact in which they yield all of their power to the Leviathan -- the state -- whose primary responsibility is to maintain order, to keep "the King's peace."

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1. "Pure" means formal (rather than substantive). It is taken from Hans Kelsen's Pure Theory of Law, which has a better ring than "formal theory of law," and, in German (the language in which it was written), it provides a nice alliteration -- Reine Rechtslehre.
  2. Kelsen's tome is narrower than the present article in that he deals only with courts and not with alternative modes of conflict resolution. In a more important way, Kelsen presents a much broader canvas because he analyzes the entire legal system while the present article is limited mainly to only one facet -- the way in which individuals resolve disputes.

Another limitation of the present article is that it deals only with resolution of routine individual disputes (Aristotle's "corrective justice") and not with the broader allocations of societal rewards (Aristotle's distributive justice"). It does not get into lawmaking, although it does treat broadly with fundamental social control.

Corrective justice says that equals should be treated equally, which courts will attempt to implement. Distributive justice determines who is equal to whom and what the disparate rewards should be for each group, which is normally defined by legislatures.



Viewed historically, Hobbes' theory is oversimplified because the social contract is often partialized. When miners in the Mother Lode country of California were faced with claim-jumpers, they moved quickly to replace the "Law West of the Pecos" -- the barrel of a gun -- with a court which was mandated to apply the rule of prior possession. This created a partial order to meet a particular problem. In human societies, courts have grown up spontaneously in response to problems as they arose, both to foster personal security and to implement an innate sense of fairness.<sup>3</sup> Like Topsy, "they just grow'd."

The concept of justice is subordinate to the concept of order. The primary function of adjudicative bodies is not to do justice in the individual case, but is the preservation of order. It is essential to the maintenance of order that conflicts be resolved. We would like to think that they are resolved justly, but the main thing is that they be eliminated. Tensions must be relieved so that orderly life may continue. If they are not resolved, they fester and may lead to clan warfare and ever-escalating violence. Under the social compact entered into by our forefathers who adopted our present Constitution, we agree to abide by the results of adjudication, even though in some cases we might be dissatisfied.

The notion of justice applies both at the individual ("corrective") level and at the systemic ("distributive") level and the two are interrelated. While justice may not be done in each case, it is important that the cumulative

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3. The assertion of an innate sense of fairness is made -- despite palpable and regrettable contrary evidence of extensive unfairness in human affairs -- as an existential leap of faith based upon the empirical observation that such assertions (and their converse) tend toward self-fulfillment.

impression sustains the belief that the system provides just results on the whole. The confidence of the people in the overall justness of the system is crucial for the maintenance of order because it establishes that there is a satisfactory way of resolving disputes. This is reflected in the adage that "justice must not only be done, but must be seen to be done." The myth of the robe, i.e., that all judges are wise and impeccable, helps to sustain popular satisfaction. Loss of faith in the system as a whole leads toward revolution and, possibly with an interval of anarchy, to the creation of a new order.

### THREE MODES

There are basically three ways in which conflict may be resolved.

1. The first way is self-help -- one person resolving the conflict all alone.
2. The second way is negotiated settlement by the parties to the dispute.
3. The last way is third-party resolution.

#### The One

The most common of these numerically is the first one. This is because most of the time when we have a grievance, we don't do anything about it. Often, we consciously dismiss it. Perhaps we want to do something, but realize that it would be more trouble than it is worth, or we intend to do something but never get around to it. For whatever reason, we simply drop it.

Another form of one-party resolution is self-help. The following incidents will serve as examples:

- a. Suppose a friend borrows your watch and promises to return it the next day, but does not do so. On a later visit to the borrower's home, you see the watch lying on a table in an adjoining room. You enter the room and take the watch.
- b. Alternatively, although not invited to visit, you simply enter the premises and take the watch. Here you subject yourself to endangerment as an intruder.
- c. Or, a week later, you see the borrower on the street and forcibly take the watch from his or her wrist. You may have committed a criminal assault.
- d. Suppose that you and your neighbor disagree as to where the boundary lies between your properties. You build a fence where you think it should be. The neighbor may acquiesce in that and, under the rule of adverse possession, in time the fence would become the border even if it was originally not so. The neighbor, however, may tear down the fence and put up another fence at a different location. The potential for violence in this scenario is apparent, and the parties would be well-advised to seek third-party intervention.
- e. On a group basis, an ethnic minority, despairing of judicial impartiality, may take to the streets in a raging rampage of arson, looting, and mayhem. Their feelings must be assuaged in order to restore domestic tranquillity.

#### The Two

The most civilized form of conflict resolution is where the parties simply work it out by themselves through some form of compromise. The advantage of

this mode (assuming a reasonable parity of bargaining power) is that, while removing the dispute from the air, it leaves both parties relatively satisfied and fosters the continuation of civil discourse. Parties who are in continuous contact tend to utilize two-party solutions. They are reluctant to go to the wall because they do not want the dispute to sour their future relationships.

### The Three

When one-party and two-party resolution either have not been tried or have been unsuccessful, one or both of the parties may turn to some kind of third-party intervention. There are two main forms of such involvement: non-coercive and coercive. In the least systematized and most informal modes of non-coercive third-party intervention, the parties, or perhaps initially just one of them, may call upon almost anybody -- a passerby, friend, relative, roommate, neighbor, elder, or leader. There is also a wide variety of more structured forms of non-coercive intermediation -- conciliators, mediators, arbitrators, ombudsmen, etc. All of these, formal and informal, reflect the innate tendency and capacity of human beings to create third-party conflict resolution mechanisms.

### ALTERNATIVE DISPUTE RESOLUTION

"Alternative dispute resolution" encompasses any form of non-coercive third-party conflict resolution.<sup>4</sup> If non-coercive mechanisms are not tried, or if

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4. Because of the circumstances under which ADR gained recent popularity, it is sometimes narrowly misperceived as a synonym for mediation in the field of family law -- divorce, alimony, and child custody disputes.

they fail, then the parties may turn to the courts. What distinguishes courts from other modes of conflict resolution is that they are coercive.<sup>5</sup> Sanctioned by fine or imprisonment, criminal law is patently coercive (although plea bargaining is superficially similar to two-party negotiation). In a civil suit, the moving party may require the other party either to appear or to be placed in default. Court judgments may be enforced by the constabulary.

#### IMPOSITIONAL VS. CONSENSUAL RESOLUTION

All conflict resolution devices provide solutions which range on a continuum from total arbitrariness (however wise and just the unilateral decision might be) and total consensus reached by the contending parties. Each of the formal third-party intermediaries should be a specialist in the art of stimulating compromise. On the whole, the respective devices would sweep in the following order of descent from third-party imposed outcome to contestant-chosen denouement:

- Court Judges
- Arbitrators
- Ombudsmen
- Mediators
- Conciliators

Judges listen to the parties before imposing judgment, and may take into account, in varying degrees, the predilections of the parties. (As explained below, they also try to stimulate the parties to settle prior to judgment.)

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5. Earlier, ADR might have been identified with the vintage institution of arbitration, which remains predominantly non-coercive even though the parties have agreed that a court may judicially enforce the arbitrator's decision if one of the parties refuses to implement it.

The independent judgment of arbitrators is often swayed by the preferred solutions suggested by the parties. Ombudsmen vary in their recommendations between the predominant modes used in arbitration and in mediation. Mediators try to get the parties together, but sometimes, in one way or another, encourage the acceptance of mediator-defined solutions upon the parties. Conciliators (in International Law, "good offices") emphasize the goal of bringing the contending parties together in a compromise which the parties themselves have defined.

#### THE CONCEPT OF ATTENTION

"To get a mule's attention, you have to hit it over the head with a two-by-four." Capturing the mindfulness of the alleged delinquent is a psychological precondition for two-party settlement. One of the great frustrations of an individual who feels aggrieved is the difficulty in getting the attention of the other party, who may not be identifiable, or who may refuse to discuss the matter, or who may hide to avoid service of process, or who may otherwise refuse to give countenance. The aggrieved party may turn to a third party in an attempt to focus the other party's attention.

The courts represent one of two prominent official ways in which the respondent's attention may be coercively commanded. The plaintiff files a complaint and has it served upon the defendant. This is the two-by-four. At that point, stated simply, the defendant is obliged to file a response (an "answer") or to lose by default. One reason for filing a complaint, then, is to stimulate a meaningful response to a request for two-party negotiations. (Sometimes, however, the defendant who files an answer may not be seriously

motivated to negotiate unless he or she believes that the plaintiff will actually go to trial.)

Filing complaints and answers has become expensive (although the fees can be waived for an indigent), raising the threshold of availability of this mode for gaining attention. Small claims courts also provide a low threshold of access.

The second mode of compelling attention is the Ombud Office. If one has a complaint against a government agency or official, the aggrieved party may turn to the Ombudsman (if there is one), who has the power to compel a response, i.e., records and testimony. There is no cost to the complainant and the Ombudsman assumes the burden of moving forward.

#### THE INTERPLAY

Disputes shift among the three modes, particularly the latter two, i.e., diadic and triadic. To some extent, the shifts can be manipulated. Tactically, the parties may attempt to manipulate them. Previously, the plaintiff had the greatest control over the progress of litigation. Today, under various speedy trial regimes, the courts often mandate timetables.

After the commencement of litigation, the parties will sometimes resist negotiation until all of the facts are on the table or until the threat of a trial, with its potentially arbitrary and coercive outcome, is imminent. Settlement can be encouraged by speeding up the exchange of information through interrogatories and depositions, etc., with mandatory deadlines and statutory foreshortening of these instruments (e.g., putting limitations on the number of interrogatories). The parties may not have all of the facts they would like to have, but they know that they will not get any more until trial. The court's

motivation for pushing the parties to an early trial is partly in order to save the time of the courts by stimulating voluntary settlement. Sometimes, the parties settle after trial but before verdict and judgment. This pushes the settlement back to the two-party mode, but does not save court time.

Obviously, the parties at this stage have maximum information about each other's case.<sup>6</sup>

The threat of the coercive alternative in and of itself stimulates the use of non-coercive bilateral and third-party mechanisms, partly to avoid the time, expense, and aggravation of litigation and partly to avoid the risk of a decision less favorable than what is proffered by way of settlement. If the parties want a speedy resolution (which is not always the case), the long delays in civil litigation are also an incentive toward non-coercive solutions.

#### JUDICIAL OVERLOAD

The time of judges is one of the scarce resources in post-industrial societies. A generation ago, being a judge was in considerable part a sinecure. Coming from the practicing bar (in common law systems like ours), lawyers were generally a bit older when appointed and the bench was somewhat of a reward for past labors. Judicial capital was generally adequate to the needs of society. Today, our judicial system has become overloaded. Even working

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6. Time pressure may work to prejudice the outcome of negotiations or of a trial. For example, someone injured in an accident, who is not yet sure as to the extent of injuries, would prefer to wait before settlement or trial. In California, there is a one-year statute of limitations, and the injured party may wait that long before filing suit. Once file, however, the speedy trial provisions come into play.



hard, the judges cannot keep up with demand. Because of the constitutional requirement of speedy criminal trials, civil cases are particularly prone to languish.

Parties are discouraged from utilizing the traditional adversary system, i.e., a trial in which each party is represented by an attorney who uses maximum resources to present the evidence fully to a judge or jury.

The following situations will provide examples:

- a. Attending a mediation session is now mandatory for many family law controversies, motivated by a desire to exclude from the combative adversary system those insoluble disputes whose most favorable outcome is only to minimize harm. Mediation is a better device for eliciting the facts relevant to family disputes than is direct and cross examination on the witness stand. Mediated outcomes lessen acrimony and are usually superior to judge-imposed solutions, although either way will ultimately bring an end to the controversy and serve the maintenance of civic order. There is an additional form of voluntary so-called "open" mediation in which the recommendation of the mediator will be presented to the court if the parties do not accept it.
- b. Disputes in California, whose value is under \$25,000 (the upper limit for Municipal Courts), have seen the intrusion of mandatory mediation. The parties must attempt mediation and are pressured to accept the amount of recovery suggested by the mediator by possible penalties which they may incur if they reject it. For those who insist upon a traditional trial, mediation becomes just one more hurdle.

Judicial overload has also fostered the invention or expansion of other devices for non-coercive conflict resolution. These include neutral fact

evaluation and pre-trial discovery, interrogatories and depositions, all without the immediate participation of a judge, calculated to provide the parties with the information they need in order to reach a compromise based, in part, upon an intelligent assessment of what a jury might do if the case went to trial. Unfortunately, the use of these devices can be expensive and time-consuming. Sometimes the devices themselves become a matter of controversy requiring coercive judicial intervention, with the possibility of a fine being levied against an obstructionist attorney, again producing delay and additional expense.

Judicial overload (caused considerably by the "war on drugs" at the trial court level and by capital punishment at the appellate level) has moved the courts -- especially in criminal cases -- away from the adjudicative mode toward a routinized administrative mode. This bureaucratization is another incentive for parties to resort to alternative mechanisms so that they may utilize devices which still tolerate conscientious fact-finding, careful deliberation, and reasoned explanation. The office of Ombudsman is just such a device.

#### DISAGGREGATING THE OMBUDSMAN

##### In My Father's House Are Many Mansions

The work of Ombudsman offices relates to the administrative sphere. There are as many possible different kinds of Ombudsmen as there are spheres. There are Military Ombudsmen, Prison Ombudsmen, Health Service Ombudsmen, Nursing Home Ombudsmen, etc., sometimes in separate specialized offices and sometimes in a combined office. These offices may be found at local, state, and

federal levels. In non-governmental contexts, we find Campus Ombudsmen, Media Ombudsmen, Consumer Ombudsmen, and Corporate Ombudsmen.<sup>7</sup>

Because they are widely perceived as an independent, impartial, and effective tribunal for conflict resolution, Ombudsman offices are system supportive, as defined by the Pure Theory. Administrators appreciate the flow of information which they provide, which helps them to monitor efficiency and to implement policy. Line officers welcome the vindication which is a more frequent outcome of Ombud intervention. Even those members of the public -- whose complaints are adjudged by the Ombudsman to be unfounded -- feel, in most cases, that they have been treated fairly.

In addition to the primary remedial function, Ombud offices serve reformist and prophylactic goals, including the prevention of civic unrest. Out of a given complaint, the above Ombudsmen might accomplish one, some, or all of the following purposes:

- supply information
- provide a service
- make a referral
- give an explanation
- resolve a grievance
- elevate public consciousness
- defuse an explosive situation
- alter administrative procedure
- reallocate resources

#### By Their Fruits Shall Ye Know Them

In Swedish, the word "Ombudsman" refers simply to any kind of agent. Thus, in Sweden and Finland (where Swedish is an official second language), the

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7. See Stanley Anderson, "Ombud Research: A Bibliographical Essay," The Ombudsman Journal (1982), pp. 32-84.

Ombudsman with responsibility for monitoring national governmental administration is distinguished from a myriad of other Ombudsmen by the title of "Riksdagens Justitieombudsman" (literally, the Parliament's Ombudsman for Justice, abbreviated as JO). The Danes (Folketingets Ombudsmand) and the Norwegians (Stortingets Ombudsmann) also hook the name of their legislature into the Ombudsman's official title. The Nordic languages use the source of creation and appointment to designate the office from which the scope of authority is inferred. It was the Legislative Ombudsman office which spread from Scandinavia to much of the rest of the world and became classical.

In Sweden and Finland, however, it was not the Legislative version which was first in time. Each country has a Chancellor of Justice (Justitiekansler, abbreviated as JK) in the Executive branch whose duties greatly overlap those of the Parliamentary Ombudsmen. (Neither will take up a case which the other already has under consideration.) The two offices have comparable status. One is appointed by the Legislature and the other by the Government, but each has job security, in part, by virtue of the life tenure enjoyed by civil servants. If anything, the prestige of the JK is greater, at least in Finland, than that of the JO.

The JK in Finland and Sweden is autonomous. Executive versions of the office elsewhere have set up Ombudsmen who are subordinate to the official who appoints them and they may not have job security. Nonetheless, the governor or mayor, etc., may direct the Executive Ombudsman to function as an independent and impartial arbiter of citizen complaints, resulting in a functional equivalence. The labels are not a shibboleth. Each example of either kind of office should be judged by its actual performance. A pioneer study in this

vein was published in 1973 to provide empirical analysis of a small number of extant American Executive Ombudsman offices. The following conclusion is taken from that work.<sup>8</sup>

#### SUMMARY AND APPRAISAL

The different modes of independence, impartiality, and persuasion are appropriate to the different functions of the two kinds of Ombudsman offices. It is speedier and more efficient to turn to the chief executive for authoritative action when a government service -- such as removing dead animals or providing police protection -- is not forthcoming. The more complicated cases undertaken by a classical Ombudsman are not usually as urgent nor as amenable to precipitous intervention.

Executive and classical Ombudsmen, then, are complaint handling offices that share the qualities of accessibility, expertise, independence, impartiality, and reliance on reasoned persuasion, but, they are distinguished by the different forms these qualities assume. Moreover, the two are interdependent, and the creation of one may tend to stimulate the creation of the other, either as a separate office or in a joint office. Size and composition of the relevant population will determine their respective utilities. Generally speaking, Executive Ombudsman offices have larger staffs, each staff member handles more cases, and the offices handle more cases per capita than their classical counterparts.

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8. Stanley Anderson, "Comparing Classical and Executive Ombudsmen," in Alan J. Wyner, ed., Executive Ombudsmen in the United States (University of California, Berkeley: Institute of Governmental Studies, 1973), p. 314.

Both offices should have an impact on the line agencies, again with a significant difference in the kind of impact that can be expected. Executive Ombudsman offices will tend to stimulate faster and better service. Classical Ombudsman offices will tend to stimulate the articulation of fair procedures in government. Explanation by the government is an important aspect of fairness; the opportunity of the citizen to be heard is another. As a consumer, the citizen will welcome an improvement in government services. As a participant in government, he will benefit from argument and explanation.

The Executive Ombudsman office should not be viewed as a perversion or distortion of the Ombudsman idea, but rather as a variation of it, and possible combination with it, presenting slightly different congeries of advantages and weaknesses. Either the executive or the classical versions alone, and both together, are effective devices to redress individual grievances and to improve the quality of administration.

## AN OMBUDSMAN FOR AMERICA

R. Adolfo de Castro

Commonwealth of Puerto Rico

Approximately forty years ago word of the ombudsman began to spread around the world. Today, almost everyone knows that the institution of the ombudsman has long proven to be a most effective means of bringing back the people's faith in democratic government.

Surprisingly, the word has yet to be heard in the world's longest standing democracy, the United States of America. You would think that this great country, where welfare state politics started in the depression years before the Second World War, would in the 1950's, like the free nations of Europe, also adopt this new instrument of democratic control. But no! Most of our fellow American citizens remain defenseless against the resultant bureaucratic excesses of the extremely large and complicated administrative organisms necessarily created to provide the many governmental services demanded in modern society.

Although, experience shows that wherever the ombudsman has been established, i.e., in Europe, Asia, Africa, the Orient, the Pacific, Latin America, and Australia, it has lived up to its promise of effectively acting to hold the government accountable to the many different people who compose it. However, paradoxically, in the good old U.S. of A. where diversity of identities is the name of the game, the institution of the Ombudsman has not been adopted: the government grows every day more and more distant from a people who, unlike

their old world counterparts, do not enjoy access to daily participation in the decisions which directly affect their lives. Incongruously, the leaders of democratic change are still without an effective means of challenging adverse administrative action.

I love my country, but there are a few things about the American way that need a little touching up if we are going to get back on the track of enjoying a government which is truly of the people, for the people, and by the people.

You just cannot continue to carry out the business of regulating the lives of two hundred and fifty million people of so very many ethnic origins and races from the same perspective with which, two hundred years ago, the founding fathers built a nation composed of less than a million people of practically the same ethnic origins, race, and traditions.

In **theory**, the idea of government by representation is the basis of all democratic societies. But, history has shown that it only works in the measure that the people are effectively represented **in fact**. **Theory alone** has it that one sole legislator can represent the interests of hundreds of thousands of citizens. **Fact** is, that many, many years have gone by since the system of legislative representation has ceased being an effective means of guaranteeing the citizen's political participation in government. Simply and truly, especially in our diverse America, the elected representatives of the people do not have enough time to spend hearing and investigating their constituents' grievances against the government, and, even less time, to hear their demands for governmental accountability.

Nonetheless, in a society where the electorate is progressively diminishing in proportion to the increase in population and, where the concomitant gigantic



enlargement of the bureaucratic apparatus required to provide services for so many different people every day separates us more and more from our government, still -- new world habits has it that old world school solutions, like the legislative ombudsman, are not needed in the U.S.

In too many sectors of American thought, I'm sorry to say, ignorance has it that the ombudsman is a mere complaint handler commissioned to further the ends of the administration which pays for his services. Apparently, no thought has ever been given to the ombudsman as a representative of the people in their constitutional demand for governmental accountability. Poor communications have, unfortunately, effectively stifled the progress of participative democracy in our country. Ironically, the fruits of modern democracy are not being harvested by those whose example originally showed other people how to savor them.

A more fertile ground is needed to plant the seed of this new instrument of accountable government in America. Old world **savoir faire** and open mindedness must prevail over new world know-it-all attitudes in order for the institution of the ombudsman to grow. The degenerated version of the ill-called executive ombudsman figure -- which has proliferated in the U.S. as the eyes and ears of the same executive power it is supposed to criticize -- must be discarded. Practical men know that you cannot let the fox watch over the chicken coop.

America needs a real ombudsman in Washington and one in each of its fifty states. Highly capable professionals in the field of public administration must be found to champion the cause of the average citizen before the government: men and women who have the firmness of character necessary to ensure independence of judgment to criticize administrative action -- **from the**

point of view of what is good for the particular citizen represented, instead of what is good for the government! America must not stay behind. We must move with the currents of modern governmental administration. The word of change is "accountability" and its instrument is the legislative ombudsman institution.

When you examine the premises upon which the new participative democracy is founded, you will see that our Hispanic American citizen in Washington Heights, New York City, is not really interested in complaining to have the NYPD enforce its administrative regulations adequately -- what he might want to complain about (if he thought something could be done about it) is that the regulations themselves may be inadequate in their application to **his person**; that they might not be consistent with the more general standards of the public order; or, that their application may be violative of his individual liberties.

Where there is an ombudsman, it should not be too long before word gets around that those who have no voice can now speak, and that those who are not seen, can now be heard because the independent legislative ombudsman enjoys the following advantages:

- A person who can face up to the government without asking anyone's permission;
- One who can force a government department to investigate and respond diligently to a citizen's complaint;
- An autonomous legislative official who, in the event that the response is not satisfactory, or who, upon a finding that the complaint is justified, has the authority to garner public opinion and publish his recommendations for the adoption of corrective action.

No one expects today's legislators to have the time to perform the following ombudsman functions: to question the lethargy with which some criminal investigations are being conducted by an attorney general; to require a particular agency to divulge what happened with the money appropriated for a special project; to hear a citizen complain about the misapplication of a federal statute by a state regulatory body; to notify the complaint of an unwed mother of three fatherless children stating a Consumer Affairs Department is not protecting her, and other poor tenants, against unscrupulous landlords; or, to investigate why the Workers' Compensation Board is taking forever to process a claim. How many of these thousands of so very different complaints from so many different identities can a legislator hear and have time left over to carry out today's most complicated legislative functions? Surely something has to be done to correct the system. Change is needed. Introspection is in order. The Congress and the State Legislatures need what parliaments all over the world have been enjoying these last innovative forty years to help them supervise the government -- **an ombudsman!**

There is no reason why the ombudsman institution cannot work in the U.S.A. When our politicians take a good, hard, honest look at the present system and admit that it may not really be the best of all possible worlds, then, America, with the help of the ombudsman, like Austria, Canada, England, Germany, New Zealand, Spain, and so many other countries, will also be able to enjoy the fruits of avant-garde democracy.

As I mentioned at the beginning of this brief discussion, word of the ombudsman has travelled all around the world since the welfare state explosion of the 1950's. History shows that wherever the institution has been

established, little by little, the people have been regaining their trust in government. The ugly attitudinal barriers that separate the people from their government -- bureaucratic indifference, laxity, insensibility, arbitrariness, and negligence -- are constantly being eroded by the insistent force of the ombudsman's independent inquiries into improper administrative action.

There is no better way for the people to get the government back from the bureaucrats than by exposing them for what they are. The criticism of an independent ombudsman expressing the views of a group of citizens about an agency's maladministration will get it corrected long before other bureaucrats are assigned to study the problem and finish their voluminous reports. You just cannot give bureaucracy a chance. Bureaucracy breeds bureaucracy. Its ugly seed has to be uprooted. But it can only be done from the outside.

I say it is time to be honest when we state so proudly that, in America, everyone has a right to be heard. No sense in saying that young Ralph Jackson of Brooklyn, New York, enjoys the right to complain against the government knowing, full well, that he can do nothing about it; likewise, it makes no truthful sense to say that poor old widow Hansen, from a homestead in the State of Wisconsin, has the right to complain of adverse government action when the fact of the matter is, that without an ombudsman to whom the complaint can be addressed, there is no right to be exercised. Let's really be honest. Presently, in our beautiful and free America, if you cannot afford a lawyer (and there are way too many of us who cannot afford one) no matter how inefficient or arbitrary an agency's services can be, or, if you do not have a real ombudsman handy to hear your complaint, there is nothing you can do about it.

I don't want anyone to get the idea that the ombudsman is the remedy for all of our problems. But, besides being the defender of the hundreds of millions of average citizens who live **within** society, have you ever thought about how the ombudsman could also work to represent the interests of the many marginal people who live on the **outside** by hearing their complaints and doing something about them? Isn't it about time our politicians thought of providing these people with an effective means of participating in the daily decisions which affect them, instead of waiting for riots to erupt which are followed by hundreds of millions of dollars in damages. Do we have to remind them that it was, precisely, the denial of the right to petition the government for redress that prompted the War of Independence two hundred years ago?

Please believe someone who has been there. There is something that can be done to get our government back. America **can** regain its original spirit of democratic innovation. There really are a few things our politicians can learn from their European counterparts. History shows, I repeat, that the ombudsman **does** increase the people's faith in government. At first, there will be some executive reticence to the criticism and overseeing of the legislative ombudsman. That is only natural. But you will see that once the ball gets rolling and public officials learn that the ombudsman has no reason to divulge maladministration where corrective measures are diligently provided, the tensions and conflicts which presently mar relations between the people and their government will be reduced.

Serious, humble introspection is in order. Our politicians should enjoy the wonderfully human experience of knowing that no one really expects them to know it all. The institution of the ombudsman should be examined carefully, in its

own light, as a guardian of the people's right to hold the government accountable.

Close attention should be placed on the distinction that the ombudsman is not a watchdog of the administration but **of the people**. When our legislators learn the difference, they will be well on their way to constructing Ombudsman Avenue -- a free, easy access to effective petitioning for redress against seemingly improper administrative action or omission.

The matter of discussing the mechanics of implementing the institution of the ombudsman in the U.S. will require further consideration but, suffice to say for now, there should be no fear of creating another bureaucratic monster with its implementation. Money wise, a federal ombudsman, for example, should cost the taxpayer a negligible amount in comparison to the six hundred million dollars which the latest riot of marginal, frustrated, angry, and defenseless Californians cost.

There are only four American states which presently have ombudsman offices: Alaska, Hawaii, Iowa, and Nebraska. Albeit, they have proven to work well, their services should be extended to include delegated authority from a federal ombudsman to also act as his deputies in the handling of citizen complaints against agencies of the federal government. Those states, whose citizens do not presently enjoy access to a true ombudsman, could be motivated to provide it through appropriate congressional funding.

As I said, there should not be any fear of creating another bureaucratic monster by implementing the ombudsman figure in our country. The crucial thing right now is for all of our politicians to engage in a minute of introspection and to look at what this new instrument of good government can do for the many different identities of human beings which compose the American people. The

fruits of democratic change will not be reaped in the U.S.A. until the political participation of all our diverse constituents is adequately guaranteed.

America has to face up to the facts. You just cannot get some people to vote. Experience shows, however, that you can get them to complain providing, of course, that there is easy access to do so and that the results are positive and made evident quickly. The ombudsman concept is not a panacea. It is certainly not an anti-riot measure. It will only work where government is receptive to independent criticism and willing to cooperate with the ombudsman to find the best ways to serve the people. The more effort our government puts into promoting the use of the ombudsman institution, the less conflicts there will be with the people and among the people.

I believe that the great majority of our legislators are good, honest persons who are dedicated to helping the cause of their fellow citizens. After the initial shock of my frank words, I hope they will be motivated to take a much closer look at the figure of the ombudsman. I trust they will understand my purpose is to help them better serve their people, which, after all, is mine also.

TECHNIQUES FOR MARKETING THE COLLEGE AND UNIVERSITY OMBUDS OFFICE

TO FACULTY, STAFF, AND STUDENTS

Tim Griffin

Northern Illinois University

This article briefly describes some of the techniques utilized by the author and others to effectively market the services of college and university ombuds offices. The specific techniques presented here are by no means the only potentially effective methods of accomplishing this goal, but they can provide the reader with adequate examples to allow for the creation of marketing strategies specifically designed to meet this need on a given campus.

One of the common concerns of those providing ombuds services to the college and university population is a lack of knowledge among the various campus constituencies regarding the existence of the office and the services it provides. This ignorance is especially critical among students, who have typically been on the campus for a shorter period of time than faculty and staff members, and who are less empowered due to the constraints of the institutional bureaucracy and system of governance.

While most ombuds offices engage in some types of marketing activities, not everyone on our campuses support these efforts. There are always some individual faculty and staff members who are opposed to meaningful marketing strategies for the ombuds office because it "creates [solicits] problems." Obviously, if concerns are not brought to the office, they are unable to be identified and subsequently addressed. It is easier to pretend that certain problems within the institution do not exist when no one is bringing them to the attention of those empowered to facilitate needed changes. It is also



easier to engage in questionable behavior when the person being victimized by that behavior is unaware of how to report it or seek assistance in challenging it.

Even some ombudspersons feel that marketing the services available from the ombuds office is not desirable. Many of us have client loads that stretch our resources to the limit already. Why take actions to increase our client numbers when we can barely serve those who already utilize our services?

In addition to the ethical perspective which necessitates an awareness of available services for those who are in need of them, another more practical issue is also apparent. To the degree to which we are to assist in addressing institutional behaviors and circumstances which impede members of our academic community from achieving their professional and educational goals, we must be able to identify trends that suggest areas of concern. These trends often become obvious only when we are made aware of them by our clients. If our constituencies are not aware of our availability, they will not present their concerns to us; without the presentation of these concerns, we are greatly limited in our ability to identify and quantify important issues. Therefore, to the degree that we are to serve in this function, marketing must be a vital aspect of what we do.

While marketing message content is not the focus of this article, it is suggested that some of the information one might wish to convey includes the following:

- Services provided
- Clientele (Who is eligible to receive the services?)
- Office philosophy (neutrality vs. advocacy)
- Confidentiality
- Office location and phone number
- Office hours

It is suggested that the techniques discussed in this article, and those developed by the readers, should reflect a level of professionalism in content and appearance that is consistent with the image you wish to propagate. Publications and efforts of poor quality can encourage the perception that the office and the services it provides are less than completely thorough and professional in nature.

For purposes of organization and ease of reference, the marketing methods included are grouped into the following three categories: print media, broadcast media, and presentations and personal appearances. A brief section on the evaluation of specific methods is also included.

Print Media - Every campus has a multitude of existing publications that are designed to target specific audiences. In addition, many ombuds offices have budgets which allow for the generation of printed materials for marketing purposes that are designed exclusively for that function.

Virtually all campus constituencies read the student newspaper. Some of these publications have very reasonable rates for campus entities to buy space for a well-designed advertisement. Most are willing to do featured articles or interviews on the ombudsperson and/or the office to use when space is available. Some ombudspersons even have a regular column in the paper in which they can describe common problems and delineate potential strategies for avoiding or resolving them. A combination of all three of these techniques can offer the office broad exposure over the course of an academic year.

Many campuses also have newsletters or similar publications targeting primarily faculty and/or staff. While most don't offer "advertising" space, many provide the opportunity for feature articles describing services and/or allow for guest columns similar to those described above.

Academic course catalogs (undergraduate, graduate, and/or professional school) and class registration publications (like schedule of classes booklets) often include brief descriptions of student services. Inclusion of a few sentences on the ombuds office, when available, is usually free of charge. These are probably the only publications that every student will receive and use every semester.

Another publication that is usually updated and distributed to all faculty, staff, and students is the campus telephone directory. These also frequently have a few pages devoted to a delineation and brief description of various campus services. At least one university has a "campus yellow pages" which will allow for box advertisements by campus offices for a nominal fee.

Student handbooks, employee handbooks, and faculty handbooks commonly offer the opportunity to list the ombuds office in their indexes. This can usually refer to a brief description of the office in sections devoted to services and resources for the respective clientele.

Many ombuds offices generate their own marketing publications for a variety of targeted audiences and distribution strategies. Perhaps the most common of these is a brochure. Many locations on the campus have brochure racks which are available for the display of such materials. To maximize the impact of your brochure, check with the staff of the institutional publications office. They may be able to provide advice and assistance in layout, color selection, format, and logo development for free or for only a modest charge.

Two other single-function publications used at some schools are flyers and cards. Flyers can be printed two to a page, cut in half, and posted on campus bulletin boards (like those in most classrooms, residence halls, kiosks, and academic and non-academic building hallways and lobbies), placed at residence

hall and other office counters, and handed out in person on a campus where there is a high level of pedestrian traffic. Some campuses even allow for the placing of such flyers under the windshield wipers of cars in campus lots helping to reach potentially difficult target markets like commuting students and part-time faculty. Flyers are also good for stuffing in campus mailboxes, in folders provided to new members of the campus community during their orientation process, and in folders provided to students when they move into residence halls. Business cards can be printed on two sides, allowing for a brief but meaningful description of availability and content. While somewhat small for posting purposes, these are great for handing to people as they can easily fit in a potential client's wallet, purse, or pocket. The business card concept can be integrated into your professional business card, or developed as a separate item. Both flyers and cards are relatively inexpensive to print in large quantities, and can be effective for a broad range of clientele.

An annual report should never be overlooked as a marketing tool. If developed with that goal in mind, it can serve the function of making the reader aware of the activities and services of the office in much greater detail than most other techniques. It could be sent not only to a few administrators, but also to local media (both on and off campus), student leaders, members of representative bodies (like student governments, staff councils, and faculty senates), department (academic and non-academic) heads, and others.

Commuting and part-time students and faculty are traditionally difficult constituents to reach. They are less likely than others to regularly read materials posted or received on the campus. Numerous studies in the area of marketing campus activities have confirmed that the single most effective

method of reaching these people is by direct mail. While it is a relatively expensive endeavor, folded full-page flyers can be printed, labelled, sorted, bundled, and mailed in bulk from most campuses for considerably less than the price of a first class stamp.

Broadcast Media - Most campuses have several broadcast media outlets. Common examples include student radio stations wired into residence halls and/or broadcast over the airwaves, PBS or other radio stations, student-produced television channels, and closed-circuit educational television broadcasts. These media are constantly looking for public service announcements (usually written by the person submitting them), featured interviews, and sometimes even "filler" between regularly-scheduled programs. A letter or call to those in charge of such programming on your campus is all it usually takes.

This technique can produce truly surprising results. For example, at Northern Illinois University, a student-run cable television channel associated with the academic program in broadcast media that is active only a few hours each day was invited to come and do a brief interview with the staff of the ombuds office. A student completing a class assignment came and filmed the interview several weeks after contact had been initiated. The four-minute spot is now shown several times each semester between regularly scheduled programming. Though unscheduled and shown at very odd hours, hundreds of members of the campus community have heightened their awareness of the office and its services through this effort. The entire process took less than an hour to complete, and was absolutely free of charge.

College and university ombudspersons have also appeared, as guests or members of a panel discussion, on non-campus local television and radio talk

shows. The most frequent format is a locally produced 30-minute talk show on which local issues are discussed and local individuals interviewed. Though usually broadcast only once or twice, this technique also reaches hundreds to thousands of individuals, takes a minimum of time, and is usually free.

Presentations and Personal Appearances - As you know, the most crucial element of concern on the part of potential clients is the degree to which they feel the ombuds office will be a comfortable, helpful, and confidential environment. These issues can be addressed best by a personal appearance or presentation by the ombudsperson. No other media allows for the answering of questions, the establishment of personal trust, and such a complete sense of the person with whom the client may interact. The ombudsperson should be prepared to offer a presentation of as brief as five to ten minutes or as long as an hour that covers at least the basic content discussed earlier. Discussing the common types of issues brought to the office by the clients and typical options available for resolving them can add a great deal. Because these techniques are also free, ombudspersons dedicated to effective marketing engage in them extensively.

Perhaps the single most important personal appearance is with a new staff member who will be contacted by ombuds office staff regularly in the course of his other professional duties. Taking a few minutes to show the person that you care enough about them to meet with them (take them to lunch?) and develop a fundamental rapport will go a long way when you need to contact them for assistance in resolving a client's concern. Obviously, a new ombudsperson should engage in as many of these interactions as soon as possible after assuming the position.

Personalized form letters can be sent to department chairs, student government and organization presidents, residence hall staff and student governments, and those individuals across the campus charged with providing programming for the constituency you wish to reach. Examples can include a women's center, centers for minority students, and directors of non-academic departments (like athletics, the counseling center, and the library). Such letters can make them aware of your availability as a presenter or participant at an upcoming program or meeting of their choice. Even if the letter fails to elicit a response, you have reminded an individual to whom others turn for advice about campus resources of the existence of the ombuds office. For this reason, the author of this article always includes a brief paragraph in such letters describing the essential content areas delineated earlier in the article. One letter sent by the author to 42 academic department chairs resulted in presentations at the departmental faculty meetings of 23 different departments in a one year period. Over 700 faculty were reached by this effort.

Another potential opportunity resulting from such letters is that of serving on panels in programs designed to address issues frequently seen in the ombuds office. These issues might include harassment, discrimination, student (or faculty, or staff) rights, academic misconduct, campus parking, and a multitude of others. The ombudsperson, as a neutral party, is also a natural choice for a moderator of programs like debates where more than one side of a sensitive issue will be addressed. For example, the author moderated such a debate between a well-known rap artist and the attorney who brought suit against the group 2 Live Crew for obscenity. Such appearances, though not primarily

designed to acquaint audiences with the services of the office, allow for the development of a sense of the neutrality and nonjudgmental nature of the ombuds office.

Some campuses have had great success targeting residence hall students. Because policies requiring most freshmen to live in the halls exist widely, a captive audience is ensured. Presentation to hall government meetings, to professional and/or student staff, at floor meetings, and hall programs can be highly effective. Flyers or cards can be distributed at these events, placed in information racks in lobbies, stacked on lobby counters, and handed out at the door to the cafeteria. The author has had good luck with "table tents" placed on cafeteria tables several times throughout the year (especially immediately after midterm exams).

Student, faculty, and staff orientation programs are another important opportunity to make brief presentations and field questions. Most new members of the campus community have no previous experience at an institution with such an office. Not yet knowledgeable about existing campus resources or the unwritten rules that always to some degree dictate the appropriate strategies for addressing concerns, they are also more likely to need our services. Such a personal contact at this point in time can greatly enhance their understanding of the concept and services, as well as address their potential trepidation associated with contacting the office. The author has even addressed parents of new students at orientation sessions designed exclusively for them, inviting them to call the ombuds office should they have any questions about institutional policies or procedures.

Many campuses have a variety of events each year designed to acquaint the campus community (or a specific segment of it) with certain services and/or



organizations. Often called "expos", "activities fairs", "service fairs", or "volunteer fairs", these events allow for various campus offices or organizations to have a table and display area from which to distribute information and sign-up interested parties. Participating in these activities is usually very inexpensive (often free) and provides the ombuds office an opportunity to reach hundreds of people over the course of a few hours. Written materials are displayed and distributed, and brief questions are answered. The only caution to this type of technique is that one must develop communication skills (already well-practiced by most ombudspersons) to encourage people to make an appointment rather than discussing their confidential concerns then and there. Also, don't forget to visit the other tables to meet and distribute your materials to those staffing them.

Evaluation - Most of us have very few (if any) staff members in our offices. We also have limited budgets. To attempt to engage all the techniques discussed above would no doubt be impossible for some of us. Therefore, a prioritization function must be performed to make the most of our marketing resources. Two techniques are crucial to this process. First, narrow constituency groups must be identified as primary targets for our efforts. What works well for students may not be as effective for faculty or staff; or, what proves effective with members of fraternities and sororities may be considerably less productive with commuting students. Identifying narrow targeted constituencies allows for more effective use of resources.

Second, evaluation is essential. The topic of evaluation of a marketing program could easily constitute an article all by itself. Only two suggestions will be made here. One is to ask clients on intake forms or in initial interviews how they heard about the office, and keep a written tally of their

responses. The other is to keep track of the number of clients you are getting from the markets you have targeted. While neither of these approaches is foolproof or complete, they can serve to provide a basis on which to assess and further develop your marketing strategies over time.

Conclusion - As previously mentioned, the techniques discussed in this article fall far short of describing all the potentially successful marketing methods available to the college and university ombuds office. Considerations of any technique should include cost, personnel resources, and the market segment you are targeting. Also important is the unique environment of your campus in terms of the opportunities and taboos that it provides.

A well-designed combination of marketing activities based on these factors can be accomplished with a minimum expenditure of time and money, and result in greater usage among targeted constituencies. This allows the ombuds office to better identify salient campus issues, and subsequently to improve the campus environment for everyone.

EXPANDING THE OMBUDS OFFICE:

A SYSTEMS APPROACH TO DISPUTE RESOLUTION ON CAMPUS

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I. Introduction

Beginning in the late 1960's, ombuds offices have been handling campus complaints and seeking to bring peace and just resolution to university problems. In the 1980's, mediation became an increasingly common tool for bringing disputants into a win-win mode of problem solving. This article will introduce a systems approach to dispute resolution on campus. The model offered expands the ombuds function to include a pool of mediators who also function as problem solvers across the university.

II. The Traditional Ombuds Approach

The origin of campus ombudsing has been accredited to Eastern Montana College, where the first ombudsperson began work in 1966. (Steiber, 1982.) In the past 27 years, ombudspersons on campus have functioned with great variety. The typical ombudsperson takes pride in flexibility and in the ability to respond to each situation with the most appropriate tools and techniques. Mary Rowe, a distinguished writer and practitioner in this field for 19 years, has underscored this flexibility, as she lists the various roles an ombudsperson assumes: counselor, informal go-between and facilitator, formal mediator, informal fact finder, upward-feedback mechanism, consultant, problem prevention device, and change agent. (Rowe, 1991, p. 353.)

Many campus ombuds offices have followed the lead of Michigan State University, where the ombuds office was established in 1967. There, the ombudsperson is a senior, tenured faculty person who attempts to resolve problems without using the formal university grievance procedures by investigating facts, examining records, and trying to informally resolve the situation. (Steiber, 1991, p. 9.)

Chaney (1982) notes that services provided by university ombudspersons might include: providing information concerning the institution, its policies and rules; referring persons to other offices for assistance; advising administrators, staff, faculty, and students on proposals for new institutional policies; settling complaints (which involves receiving and investigating complaints, encouraging complainant participation, and recommending corrective measures); and, recommending changes in institutional policies to make the institution more fair and equitable. (Chaney, 1982.) According to a 1987 study (Freeman), 55% of ombudspersons polled view their role as a combination of mediation and client advocacy functions.

### III. The Advent of Mediation on Campus

In the past 20 years, mediation has become an increasingly popular mode of alternative dispute resolution. In the late 1970's, a few communities were beginning to experiment with community mediation centers. By 1985, there were over 200 centers. (Girard, Rifkin, & Townley, 1985.) In 1981, the first campus mediation programs were initiated at the University of Massachusetts/Amherst and the University of Hawaii. (Warters, 1991.) Warters also reports that there were 21 known programs by Spring of 1990. Although some mediation programs have been affected by university-wide budget cuts,

Rifkin (1991, p. 2.) reports that "mediation in higher education is flourishing. There are more than 100 mediation programs on college campuses."

Girard, Rifkin, and Townley (1985), in their guide to creating campus mediation programs, recommend that a variety of approaches can be used with mediation on the campus. Some campuses put mediation into the disciplinary code as a first step. Others use mediation to handle all disputes of a certain nature. Some universities offer services beyond the university community. Mediation can be used for both short term and long term intervention.

The mediation process involves the use of third party neutrals to bring disputants together in a structured process which facilitates ventilation of emotions, clarification of the problems(s) and issue(s), generation of options, and formulation of an agreement. It stresses win-win problem solving which maximizes the outcomes for both parties.

#### IV. How do ombudspersons utilize mediation in their role and on their campuses?

As university mediation programs have developed, a question for ombudspersons becomes, "How do we best utilize mediation in our role and on our campuses?" Traditionally, mediation has been one option among many. Some ombudspersons have obtained mediation training and will use an informal or formal mediation approach when trying to help resolve an issue between two parties. Others will utilize outside, formal mediation services. On some campuses, mediation offices exist separately from the ombuds office and, when necessary, referrals are made between the two offices.

This article will provide a new alternative for the expansion of ombuds offices by incorporating mediation and ombudsing into the same office and offering both services as needed.

V. To what extent is the work of the ombudsperson decentralized?

Another crucial issue, raised by this article, is the extent to which the ombudsperson functions throughout the university. The traditional ombuds approach on most campuses is to have one or two ombuds persons who handle disputes for all university personnel. Yet, as dispute resolution design enters the 1990's, decentralization is an alternative for those wishing to minimize conflict and to solve problems at the lowest possible level.

VI. Introducing the UTSA Model for Problem Solving and Conflict Resolution

At the University of Texas at San Antonio, a new approach to dispute resolution on campus has been designed as part of the university-wide, strategic planning activities. This model incorporates mediation, decentralized problem solving, and ombudsing into one office to maximize the benefits of the various approaches and to encourage conflict resolution at the lowest possible levels. This model is offered here as a suggestion to other ombuds offices that might be looking at ways to incorporate mediation and decentralization into their program.

The Problem Solving/Conflict Resolution Program at UTSA involves a central office, which coordinates the function of the program. Under the direction of Dr. Norma Guerra, Associate Vice President for Administration and Planning, the office personnel coordinate the problem solving, mediation, and ombudsing functions of the program.

In the first phase of implementation, 18 faculty, senior administrators, and support staff were trained as university liaison/problem solvers and mediators. Forty hours of mediation training were given to meet the Texas code requirement for professional mediators. Training for their role as a problem solver involved communication skills, role playing, and an additional eight hours to equip them to utilize collaborative problem solving as outlined in Getting to Yes, (Second Edition, 1992).

In the UTSA model, the **Problem Solver** is an initial step for those in conflict. Using active listening techniques, the problem solver listens to concerns and clarifies issues and needs. The problem solver provides necessary information and makes appropriate referrals to university offices. If requested or warranted, the problem solver can suggest effective communication techniques and/or walk the complainant through the collaborative problem solving approach. The goal of the problem solver is to remain neutral while offering respect and empowerment to the individual in conflict. Their aim is to seek resolution at the lowest possible level as well as to facilitate communication without intrusive interruption.

The problem solver can function as an ombudsperson in an initial interview. Giving information, making referrals, and consulting on communication techniques are common roles of the ombudsperson. However, this system enhances the ombuds function by offering such assistance across the university in various buildings and departments, closer to the complainants. The problem solving role is also more limited than the traditional ombudsperson. When intervention, beyond a phone call is needed, the person would be referred to the Central Problem Solving Office for ombuds assistance.

The **Mediation Process** in this model is a second step available for interpersonal conflicts. When the problem solving consultation has not led to resolution, a person may request mediation. The Problem Solving/Conflict Resolution Office functions as a mediation center; utilizes the pool of trained university mediators; and, offers quality mediation services with the appropriate matching of mediators to disputants.

This is different from a traditional ombuds office in that a pool of mediators is available to provide flexibility and the matching of mediators with disputants across racial, sex, and university status categories. By offering in-house mediation, the mediation process also differs from the approach in which mediation is referred to outside agencies or other offices. Follow-up with the initiator is an important part of the system and the office can offer further assistance when mediation is not successful.

For those who have problems related to university policy and procedures, a second step offered is the **ombudsperson**. Here the Associate Vice President for Administration and Planning, as well as office staff when appropriate, take problems beyond the information, referral, and consultation phase. This enables the ombudsperson to specialize in handling sensitive cases and their resolution, while resolution of the simpler cases can be achieved through the problem solvers.

The philosophy of the dispute resolution system is to encourage empowerment of all individuals and to teach effective communication skills to all of those within the university community. Training the problem solver/mediators is the beginning of the process. As they consult with those in conflict, others within the university are trained. Problem Solving/Conflict Resolution Office staff also provide training and resource materials to university personnel in



this area. Professional Development seminars augment individualized training by offering guest speakers on topics related to conflict resolution in the university.

The upward feedback mechanism is also part of this model. Both problem solvers and program personnel maintain a confidential record keeping system. The system is designed to protect the complainants' anonymity while also leading to identification of recurrent problems requiring administrative review and modification. Reports generated from the computer based system are forwarded to the appropriate administrative officials.

Prior to the development of this system, UTSA did not have a Problem Solver, a Mediation Process, or an Ombudsperson. Disputes had been handled by a traditional grievance procedure. The new dispute resolution system has been designed to augment the grievance system and to provide the individual more options to solve conflict in the most effective manner.

#### VII. Invitation for feedback and experimentation

This model is a new approach that is being implemented for the first time during the 1993-94 academic year. Those wishing more information, considering the implementation of a similar system, or desiring to make comments, may contact:

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CONFESSIONS OF A FIRST YEAR OMBUDSPERSON

Michael A. Kerze

Occidental College

The first point in my confession is that I've been on the job a little more than a year. The office became official on April 19, 1992, towards the end of my first year at Occidental College. The college never had an ombudsperson before and neither had they a "Director of the Chapel and Interfaith Center," the position for which I had been hired the previous September with the expectation that I would at some point create the ombuds office. To balance all this novelty was the fact that I had never been a director before and had only a vague idea about what ombudsing was about. The college and I were on equal terms.

I had a career as a marginal academic, marginal because I had spent some 8 years after my doctorate teaching part time or as a visiting professor. My doctorate was in the history of religions and through either sheer luck or providential guidance, depending upon your theological orientation, I assembled the perfect background and experiences to fit what the college was seeking. The fact that I had no experience as an administrator at all didn't faze me and that must have encouraged those who made the decision to hire me. As a part-time teacher, I learned how to be adaptable and how to teach a class on a moment's notice, even one I had never taught before. I would consult with an expert in the field; get the best text available; and, teach from it while adding my own knowledge and understanding. I never blinked an eye -- work is work. I appeared to my students as an expert even when I admitted the limits

of my knowledge but I managed to teach them something important. I earned a worthy reputation at the local colleges and universities. It helped me pay the bills. This adaptability proved an excellent approach to setting up the office of the ombudsperson.

My expert was someone who had been an ombudsperson before and was now director of the counselling center. Either through fate or providence, we hit it off immediately and she remains one of my best friends on campus. She gave me some of the best texts on ombudsing: past copies of this very Journal. And, she encouraged me to attend the Asilomar Conference, which I did. A number of things there proved immensely important. For example, getting copies of the brochures describing the office at various institutions and comparing them allowed me to see the common structure of the office, i.e, the neutrality, independence, and confidentiality -- and how to advertise it. But even more significant was getting to know practicing ombudspeople. I cannot overestimate what this meant to me.

There is a certain kind of approach to the problems ombuds share. It is like an attitude and attitudes are generally only picked up through interacting with people. I listened a lot and I pondered the cases and questions discussed. Most important was listening to discussions about hypothetical or real cases in the panel format. People told how they worked through problems in a very nuts and bolts way. It was like an initiation. And the contacts I made and the relationships that have developed from them have been invaluable.

When I left Asilomar, I had a much clearer idea about the nature of the office and how to function in it. The national conference later that year was a similar experience and I was able to talk through the problems that occurred to me since Asilomar and to meet more practitioners. A week after I returned,

the office was instituted and I was appointed to it. The terms of the office drew from several "terms of office" provided by ombudspeople I met. Access to relevant records, confidentiality, neutrality, and the fact that I reported only to the president were spelled out. And the day the office was announced, I was called in on my first case for which my recommendation was the name of the person on campus who could really help.

One of the more important preparations for the office which I pursued was trying to get to know all the important administrators on campus, from vice presidents down to department chairs and plant supervisors. Should a problem arise in their area, we would already have some idea of who we were. I recommend this highly to anyone starting out in the office. It is quite a help to be able to call someone you already know. Of course, as cases increased, I got to know some people quite well.

The staff at the college had been chiefly instrumental in making the case for an ombudsperson office. It was not unexpected that soon after the office began I was involved in staff problems. As my friend at the counselling center explained to me, the first ombudsperson at a college will probably end up dealing with long time problems. That proved to be true because some of the cases had been going on for a decade. I was one in a string of mediators who tried to resolve festering employee-supervisor problems. I learned a lot about how the college operates, or refuses to operate, in the process. It was an education in the limitations of the office -- limitations set in part by the institutional culture and its way of dealing with or avoiding problems. Should anyone else have encountered problems like this I would like to hear more. I did the best I could to help define workable relationships given the context.

In the process, I discovered something very important, i.e., I discovered how I was most effective at times by keeping my mouth shut.

In more than one case, after I had interviewed the parties, listened to their stories, tried to identify the underlying issues, and brought the parties together to work through them, I ceased to speak. Was I nervous at the start! The silence was more unnerving than asking a question in a class and getting absolutely no response. Time seems to hang. But then, parties began to talk. I just listened. I would intervene if the discussion began to veer away from the issue. At times I would make what seemed to be a reasonable suggestion to resolve a particular point; but, for the most part, the parties themselves worked through issues. I think it might be a challenge for any academic type to keep their trap snapped and, for me, it was transforming.

In one case, another one which had been simmering for years with major personal issues involved between the two parties, I learned something else. I learned that I was listening with "guy" ears. I was listening in order to distill the essence of the issue so I could come up with a solution to fix it. I intervened to try to get the two parties to agree upon a series of small formal steps to alleviate their working relationship before our time was up. We made some progress in that direction but they were not satisfied and neither was I. After they left, I realized that the discussion of their relationship was a working through of a great deal of emotional charge which needed to be expressed before they could work out how to work civilly together. From then on, I promised myself to try to listen with "woman" ears too, i.e., being more sensitive to emotional overtones and giving attention to the personal needs of those who came to use the office. One of my fears is that I will be too insensitive to someone in need and they will opt not to resolve their problem.

Last summer, after a few months in the office, I participated in an intensive one week seminar on employee and work place law. It was a crash course in the legal issues of hiring, firing, bargaining units, drug and alcohol problems, and harassment. It enabled me to empower the staff employees to protect themselves and assert their rights. It also helped me help supervisors on issues of work performance and discipline. I highly recommend such training to anyone without a background in personnel issues. The seminar made me more effective in my service to the college than any other training I have taken.

Everybody's a liar! Is this truly the first rule of ombudsing? Everything has not been tears and sincerity in my first year. How do you deal with someone who is lying through their teeth as they explain to you their side? In one of those long simmering staff cases, I was simply astonished by the infectiousness of corruption. My lack of experience was probably a factor in my astonishment. The working environment of one department was rife with lies, betrayals, and harassment. Some of the members of the department had come to my office. It took months to work through their hopelessness and lack of trust and to get to relationships where one knew how to judge what one was hearing. The investigation was backed up by discussions with former employees and employees who were not working in the department. This case was the first one which involved the president in a major way. The resolution, still in the works, involved a major restructuring of the department which included the dismissal of some personnel and the hiring of some outside consultation to try and repair the damage with the remaining personnel.

And now, as I write, I am at the very center of one of the most politically charged problems the campus faces. I am there either because of my lack of

experience as an ombuds; or, because the college still isn't sure what an ombuds can or cannot do; or, because its exactly where the ombudsperson should be. As I understood the office from what you, my mentors, have told me, the ombuds was also an "institutional health worker." When there were problems in the policies, procedures, and processes of the college, the ombuds was to bring them to the attention of the relevant personnel and recommend how to resolve them. The glaring problem with our policies and procedures concerned sexual harassment. The process for handling it had disintegrated, i.e., the departure of the two most important individuals who managed the enforcement of the policy coincided with the settlement of a suit against the college which required a revision of the policy. The general perception on campus was that the administration would not come through in a sexual harassment case, would overturn findings, and would refuse to impose sanctions. "Nothing ever happens!" was a common complaint. People were reluctant to pursue cases. The academic year was winding down and I had a nightmare that when the new year began, nothing at all would be in place to deal with sexual harassment problems.

I conducted a survey of the individuals involved with the process for dealing with sexual harassment to try and get a sense of how the process was being used and how the policy was working. I discovered that it was being used much more than anyone had suspected and that the filing of a formal complaint was rare. I also uncovered real problems with the procedures, or lack of them, as spelled out in the policy. I "precipitated" (in the president's words) a meeting with the president and other officers of the college to make some fundamental decisions about who was going to be responsible for what; what office would be formally responsible for training and education; how to



compensate for the loss of our designated hearing officers; and how to go about the revision of the policy. Some decisions were easily made and progress continues. But the revision of the policy has turned into a process which, for better or for worse, I am facilitating. It has become a balancing act: on one side there is an administration that doesn't want to be sued; on the other side is a campus faction that wants a policy that pushes the limits of the law. There are lawyers and their endless conflicting interpretations and continuous expenses and there are the students who don't find the college's commitment credible. And, then, there is me and what I want is a policy providing due process, confidentiality, and clear procedures. I would not have suspected when I began my first year as an ombudsperson that I would spend my summer at trying to manage the development of campus policy.

At the end of this first year, I reflect that I could have handled certain cases better. I wish that some outcomes were different. I recognize the limitations of what I can do at the college and I struggle with the limitations of my race, gender, age, and experience. I try to learn from my mistakes. I know where I have to improve my institutional relations. But I don't dwell on the past. As my understanding of the personalities and the structure of power among the leaders of the college increases, I will be more effective because, for an ombuds, it is usually finesse over fighting. My greatest resources are the other ombudspeople in the area -- a generous source of advice, counsel, and comfort. With the different roles I play on campus, I rarely have time to look back, and I forge ahead because there is just too much to do. For any first year ombudsperson, I recommend the same.

HARASSMENT AND INTIMIDATION OF STAFF IN UNIVERSITY WORKPLACE

Beatrice Pearson

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In the spring of 1992, I was asked to investigate a situation of harassment in the workplace. It involved a staff person who had experienced intimidation and harassment by a faculty member on an almost daily basis over several years. After carrying out the investigation, I decided to review some of the complaints of harassment in the workplace that our office had handled. I reviewed over one hundred files covering four and one half years.

I discovered that the Ombuds Office was not very effective in handling several of the cases. This was particularly true if the complainant was the harassed individual and in instances where the complaint was made after the harassment had been going on for a long time. We were surprisingly effective in instances where the approach to our office was made early whether it was made by the victim or by the managers seeking advice and help to deal with a situation within their jurisdiction.

In reviewing the cases, I also noticed some similarities and patterns in the way people involved in such situations reacted, how the situations evolved, and how they were ultimately resolved or not resolved.

I found this review fascinating and I began to record some of my findings and observations on harassment in the workplace that is habitual, disruptive, and very debilitating. This report is the result. Because most such cases I have handled involved harassment of staff by faculty, it is from this premise

that I present my ideas. I wish in no way for it to be interpreted that only faculty harass staff, nor that all faculty harass staff, nor, indeed, that all staff are harassed.

#### WHAT IS IT?

Harassment in the workplace interferes with a person's ability to work and deprives the individual of self-esteem and dignity. It can include verbal threats or abuse, physical threats, persistent and unreasonable demands, habitual interference with work, and extreme or inappropriate reactions. Harassment and intimidation are not weirdness or eccentricity, differences of opinion, cultural differences, or situational frustration.

Harassment in the workplace is a management issue.

#### WHAT FORM DOES THE HARASSMENT TAKE?

Harassment and mistreatment in the workplace can take the form of unreasonable demands, abuse of one's time, shouting, lack of trust, finding errors in work activity when there are none, undermining the performance of a job or assignment, abuse of power, invasion of someone's space, restrictive rules, applying policies and procedures improperly, constant monitoring that causes discomfort, criticizing in front of others, and, treating staff like children. Other forms harassment can take are blackmail, intrusion into a person's private life, demands to work irregular hours, abuse of overtime, and, last but not least, threats, overt and implied, physical and otherwise, e.g., threatening to damage a person's reputation.

University staff can experience harassment from students, co-workers, and faculty. The harassment can be situational. The following incidents will serve as examples:

- A student may come in with a problem after having been to several other offices. Angry and upset, he or she takes it out on the receptionist in the department.
  
- A professor, working under a particularly difficult deadline, loses his cool for a few seconds. It may never have happened before and the flare up lasts only a few seconds.

These instances are, for the most part, situational and fairly easy to understand and to handle. What is more difficult is the ongoing chronic forms of harassment and intimidation that take place on an almost daily basis which debilitate and undermine the self-worth of the individual; affect productivity; and, create an unsafe work environment.

An important underlying factor in our definition of harassment is the concept of HARM: How it can and does cause harm to ourselves, to others, and to our institutions. People and institutions are harmed when problems are not managed and resolved quickly and fairly.

#### WHAT CAUSES HARASSMENT AND INTIMIDATION IN THE WORKPLACE?

If we look at harassment and intimidation in the workplace as a management issue, I believe there are some structural reasons within universities that make it easier for harassment to occur and more difficult to correct or resolve. One is the difficult role of the Department Chair. The Chair has the responsibility for the smooth running of the department and supervises the secretarial staff in the department. However, the Chair has no authority over faculty. This makes it very difficult to deal with conflict between a faculty

member and staff or even between two faculty. For faculty, the Chair is not an authority but only first amongst equals; this may not always be clear to staff.

University administrators, including Chairs, are predominantly academics, with rotating appointments and limited terms followed by a return to teaching in their academic departments. There is no roster of professional managers who are identified, trained, nurtured, and groomed as in business and industry where managers must earn the respect and prestige accorded professional managers; where their performances are evaluated regularly based on specific criteria; and, where they are rewarded in direct relation to the services they render.

Chairs manage the basic unit in universities and are chosen by their peers to serve a three to five year term following which they usually return to their teaching functions within the department. There is no probationary period and no formal evaluation process. The job is tough and demanding. It also requires a lot of diplomacy, familiarity with policies and procedures, and well-honed management skills. Few, if any, of our universities offer training. The usual Chairs' Orientation, offered at the beginning of each academic year, is supposed to, in some magic way, provide Chairs with all the answers. The rewards, both monetary and otherwise, are often meager. In short, universities expect a lot from their Chairs but provide them with none of the skills, training, or benefits accorded professional managers. In my experience, most harassment occurs within academic departments.

Budget cutbacks create increased pressure on everyone within the university community. "Do more with less and for less!" Changes in job descriptions for staff are a common fallout. Downsizing affects staff because they are squeezed by cutbacks in their numbers and by the pressures faculty experience due to

reduced resources, lack of space, and disappearing research funds, etc. Contract staff do not fare any better. In such a climate, mutual understanding seems to be the first thing to go and morale and productivity are directly affected as well.

Poor communication skills can also be a contributing factor. Many problems are created when people do not make their needs and expectations clear. People need to know what is going on so that they can do a good job. The communication or feedback loop is critical if staff and faculty are to work together in harmony. Knowing what is expected and being informed as to what is going on increases productivity and reduces stress. Good communication helps create a co-operative environment and reduces the potential for abuse.

Over the past few years, we have seen an increase in instances of behavioral problems caused by substance abuse, personality disorders, and instability. Whatever the cause, each individual must be held responsible for his or her own behaviour. However, we must remember to focus on the behaviour itself without using labels to rationalize or describe the behaviour.

I also believe that collegiality plays a role in the university's ability to recognize and deal with harassment in the workplace. In a collegial environment and culture, faculty show a respectful tolerance for their peers' opinions and approach. Staff seem to be excluded from this. Faculty often accept attitudes and behaviour of their colleagues that might fall well beyond the bounds of what could be considered acceptable. In terms of academic freedom, this is desirable. It becomes less so when the behaviour and attitudes become disruptive and infringe on the freedoms of others within the university. Because of this prevailing collegial culture and the structure of the university, harassment is often not recognized as such by those who have

the responsibility and the authority to deal with it. People often comment, "That's the way he is . . . she doesn't mean what she says . . . everyone knows that he yells and shouts."

And so, the inappropriate behaviour is tolerated. No one quite knows what to do or how to do it; they may even be afraid to do anything. People who harass and intimidate others are often bullies and bullies can be scary. However, lack of action can be interpreted as approval, and the longer a problem is allowed to continue, the more difficult it will be to manage and resolve.

Even with a policy in place, nothing can replace managers at all levels who understand and accept their mandate to manage; who do so responsibly; and, who are held accountable both for their actions and their lack of action.

Harassment and intimidation in the workplace are most often not handled within the department or area in which they occur. Managers do not know what the University expects of them, i.e., they have no clear idea of how to proceed; that they need to be clear and direct; and, that they should act quickly. Nor do they know how to protect the rights of all parties or what it means to document in accordance with the appropriate collective agreements and university policy.

Careful and proper training of all managers in the university would go a long way towards providing them with the skills they need to carry out their administrative responsibilities effectively, particularly in cases of harassment and intimidation.

## WHAT HAPPENS TO VICTIMS OF HARASSMENT IN THE WORKPLACE?

How individuals deal with harassment and its effects is very personal and is often influenced by their life experiences. There seem to be three stages that people go through when they encounter harassment in the workplace. These will simply act as road signs and will help us to evaluate situations when they are brought to our attention. The stages usually overlap and they are not always clearly delineated.

### Stage 1

Whatever form harassment or intimidation may take, the initial reaction is one of discomfort and disbelief. They may not understand what is going on and often cannot believe what is happening to them. If they are in a new job or have a new boss, they may already feel insecure so their initial reactions can be slow and tentative. They may feel that they need time to do the following:

- (1) get to know the boss and the other people in the unit; and,
- (2) learn the expectations of the new job and/or the new boss.

In this situation, they want to learn and to please. Underneath it all, however, is a feeling of unease and discomfort mixed with rationalization. They may ask, "Why is thing happening to me? Just what am I doing to cause this kind of reaction?" They tend to blame themselves.

Depending on their background and their own level of self-confidence, they may attempt to deal with the behaviour directly and immediately by telling the harasser that they find the behaviour unacceptable. If they have a strong sense of self, they may be successful in dealing with it up front, especially if they know just how much they are willing to tolerate and have good communication skills. Though they may feel disappointment and even anger that



the system has not or cannot deal with such situations, they will not live with it. If they are not successful in handling the situation themselves, they move quickly to seek another position, internally or externally. For most victims of harassment, however, the first stage remains one of disbelief and denial, shock, and discomfort. It is like being faced with excessive rudeness. What should they do?

### Stage 2

As the harassment continues, the patterns and habitual nature of the behaviour become more apparent even though the harassment is not predictable and is interspersed with or accompanied by periods of calm, quiet, and even of civility. The mixed messages are often confusing like good cop/bad cop scenarios. The unpredictability creates a false hope followed by disappointment. It is like being on a see-saw.

Victims of harassment find it difficult to understand why anyone with education and prestige would behave so badly and risk so much. At the same time, they sense that no one would believe them and, even if they did, nothing could or would be done. This often prevents victims from recognizing the behaviour as harassment and also from reporting it. They hope the behaviour will change without outside intervention and continue to try out different coping strategies like frantically trying to please, checking and double checking work, following instructions meticulously, working at home, doing extra work, etc. At the same time, they feel an increasing loss of control and diminished self-confidence. In other words, they internalize the problem and turn it in upon themselves. What does persist, however, is the following:

1. a fear of damaging the reputation of the harasser, and
2. a desire to stop the harassment.

### Stage 3

This stage is marked by a loss of hope. They feel helpless and begin to experience overwhelming fatigue and difficulty concentrating which impacts on their efficiency and increases their feelings of frustration and helplessness. At this point, they may suffer health problems, e.g., inability to sleep, severe headaches, and even recurrence of an old illness that can become debilitating to the point where they may not be able to continue working and will frequently take short term sick leave. Deep down, they feel angry, ashamed, and vulnerable because they cannot control their work environment no matter what they do and their diminished self-confidence makes it difficult to visualize options or solutions.

As the harassment becomes less tolerable, they begin to experience fear and anxiety, and even though there may be no basis for it, this fear often translates itself into fear of physical harm. It makes the situation more concrete and easier to name; more readily visible to others; and, therefore, easier to confront. This is a common pattern.

Throughout the three phases, there is a reluctance to discuss the problem with others within the community. This may come from a fear of rejection, i.e., no one will believe them, a lack of trust, or a sense that they are really alone. Whatever the reasons, and there may be many, not sharing the problem adds to the loneliness and isolation and prevents the person from developing a potential support system. It can also prolong the harassment. The longer they allow the harassment to continue, the more difficult it is to correct; but, more importantly, the pattern becomes habitually entrenched and begins to take on legitimization. It is difficult to ask for help and it takes a lot of courage but, in the meantime, their self-confidence has been eroding!

They are not sure what will happen or if anything will happen and they are really scared. They are tired, upset, and just want it to stop. Most do not want revenge or punishment and will continue to talk about ways to protect the harasser from the fallout of his or her actions and attitudes.

#### ARE THERE ANY PATTERNS?

Given that each case of harassment has its own unique characteristics, upon careful examination, some common patterns do emerge. Not every case will present all of these patterns but there is little doubt that there are common threads, such as the following:

- All victims of harassment and intimidation want the harassment to stop.
- The harassed person usually shows concern for and tries to protect the harasser so that the harasser's job and reputation are not endangered.
- As in cases of sexual harassment, the harasser is usually in a position of power or is perceived to have power over the person he or she is harassing. In other words, there is a situation of inequality and the playing field is not level.
- Again, as in most cases of sexual harassment, the harasser, for the most part, is male and the victim is female.
- Because there are seldom witnesses, the victims are reluctant to come forward because they are afraid that they will not be believed.
- Victims fear being labelled as troublemakers or of not being taken seriously.
- The fear and anxiety that the victims feel often converts, over time, to a fear of physical harm.
- Staff have little faith in the ability of the University Administration to effect any of the following:
  1. to carry out a proper investigation;
  2. to recognize harassment;
  3. to deal with such situations in a fair and equitable way.
- They look for the clear message from administrators, senior and otherwise, that harassment in the workplace will not be tolerated and that it will be dealt with quickly and fairly.

- They do not sense that such situations are dealt with fairly and quickly when brought to the attention of administrators.
- Most staff take little or no action initially. They may make an outward move when there is a serious incident or when they begin to experience serious health problems which force them to deal with the effects -- if not the root cause -- of the harassment.
- When the harassment is not reported or is not corrected, the victims reach the point where they can no longer function effectively. Frequently, this results in their physician recommending sick leave. This removes them from the situation but does not address the issues. It also means in some institutions that the victim (staff) is not eligible to apply for internal job postings.
- Victims fear and often experience retaliation and escalation where they will be further victimized and left unprotected. This fear is sometimes realized.

#### OTHER PATTERNS

##### The Administrators:

There are also some common reactions on the part of managers and administrators when situations of harassment and intimidation come to their attention. The following responses will serve as examples:

- Understandably the first reaction is usually disbelief. There are seldom witnesses and even when there are, many of these situations are incredible and difficult to believe. They often interpret the facts differently, or rationalize and minimize the impact of the harassment.
- Another common reaction is: "So what am I supposed to do now?"
- Frequently, the manager does nothing, i.e., waits. This usually takes the form of telling the victim that everyone knows the harasser is like that; that's the way he is; he doesn't mean any harm by it; you are overreacting . . . just ignore it; and, of course, carry on with your job responsibilities.
- If the victim continues to report further incidents to the manager (usually the Chair or the Dean), he or she may call in the supposed harasser to hear the other side of the story. This is not an easy thing to do, especially for managers who may be totally unprepared and lack the background and experience in handling such interviews.

- Managers often lack the skills and the support systems required to handle such situations so paralysis sets. Overwhelmed by the complexity of the situation, they may rationalize, blame the victim, and, at the same time, do nothing to manage and resolve the situation simply because they do not know what to do nor what it is possible for them to do. The fallout is sometimes often escalation and sometimes even retaliation. The victim becomes further victimized. This is unfair to the victim but also to the harasser who is left to interpret the lack of action as approval.
- The manager or administrator usually approaches Human Resources for help and support. The timing of this approach is unpredictable and may depend on past experiences with HR, or the reputation and credibility of HR.
- In some cases, when managers bring the problem to HR, they feel they have solved the problem and walk away from it.
- Few managers know when, how, and what incidents and interviews to document so that a useful audit trail has been created. This lack of documentation can also lead to a revolving door of staff being hired and leaving after experiencing harassment. Furthermore, there is little or no evidence of what has been occurring.

#### The Harassers:

- Within the University, it is usually tenured faculty of long-term employment within their discipline who harass staff.
- The pattern of disruptive, intimidating behaviour is often not surprising to other faculty within the department although they may be reluctant to openly admit to it. The disruptive behaviour has usually been tolerated for some time by their colleagues because of the collegial nature of academia.
- Frequently, no one deals with the behaviour directly or what is done is not effective so harassers continue to intimidate and harass, assuming that because no one has stopped them, therefore their behaviour must be acceptable. In other words, through lack of action, the behaviour has, in a convoluted way, become legitimized. The harassers get used to behaving in certain ways and everyone else gets used to it too!
- When confronted with complaints of staff who feel they are being harassed, harassers usually act very surprised and find it difficult to fathom why or how anyone could say that of them. They often deny. Even when the situation has been well documented, the harasser will usually insist that they meant no harm and the victim has simply misinterpreted their words and actions. Because it may be true, it is crucial for the manager to establish what is really happening and to confront the issues directly and firmly with the harasser.

- Many faculty who harass fully appreciate the limitations of the Chair in dealing with this problem and try to keep it within the department. They even will lobby successfully to have the problems shelved or ignored and sometimes even bully others to get their way.
- Understandably, harassers feel a strong need to be heard and in this they are right. However, they often assume that because they are faculty, they will automatically be believed and vindicated. This is not always possible, although, it is often precisely what happens.
- Many harassers are repeat performers and can be the cause of the chronic and revolving hiring prevalent in some departments. It is almost as though the harassment becomes a game with bets on how long the new secretary will last -- a game involving both the harassers and their colleagues.
- Some instances of harassment of staff by faculty within an academic department stem from long-standing conflicts between individuals or factions within the department itself. The staff person simply becomes the 'innocent' victim with disastrous results.

#### WHAT CAN STAFF DO?

What are the options for staff who may feel that they are being harassed? As with sexual harassment, they can try to speak directly to the other person and explain that they feel uncomfortable as well as describe the specific situations. If they are unable to handle this, they can send the person a letter, explaining in simple and direct terms how they feel about what is happening and stating their expectations.

Unionized staff should contact their union representative. If they are not unionized, then, they may decide to take some further action by going up the line or by consulting with Human Resources. It is not unusual for staff to distrust Human Resources. These are difficult and complex situations and HR can offer alternatives as well as refer staff to support systems both within and outside the university. HR can also encourage staff to report the

situation and provide help and guidance on how to handle the problem both in practical terms and with regard to policy. This should include protection from retaliation.

Administrators have been known to retaliate and punish someone who claims harassment in the workplace. Jean Liebman, in her article, "Personal Harassment in Canadian Universities," (CAUT Bulletin, ACPU, 1989), states:

When management becomes threatened, management becomes abusive, and they do bad and wicked things. Harassment takes many forms, and an interesting pattern seems to evolve. Ostracism and isolation are the common first steps taken by management. Further intimidation tactics are demotion, staff members are ordered immediately out of the department to the 'typing pool.' This exercise serves a twofold purpose. It is intended to intimidate and silence the secretary and secondly, to set an example for others...

Ms. Liebman goes on to explain the dynamic of the victim being further victimized and punished, and in some cases being fired. In a very real way, staff sense their lack of power and the dangers they face by reporting. The possibility of losing one's job can be almost a relief after suffering isolation, character assassination, having service count for nothing, facing possible disciplinary action, and reprimands. We like to think of universities as places where these things would not happen. Ms. Liebman reassures us that the silent abuse, personal harassment in the workplace, is alive and thriving. She calls it the silent hidden treatment and says it is the daily wearing down of one's self-esteem and dignity. She claims that the harasser, more often than not, emerges victorious, untouched, and unaffected.

When this happens, it is always upsetting because it leaves the victim feeling wronged, angry, and even disgusted. The harasser is left free to continue to harass and intimidate, with no fear of ramifications. The

reputation of the institution is sullied. It is very discouraging when the supposed harasser emerges unscathed and the supposed victim is punished or even forced to leave.

As an Ombudsperson, I find it disturbing when the problem has not been addressed and no real attempt has been made to ascertain the validity of the charges. Sometimes, even when the charges are validated and the harassment is known to have occurred, it is not truly believed. In this kind of scenario, all parties are losers: the supposed offender, the supposed victim, the manager, and the institution as well. In particular, it leaves many employees with the lasting impression that they are powerless and that no matter what happens, they can expect no support from their employer nor can they expect fair treatment. They sense that if they come forward as victims, they will be further victimized. There will probably be no investigation and no sanctions on the supposed harasser. On the other hand, it leaves other employees with the sense that any behaviour is acceptable with no bounds or limitations and certainly with no ramifications.

#### WHAT CAN THE OMBUDS OFFICE DO?

These cases are very difficult and challenging and often take a long time to work through. We need to handle them with patience and sensitivity, mindful of the rights of all parties. Most universities today have a policy and procedures to deal with sexual harassment but few have anything covering general harassment in the workplace. This leaves everyone in our institutions with no reference point for handling these situations.



It is important for us to identify harassment in the workplace as a management issue and to impress upon our universities that there is a responsibility to respond, to resolve, and, to prevent. In addition, there is culpability and, increasingly, denial. Moreover, inaction will be interpreted as legitimization and, therefore, is not an acceptable management practice.

Employees don't know what to do because they have no idea what will happen if they report nor how to report. Furthermore, in most instances, they do not even have a way to identify what they are experiencing as harassment. If they do speak to the manager, usually the departmental Chairs, the Chair often has no idea how to proceed, who to inform, or how to help. Nothing in the Chairs' experience or background prepares them for these types of situations and even when they want to do something, often the university has given them no guidelines and practically no support systems. They may approach Human Resources for advice and assistance. HR can refer to whatever policy may exist in addition to their own experience and expertise in handling such cases. Sometimes this expertise is limited and the past handling of harassment cases in the workplace has not always been effective nor has it been seen to be effective. The role of HR is frequently not clear, particularly in conflicts between faculty and staff. Furthermore, their credibility level is often low amongst staff and even faculty and managers. Therefore, the handling of such cases becomes more complicated.

We need to encourage victims to come forward. We also need to encourage managers to listen to all sides of the story; to help and support them; to confront the issues; and, to clarify their expectations of behaviour. They

must also establish clear follow-up procedures so that there is monitoring and a plan of action if expectations are not met.

I believe our universities need to do the following:

1. recognize that harassment in the workplace actually exists;
2. acknowledge an obligation to address the issues;
3. provide the community with guidelines outlining and protecting the rights of all the parties involved and informing administrators of their specific responsibilities; and,
4. impress upon our institutions that they must provide management training skills for all managers and administrators.

I would like to present a few interesting options that may or may not be useful to examine. Depending on the structure and culture of individual universities, they may or may not be pertinent, but, at least, the following concepts might serve to get us thinking of some creative options:

1. Perhaps it is timely and important for us to actively encourage our universities to set up committees to examine the problem and to establish a policy and procedures for handling and resolving cases of harassment and intimidation in the workplace. Sexual Harassment Policies might serve as models and should include:
  - a. a policy of zero tolerance;
  - b. a definition that is inclusive and that identifies harassment in the workplace as a management issue;
  - c. clear protection of the rights of all individuals;
  - d. precise, well articulated handling procedures and a clear outline of the responsibilities of administrators at each level;
  - e. interim measures, should they be deemed necessary, such as immediate temporary reassignment and protection of the victim from retaliation;

- f. disciplinary procedures that are consistent with relevant collective agreements in place.
2. We could actively encourage our universities to take a systemic approach to the problem by examining how the structure and the value system contribute to and foster harassment. They can then develop ways of making the university a safer and far better place to work which in turn will result in greater productivity and higher quality work, learning, teaching, and research. The following will serve as examples:
- a. Assign Administrative Assistants in all the senior administrative offices who could assist in the handling of such cases. Given proper training, they could provide the university with experience and continuity. They could also advise and coordinate. Large departments, which have Administrative Assistants, could be trained to handle the management of staff within their own departments, including cases of harassment (in the first instance). Small departments could be grouped together to form a unit with an Administrative Assistant to serve the unit in the same way.
  - b. Appoint a specialist on the staff in the Human Resources Department who could capably advise and assist administrators to handle such cases and to help prevent them from becoming major problems.
  - c. Determine a general harassment policy, including harassment in the workplace, which would encourage victims to come forward under the full protection of the policy and would discourage potential harassers.
3. We need to examine how we handle such cases in the Ombuds Office, what resources we can tap, whether we serve our institutions well, and what we can do to improve. A useful learning process is to debrief cases by examining where we have succeeded, and where we did not, because each

factor is important. We can do this alone but it may be important to share the process with others who were also involved because their input may be very enlightening.

We speak of zero tolerance and that is surely the ideal. In the meantime, we must continue to be prepared to deal with the issues and causes of harassment and intimidation in the university workplace. In addition, we need to encourage our institutions to do everything that is necessary to be a responsible employer.

CAMPUS VIOLENCE: THE UNIVERSITY OF IOWA RESPONSE

Maile-Gene Sagen and Barbara Schwartz

The University of Iowa

Words cannot begin to describe the magnitude of the tragedy which struck the University of Iowa campus on November 1, 1991, nor can they adequately describe the soundness and strength with which The University of Iowa and the Iowa City community responded to it.

On that cold and dreary day in November, a recent Ph.D. graduate in Physics from Beijing, China, disgruntled because he had not won the \$2,500 prize for the outstanding doctoral thesis in 1991, and who felt his appeal of that decision was not being handled promptly or fairly, shot and killed five people, shot and paralyzed for life a clerical worker, and then killed himself.

Within 15 minutes, Lu Gang had killed two faculty members and the chairman of the Department of Physics and Astronomy, another recent Ph.D. Physics graduate from China (and the winner of the dissertation prize), and the Associate Vice President of Academic Affairs (to whom he had appealed the decision regarding the prize). He also shot and paralyzed for life a secretary (and a former honors student) working in the Office of Academic Affairs who had been placed there on temporary assignment by a local employment agency.

The University and community response to the shootings was swift, appropriate, and humane. While no institution is prepared for a tragedy of this magnitude, the University of Iowa was fortunate to have in place an emergency response team which has existed since the sixties and has planned for and responded to such events as demonstrations, protests, controversial

speakers, fires, floods, tornados, etc. This group, known as the Administrative Liaison Group (ALG), came together immediately and gathered all the appropriate personnel needed to establish a crisis management team to respond to the tragedy.

#### IMMEDIATE CONCERNS

The institution faced several immediate concerns. Within minutes, campus security officers were joined by the city police, county sheriff, state highway patrol, fire and rescue teams, and the county coroner. The first emergency response was to assist these authorities with their investigation of the shootings and the deaths. The ALG then set up command headquarters and began to notify the appropriate officials. As a public institution, several officials of state government needed to be informed immediately, and calls were made to the Governor, the Attorney General, the Board of Regents, etc. Calls were made to all major sites on campus, and all who could be reached (the shootings occurred late in the day) were notified to clear buildings and to send everyone home. Counselors were called in to meet immediately with those persons in the offices where the shootings occurred and teams were sent to the homes of the families of the victims. An office was staffed to handle the incoming telephone calls from concerned parents and friends, and a media center was established.

#### THE MEDIA

Immediately, the media became both a help and a hinderance. Reports of the shootings hit the airwaves within approximately ten minutes and were picked up by CNN and NPR as quickly, which resulted in the jamming of telephone lines in

the Iowa City area. Parents and relatives began calling to see if their family members were all right. The University moved quickly to set up offices to field the calls from parents, and a media center was set up to accommodate the press. The Vice President for University Relations held regular press conferences to keep the public informed. Trained as a nurse and a lawyer among her many other skills, the Vice President provided a magnificent service to the University community in the very competent and caring way in which she conducted herself as the chief information spokesperson throughout the weekend. While the media was helpful in keeping the public informed of the facts in a timely manner, their "need to know" sometimes interfered with the need to conduct and complete the investigation thoroughly and carefully.

#### PSYCHOLOGICAL SERVICES

The need to assist the families and the eye witnesses of the shootings as quickly as possible was crucial, and the University response was immediate, comprehensive, and compassionate. The person responsible for coordinating psychological services for the ALG is the Director of the University Counseling Service who is also a Professor of Counseling Psychology. His role was to organize and implement the psychological "debriefings" with individuals (to prevent more serious problems through exploration, education, screening, and referral) and community interventions (to initiate the group healing process) for the entire University and Iowa City community. The families of the victims and the departments directly affected were debriefed and provided all necessary resources as quickly as possible. Psychologists were placed in the Physics Department and remained there for two weeks. Counselors were also sent to the Office of Academic Affairs. Presentations were made to classes and departments

on coping with trauma and stress. Any department, office, or class could request a meeting with a counselor and several did. Individual and/or group counseling was also available to anyone on campus. The crisis intervention work of the Counseling Service staff included the preparation of written self-help material based on stress and trauma literature. These materials were ready for distribution within 36 hours. The Counseling Service conducted 42 debriefings reaching 1,162 people on campus. (See Stone.)

The Office of Faculty and Staff Services, the University EAP program, was also instrumental in conducting debriefings and interventions which resulted in an additional 36 debriefings for nearly 800 people. Faculty and Staff Services, along with the Counseling Center, are prepared to see anyone on campus who may need help dealing with stress as we prepare for this November 1.

The mental health community in the Iowa City/Cedar Rapids area responded immediately and put together a resource list of 40 professionals who would see clients affected by the tragedy immediately and at reduced rates. This list, the "Mental Health Resource Network," was widely distributed in the University community. In addition, resource material was developed for use with children, and school counselors were contacted. Educational material was published in the local newspapers. The overwhelming response and cooperation of the community mental health professionals was, and is, deeply appreciated by the University community and continues as we approach the anniversary on November 1. These professionals have already made known their willingness to work with anyone who needs to see them as we prepare for the memorial events this November.



THE OFFICE OF INTERNATIONAL EDUCATION AND SERVICES

Another serious concern was to provide support for the Chinese community, faculty, staff, and students. Fortunately, the University has an active and strong Office of International Education and Services staffed by energetic and caring advisors. They were called by the ALG as soon as possible and were asked to advise the group as to the needs of the Chinese community on the campus. Not only was the gunman Chinese, but one of his victims was another Chinese graduate in Physics who left a widow. The OIES staff played a significant role in supporting the foreign student community and in informing the public about Chinese students and scholars. They had many tasks to perform in notifying families in China, notifying the embassy, and dealing with representatives of the Chinese consulate. There were funeral arrangements to be made, personal possessions to be packed, and the widow of the slain graduate student needed support and help with many personal arrangements. Concern had been expressed about a possible backlash against Chinese students which did not materialize, and instead the grief and shock of the deaths brought forth overwhelming support from the University administration and community and indeed from all of Iowa City. While many in the Chinese community felt shame and embarrassment over the shootings and some even expected to be held accountable for them, the University President reassured them in an early press conference that they were not responsible. He and other University officials publicly expressed concern for those in the Chinese community, and the Chinese students held their own press conference to express their sorrow and to answer questions from the media. The role of the family of slain Associate Vice President Anne Cleary was critical in this regard. Her brothers held a press conference immediately after her funeral Monday morning urging forgiveness, and

stated that they would be sending a letter to Lu Gang's family to tell them that they shared their sorrow. Their reaching out to the Chinese community was crucial in the healing process. The crisis management team relied heavily on the expertise of the OIES staff and their involvement was instrumental in fostering the compassionate community response to the Chinese community. (See Althen.)

#### UNIVERSITY RESPONSES AND SERVICES

The first institutional response (community intervention) was to organize an open town meeting on Monday morning in the Memorial Union with the President, Vice President of Academic Affairs, and the Director of the Counseling Service. This meeting provided a sharing experience for everyone. The presentations offered an opportunity to face a common tragedy, to talk about stress reactions, and to begin the healing process. Classes were cancelled for the day, and, after the open meeting, educational meetings and counseling were available in meeting rooms throughout the Union. In addition to the individual funeral and memorial services, the University organized a memorial service on campus which was attended by the families and friends of the victims as well as faculty, staff, and students. This service was carried live by one of the local television affiliates as well. Several memorials have been established in the name of the victims providing scholarships and educational support for students. Several commemorative activities have been planned for Sunday, November 1, 1992, including concerts and a commemorative vigil on campus conducted by the Association of Campus Ministers.

## REFLECTIONS

While the University response to the events of November 1 was outstanding, there are some areas which need to be strengthened, and those are being addressed by the proper offices and individuals. Specifically, the following four areas should be addressed:

1. To make the ALG more widely known and understood.

The ALG has existed since the sixties largely in secret. Known as "the group" or "those administrators," it was decided early on, perhaps due to circumstances at the time (the Vietnam demonstrations), that it was necessary to exist in secret. Today, in the nineties, it is to everyone's advantage to make the existence of the group, its leadership, and its role known. This would reassure the entire University community that we are prepared to face any crisis. It is a strength and a plus for the University to have an experienced, competent emergency response team in place, and its existence should be openly acknowledged and understood.

2. To widely distribute the Emergency Preparedness Program.

At this time, the Emergency Preparedness Program is only partially in effect, and is being revised to add three new sections. The additions are a new section on counseling services, a flood emergency protocol (the Iowa River runs through the campus and floods certain buildings on occasion), and an evacuation plan for the disabled. A final draft of the plan is being completed and will be sent to the faculty senate, staff council, and student government for their approval. The

revised plan should be fully implemented in 10-15 buildings by the end of fiscal 1993. Once the revised plan has been reviewed and approved by the appropriate governing bodies, it and the existence of ALG should become widely known. Critical in the plan is the designation of a building coordinator for each building who is responsible for all activity in his/her building including emergencies. The building coordinator will be responsible for educating the occupants of the building in emergency response protocol. Again, educating the University community to the preparedness plan should give all members of the community a feeling of confidence that we are well prepared for whatever we may need to face.

3. To establish stronger communication networks.

It was evident during the crisis that the institution lacked an immediate communication system necessary to access all areas of the campus. While some parts of the campus have E-Mail, the entire campus network is not established yet. It would have been helpful, for example, to have been able to send out a short, factual paragraph on the system to inform everyone of the facts. Once the building coordinators described in the emergency preparedness plan are in place, attention will be given to communication systems between buildings. In addition, the campus security department does not have direct radio contact with the local law enforcement agencies, and this hampered their ability to communicate immediately and constantly throughout the crisis. This is crucial because

campus officers are not armed and depend on the local police for armed protection. The Director of Campus Security has met with local law enforcement officials to review proposals for computerized communication systems which all local agencies could share in purchasing, and which would put them in direct contact with each other at all times. The Director of Public Safety also meets monthly with the local law enforcement chiefs to share information and concerns, which fosters cooperation and good communication. In this day and age of sophisticated telecommunication systems, it behooves all institutions of higher education to investigate and develop direct communication systems throughout the campus.

4. To review all public announcements.

As kind and generous as institutions want to be in times of tragedy, it is necessary to be very careful in public statements regarding what the institution may or may not be able to do. For example, immediately after the shootings, the President and other University officials made promises that "all the needs of the victims and their families would be met by the University." When certain arrangements could not be made or were delayed, it became a legal and media nightmare with attorneys and the victim's advocate of the County Attorney's office calling University officials to remind them of their responsibilities. The secretary in Academic Affairs, who was shot and paralyzed, was not an employee of the University, and her insurance benefits and workers'

compensation had to be arranged by her employment agency and not the University. The widow of the slain graduate student, who had just received a post doctoral appointment at the University, had to wait six months for the Attorney General to approve her benefits because the paperwork for her husband's appointment to the University had not been completed. Public announcements after a tragedy need to be reviewed carefully by the proper officials to eliminate any false expectations which the institution may not be able, legally or otherwise, to deliver.

#### RECOMMENDATIONS FOR INSTITUTIONS

As we reflect on our tragedy, and on the increase of campus violence across the nation as well, we would suggest that institutions consider the following recommendations:

1. A basic, written emergency preparedness plan.
2. An administrative response team as a critical part of the plan.

Appropriate members of the basic team should include persons such as: the Director of Public Safety, the University Attorney, the Director of Psychological Services, the Director of University Relations, the Director of Personnel, the Dean of Students, and the Business Manager. Others can be added to the team as the situation dictates. Members of the basic team should have clearly identified areas of responsibility, e.g., the media, psychological services, etc.

3. The plan should be approved by all appropriate governing bodies, and should be widely distributed to the University community.
4. There should be periodic reviews and timely updates to the plan on a regular basis.
5. All local community law enforcement and city officials should be thoroughly familiar with the plan.
6. Certain offices on campus, by the nature of their work and high visibility, may need, and should have, appropriate alarm systems installed.
7. Certain offices may also need to have their own particular evacuation plan in place in addition to the University's emergency response plan.
8. Appropriate, comprehensive communication systems should be available on campus to facilitate emergency communication.
9. Immediate and sustained psychological support must be available to deal with crises.
10. Professional development classes or workshops should be offered for faculty and staff on how to deal with difficult people.
11. The Dean of Students should ask local law enforcement officials to notify him/her as part of their background check when a student requests a gun permit.

Since the shootings, several offices have reported an increase in calls regarding complaining students, and a heightened sensitivity to persons perceived as seriously troubled. Faculty and staff members react more quickly now to any sign of risk. Since November 1, the Ombudsperson's Office alone has

received referrals of 11 persons whose behavior was considered potentially dangerous. We have urged all members of the faculty, staff, or student body to report his/her concerns about any potentially dangerous situation so that an assessment can be made by those properly trained to do so.

#### RECOMMENDATIONS FOR OMBUDSPERSONS

Some institutions may include their ombudsperson(s) as part of the administrative response team. Whether they are part of the team or not, ombudspersons can be helpful to their institutions throughout the academic year by being mindful of the special needs of clients who seem troubled or potentially dangerous. In order to assist our institutions in guarding against violence on the campus, we must give special attention to the following issues:

1. Identifying and assessing the needs of troubled individuals.
2. Helping to create a campus network to deal with troubled individuals.
3. Insuring that the rights of troubled individuals are protected.
4. Helping to maintain the confidentiality of troubled persons, particularly the nature of any illness they may have.
5. Maintaining close working relationships with colleagues who deal with the problems of faculty, students, and staff on a daily basis, perhaps meeting regularly to discuss mutual concerns.
6. Monitoring the timeliness of grievance procedures.
7. Working closely with foreign student advisors to better understand and appreciate the special needs of international students and faculty.
8. Securing an adequate alarm system for the Ombudsperson's Office.



## CONCLUSIONS

This paper describes the tragic events on the campus of the University of Iowa on November 1, 1991, and the outstanding response of the institution and the Iowa City community to those events.

What it may fail to capture, however, is the overwhelming human response that the institution displayed. People reached out to one another with compassion, they cared, and they cried. In their own sorrow, members of the victim's families generously reached out to support the entire campus community. All the memorials and remembrances are wonderful and appropriate, and we are grateful for them, but we remember and mourn the gifted, talented people whose lives were lost and seriously wounded that day.

The University moves forward now, sustained by the strength and character of its people, as it plans responsibly for any future emergency. In so doing, may it never lose the capacity to respond with the human touch as it seeks to fulfill its educational mission.

CULTS ON CAMPUS: HOW THE OMBUDSMAN CAN INTERVENE

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University of California, Irvine

Last March, the David Koresh Branch Davidian cult brought national attention to the existence of destructive cults in the United States. While the events which occurred in Waco were dramatic, the cults on our campuses operate in a much more subtle manner. The University of California, Irvine experience can serve as an example of how a large public university can address the problems presented by cults.

The Ombudsman Office became aware of the existence of cults on the Irvine campus through telephone calls and meetings with the parents and friends of students involved in cults. They told of a scenario in which the student became involved very quickly with the cult and removed themselves from any contact with their friends, school, and family. Several of the students were dismissed from school because all their time was devoted to the cult. They neglected their studies and withdrew from family and friends. Some students had been held against their will, harmed physically, or affected psychologically. "Why doesn't the University do something?" was the question raised consistently.

In an attempt to answer that question, I called the Student Counseling Center and learned that one of the psychologists was also concerned about the presence of cults on our campus after counseling students who were attempting to leave the cults. The Boston Church of Christ, as well as the Los Angeles Church of Christ, was our immediate concern because they were recruiting

actively at many colleges and universities in Southern California. Therefore, we met to discuss the students we knew who were recruited by this cult and to uncover the "something" that we could do about the presence of the foregoing and other cults in Irvine.

We had the good fortune to have the assistance of a former UC Berkeley staff member. Berkeley had developed a response to the cult activities and we were able to adapt their procedure to our campus and began by inviting a group of staff members to discuss the problem of cults. Representatives from the following offices were included: Academic Counselors, Campus Interfaith Center, Counseling Center, Dean of Students, Housing Office, Ombudsman Office, and Student Affairs.

After the most active cults were identified, our committee took the following actions:

- informed the campus community of the cults presence on campus by making their activities public knowledge;
- developed guidelines for staff to follow when dealing with an individual who was involved with the cults;
- trained the Resident Assistants in Student Housing about the cults on campus;
- published a brochure which warned students of the deceptive recruiting tactics used by cults and which became a part of the orientation information for every new student.

As a result, an article about the cults appeared in the student newspaper and we invited former cult members and the Cult Awareness Network to speak to students, faculty, and staff. That presentation had two components.

The first was directed to staff and identified how they could assist students who were attempting to avoid or leave cults. The second was directed to students and involved increasing their knowledge about the tactics employed by the cults; understanding how to avoid cults; or, helping a friend who wished to avoid or leave a cult.

After this initial round of activity, the committee continues to provide information to individuals and groups about the activities of cults on campus. We meet several times a year to discuss and evaluate our response to the cults. We plan to provide ongoing training to the campus about the presence of cults.

Ombudsmen, in particular, can help a student who has been involved in a cult. It is possible to document the impact of a student's involvement through a therapist or physician and recommend the removal of the deficient grades. Because of the sensitive nature of the cult involvement, the Ombudsman, who can remain confidential, is the ideal place for a student to turn for assistance. For example, one case was resolved after I was able to confirm that a student had been physically restrained from taking final exams by the cult leader. Once I knew the name of the cult, checked its activity on our campus, and documented the student's involvement in the cult with verification from a physician, I was able to argue successfully for the removal of grades for that quarter. In addition, the fact of the student's relationship with the cult was never made a part of the academic records. This action from the Ombudsman Office allowed the student to return to school and complete their degree.

The ability of the Ombudsman to evaluate the validity of the individual's involvement and to argue for a change in University deadlines or policy is crucial. I have found that the students, whose lives were overtaken by a cult,

need a lot of support in order to return to the University. The Ombudsman is in a pivotal position, and should act to modify or suspend regulations which clearly should not be applied to a student who is returning to their education after involvement in a cult.

University campuses will continue to be a source of recruits for cults. All of us, at one time or another, might be vulnerable to the lure of a cult. The bright young men and women, striving to succeed in new surroundings on our campuses, are exactly the candidates the cults seek. We can help them avoid the false promise of instant bonding and recognition offered by the cults. To do so, we must be aware of the organizations which are active on our campus, the means by which they recruit, and, how to respond to them.

#### Addendum

There are many local and national organizations to which you can turn for more information. For example, The national office of The Cult Awareness Network publishes a newsletter, provides speakers, and compiles information on cults.

Their address is:

The Cult Awareness Network  
2421 W. Pratt Boulevard, Suite 1173  
Chicago, Illinois, 60645  
(312) 267-7777

In addition, there are several books written about cults and mind control, i.e., Combating Cult Mind Control by Steve Hassan, is always at the top of the list and is generally available at libraries.

## NEUTRALITY IN LISTENING

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Neutrality is a primary distinguishing characteristic of the ombudsperson, which makes this role different from others in the organization. The neutral stance may not come naturally to the new ombuds practitioner because most of life's relationships involve loyalty, support, advocacy, competition, opposition, power, or partiality in some form. Many visitors to the ombuds office have never before interacted with a neutral and may not know what to expect. It is not uncommon for them to presume that the ombuds will be their advocate, or, conversely, that the ombuds is compromised by allegiance to senior management. Anticipating and correcting these assumptions at the onset can help to avoid more complicated misconceptions or inappropriate expectations later in the process.

During the first few minutes of an interview, the ombudsperson introduces the visitor to the practice of neutrality. Many ombuds begin a meeting, perhaps after assuring confidentiality, by explaining the role of the designated neutral: "As a neutral, I am not an advocate for any one particular individual." or, "I aim to see any situation from the perspectives of all parties involved."

Subsequent parts of an initial interview include active listening, identifying the issues, and providing a range of options. Neutrality governs all of these, but the objective stance is most significantly established from the outset. If the reflective listening portion fails, the later steps also are not likely to succeed. Similarly, if the visitor misunderstands the

ombuds' noncommittal responses as partisan support, disappointment with the conflict resolution process or negotiated outcome may be inevitable.

Many of the techniques of active listening are implicitly neutral because they avoid making value judgments and distance the communication from the listener's own biases or personal responses. The neutral listener feeds back the speaker's main points, including thoughts and feelings, using the speaker's own frame of reference. To insure objectivity, the listener may ask for clarification, confirmation of highlights, or correction of misunderstandings.

The speaker has much to gain from presenting a situation to a neutral listener in addition to the relief of disclosure. The reflections illuminate the facts and feelings that are being presented which can be a first step in clarification or reality-testing. The objective responses of the neutral listener often foster candor and trust, and the feedback of the designated neutral is received as a reliable statement of facts, i.e., "You confirm that some of the issues I have raised, if true, could be serious concerns." In contrast, the sympathy of the committed listener can be dismissed, i.e., "You're just saying that I have a strong case because you love me."

Most designated neutrals make an effort to be vigilant not to slip into various pitfalls of empathy that might misleadingly imply bias or support. One test for neutrality of response is, "Would I be uncomfortable if this visitor overheard me responding in the same way to the other party in the conflict, or if the other party heard this response to my current visitor?" Another test is, "Would I speak the same way to a person of another race, religion, gender, or organizational rank?" Several responses which could be interpreted as less than neutral could be grouped into the following categories:

1. Partial:

- a. "I'm so glad to hear you won your appeal."
- b. "I hope you get what you are asking for."
- c. "Good Luck!"

2. Parental (condescending):

- a. "If you were my daughter, I'd tell you to look for a new job immediately."
- b. "If that happened to my son, I'd be furious."
- c. "That was a stupid thing for you to have done."

3. Empathetic Judgments:

- a. "That seems so unfair because you worked so hard."
- b. "I'm so sorry that happened to you."
- c. "I wish you hadn't been mistreated in that way."

4. Prejudgment:

- a. "You've been stabbed in the back by someone you trusted."
- b. "It sounds like your supervisor needs training in management skills."
- c. "If that's what he said, then he's a real jerk."

In contrast, the following "nearly neutral" alternative statements could be made to any of the parties involved:

- 1. "Based on what I've heard, which is only one side of the story, it's possible that procedures were not followed appropriately."



2. "This is what our policy manual states."
3. "If I had been repeatedly passed over in that way, I might be concerned too."
4. "What you are describing suggests a serious concern."
5. "Please let me know how it turns out."

Of course, there are situations in which it is less than fully human to avoid indicating empathy or even support, i.e., "I'm terribly sorry your beloved died last week." or, "No one should have to go through such a terrifying experience alone." But the ombuds practitioner, who has a reputation for avoiding judgmental statements, will have great credibility with all parties. Moreover, if the distraught visitor misinterprets the neutral listener's "smiles and nods," "um-hum," and, "Is that so?" responses as assents, and later claims, "The ombuds said I was right!" (implying that the boss was wrong), then, the boss might tend to question the visitor's interpretation rather than the objectivity of the ombuds known for consistent neutrality.

Thoughtful neutrals disagree about the appropriateness of sharing personal anecdotes. Some believe that trust can most efficiently be established if the listener reveals an autobiographical detail, usually something germane to the issues at hand such as, "I had a similar experience once . . ." However, the purist response would emphasize the likelihood of creating a misunderstanding, i.e., the visitor might perceive that the ombuds felt especially identified or

intimate with him or her and, thus, was taking his or her side. The listener who offers a comparison situation also runs the risk of offending the visitor by seeming to focus on perceived points of similarity and by appearing to overlook the obvious differences, i.e., "No. My situation isn't like that at all!" A pragmatic objection to sharing autobiographical anecdotes is that most visitors come to discuss their own issues. Therefore, comparisons with other situations may be perceived as unwanted distractions at best and self-centered misunderstandings at worst. A compromise approach is to imply some idiosyncratic revelations in introductory chat, i.e., "Would you like something to drink? I never drink coffee, only tea." or, in office furnishings, such as books of special interest or photos from personal travels on the wall about which the visitor might comment if a personal rapport is desired. These signals pass the consistency test of neutrality because they would be presented equally to all parties who visited the office.

Maintaining neutrality is particularly helpful in interactions with visitors who are uncertain about personal boundaries or who may experience delusions or paranoid ideas because it defines a role. This formality helps to clarify what the visitor can and cannot reasonably expect from the ombuds officer.

Broadly speaking, many people with concerns, even those who are not deeply troubled, find the ombuds' **neutrality** a distinctively attractive characteristic and make the following statements:

- a. "I can trust you, because I know you'll be objective."
- b. "No one else I could talk with has such a clear view of the whole situation."

- c. "It's a relief to know that you're not on my side or his side; that you won't do anything that would be unfair to him, either."

Finally, although working with a designated neutral might be a new experience for many visitors, it can be a welcome one.

## RECENT ROLE VARIATIONS IN THE OMBUDSMAN IN EDUCATION

Geoffrey Wallace

University of California, Santa Barbara

In recent years there have been subtle and consistent tendencies of the traditional Ombudsman functions derived from the Swedish model and early charters toward the Ombuds as a neutral third party rather than as an equity agent for the less powerful citizen facing a powerful bureaucracy. While this tendency is a means of making the Ombuds neutral in the face of inequity, the traditional role suggests fairness is as important as neutrality in redressing inequity in institutions.

The original efforts to establish the Ombudsman in Sweden in 1809 are informative in an analysis of the role of Ombudsman as it is applied in Universities and corporations in the United States. The Finnish office was started in 1919 and the Norwegians started theirs in 1962. These offices were independent, impartial, expert in their institutional systems, universally accessible, and empowered to make recommendations and to publicize. In another definition, these offices offer persuasive criticism based on preexisting standards. (Gynn) Some (Gellhorn) saw the office as readily accessible with professionally qualified and wholly detached critics who could inquire into asserted administrative shortcomings. In short, they were advisors, not commanders, who rely on recommendation, not compulsion.

The traditional Swedish Offices of Ombudsman had powers to take actions regarding abuse of power or violations of rules and remedied these abuses using persuasion and potential publicity. The enabling legislation of all Ombuds Offices in civil, judicial, and military complaints stipulate that the office

intervenes at the discretion of the office and takes action on behalf of the person or persons who brought the complaint. In the case of the Finnish, Swedish, Norwegian, and other offices, the Ombuds may request changes in administration that effect everyone who has the same problem as the complainant who brought the case. The Ombudsman may intercede and ask the agency in question to make procedures more friendly to the citizenry. In the governmental offices, the Ombuds recognizes the essential power imbalance between the citizen and the bureaucracy.

The structure of the Ombuds Office is established by legislation and precedent to be a small office or a large office administered by three Ombuds as in Israel; two Ombuds as in Staff Ombuds at the University of California, Berkeley; or, a single Ombuds for the Canadian provinces with staffs up to 140 persons. The dominant element in the structure is the theme that the Ombudsman is an independent agent who may intervene for complainants and use their unique structural situation and their powers of investigation and persuasion (or more) to mitigate or improve the condition that caused the complaint.

This organization of the office and the modern meaning of Ombudsman presupposed that the independence, judicious temperament, and the focus of the Ombuds can mitigate the tendency of institutions to make mistakes; to be inefficient; to break their own rules; to lose contact with the constituency; or, any other marginal abuses of power or authority. The Ombudsman is predicated on the discovery that even the most capable, well-educated, persistent citizen may be at a loss to get those in power to consistently behave fairly. The Ombudsman, by intervening primarily for the complainant, may pose the problem that the complainant is more likely to get a remedy than

all of those with the same problem who did not complain. Nonetheless, the Ombudsman may, at their discretion, intervene for any matter within their charter. In terms of dispute resolution, this institution intervenes for the less powerful person in the dispute -- the citizen.

In contrast to the role of the Ombuds that has endured the last century, there are other concepts that depart from the Ombudsman role of "citizens defender" as the term is used by Rowat, i.e., there has been a transformation by some from "citizens defender" to "citizens mediator." Within the last fifteen years of the one hundred and eighty year history of the Ombudsman, the mediator role has gained some standing with Ombuds and has become a factor in the evolution of the Ombuds concept. American Universities are one place in which the mediator role has been promoted over the traditional role.

Some of the perceived advantages are that the mediator maintains a distance from any issues where an Ombuds would negotiate equities either from the Ombuds' own motion or from complainant or complainants. The Ombuds negotiates equity where an in-house mediator would eschew most everything which would give the appearance that the neutral has any interest in the issue at hand. If the Ombuds works consistently on issues of gender or racial equity, it might be better to pick a mediator who is not playing the Ombuds role to handle the mediation of a case involving gender inequity, particularly where the resolution is acceptable to the disputants but not adequate to some of the complainants from whom the Ombuds has received complaints. The mediator role is a small part of the obligation of the Ombudsman. The whole issue of public reports, of being an independent voice of citizens, and, of institutions that do not have the power and authority is decreased in the model of the Ombudsman

being the person who gets people together to solve their own problems. Part of the attraction of the mediation roles introduction could be due to several major influences. The major benefit is that the Ombudsman, instead of taking on the task of complaint, may simply put the disputants together and act as if they are neutral with regard to the outcomes. This benefit is a great asset to the administrative popularity of the Ombudsman qua Mediator. A second potential benefit is that the mediators may join an accepted group of persons that may be perceived as a parent group like the Society of Professionals in Dispute Resolution. Another potentially perceived benefit may be that the Ombudsman does not have to do all the investigative work that is involved in being an Ombudsman.

While these benefits are reasonable, they leave the tasks of the Ombudsman undone in favor of the new role which might be termed, as some have suggested, the University Mediator. The University Mediator would certainly have a neutral position, but they would not fulfill the fairness role that defines the role and function of the Ombudsman. The distinction between neutral and the older role of negotiator of fairness and equity is very different and it could be accomplished by having two offices or two programs within an office, but neither office is substitutable for the other. The Ombuds is an involved party who negotiates equity while the mediator is an uninvolved party who leaves equity up to the disputants. If the mediator starts negotiating equity, it would be as problematic as if the Ombudsman pretended to be as interested in their uninvolved neutrality as the mediator. The skills for both roles are very similar with the difference being that the mediator plays the third party role while the Ombudsman is an interested party in the mishandling, inefficient, maladministration, or other abuse of power or authority.

An increased awareness of the distinction between neutral and fair is in the recent statements by Lani Guinier of the University of Pennsylvania Law School. Professor Guinier has defined neutral as functionally neutered in addressing inequity and lack of fairness. Fairness takes balancing that treats unlike persons in unlike ways. She argues that concepts such as majority rule and the original doctrines of minority rights are in need of review because they are unable to deliver what she considers fairness. She believes that more thought should be given to balancing principles that provide for fairness. These ideas are in league with the original concepts of the Ombudsman as it exists in all the countries in which it is used and at odds with the role of a neutral such as a mediator. Only a few mediators are unwilling to mediate outcomes with which they do not agree. The norm is that the dispute belongs to the disputants. The ombudsman, on the other hand, is a partisan by task and by statute for certain concepts of government and public administration. An example could be that if a complainant is cast as a party to mediation, they may accept whatever is acceptable to them. The Ombudsman, on the other hand, has an interest in equity, good administration, and other principles of bureaucracy that citizens believe are expected from government. If a university frosh is in mediation with a provost and the provost convinces the student that they should not complain, the Ombuds has an essential interest if the student is consenting to accept a resolution that is not sound. The Ombudsman, by charter, is involved in negotiating equity rather than in merely putting persons of inherently unequal power together to find whatever resolution they wish. In a divergent model of Ombudsman, the Ombudsman would talk with the person and decide what outcomes are appropriate for the Ombudsman to pursue and investigate. The Ombudsman could intervene in those matters but



would not negotiate every issue or broker any resolution. The Ombudsman has a very different role than the mediator.

An obvious dovetailing of these concepts is to have offices and persons to play these divergent roles within the same structure. Because of the skills, similarities, and the fact that both roles do conflict work they could be linked in ways that are clear about the bright line distinctions between mediator and Ombudsman. What should not be done is to abandon the Ombuds role by taking away its advocacy of equity, or by compromising the mediator role with being an Ombudsman and being an interested party in institutional causes.

While the roles of mediator and Ombudsman are essentially different and should not be confused in ways that vitiate either role, the clear distinction of roles will advance the cause of both professions. In institutional settings, the Ombudsman may wish to offer a distinct service of noninterested mediators. The concept of assisted negotiations offers a common ground of skills in that the Ombudsman negotiates equity for the citizenry while individuals may use the negotiation assistants to help facilitate the issues that individuals negotiate. This concept is a bridge to the two different roles and professions. The blurring of the Ombudsman role and the mediator role will tend to make both pursuits marginal. The mediator does not have the power of the Ombudsman and the Ombudsman must sacrifice their role to be an uninvolved, disinterested mediator. The marginality of Ombudsman in institutions would be a detriment to equity and complaint resolution functions that are part of all legally established civil Ombudsmen. The fairness that Ombudsmen bring to their environments is far too valuable to blur with other complementary institutional roles.

Addendum

A 10 page Bibliography is available upon request from Dr. Geoffrey Wallace at the following address:

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INSTITUTIONAL CONFLICT WORK IN DEMOCRATIC SOCIETIES

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While democracy has clear advantages in providing for choice and input into government, the social institutions within the democracy may be autocratic. Some conflict systems work against the abuse of the citizen by these social institutions. Mediation, Ombuds, and assisted negotiations offices confront and question the autocratic institutions that can exist in democracies. This article discusses some of these change agencies and their role in the daily life of the actor in democratic institutions.

In U.S. and British democracies, sociology has theories and analyses of conflict. Sociologists such as Coser, Simmel, Dahrendorf, Lockwood, and Strauss, among others, have examined the role of conflict in the social structure. One attribute of non-coercive or peaceful conflict is that it offers a means of problem solving without force. Non-coercive resolution of social conflict is an essential element of any non-coercive social system. If individual disputants are not given some role in the conflict, the conflict is taken over by others. Being the author of one's own resolution to differences serves to enhance democracy. In addition to not coercing citizens of the society, it is within the concepts of democracy that citizens would have a measure of self-determination and choice. If social disputes are to be framed and resolved by disputants exercising their own agency within democratic institutions, it is necessary to have conflict systems that maximize the disputants' ability to craft their own resolution to their disputes.

Sociology has contributed both theoretical perspectives and empirical investigations of how conflict is processed in social systems. This paper deals with the institutional nature of dispute work and how individuals and groups have dispute systems that may serve their interests.

Institutions that provide individuals and groups with skills and environments for dispute work are particularly useful in allowing citizens to be involved in determining their own resolutions to their differences.

Social movements have appeared in the United States, Canada, and Britain that have accomplished social changes in the area of dispute work. Some of the vast body of data about the dispute systems in democratic societies will be used to illustrate the potential for increased citizen involvement. This citizen participation is at an even more basic level than voting for persons to represent citizens in a democratic society.

The value of democracy is not at question. The point is that to give control to the people, the spirit of democratic institutions must be in evidence at the level of experience for the population, and not just be a theoretical notion of democracy. If a person votes for governmental representatives, but in everyday life the person is living within autocratic institutions, the value of democracy may be vitiating. At the level of institutions that affect everyday life, voluntary conflict systems are essential to the maintenance of the spirit of democratic institutions. Some of the systems that are valuable in this function are known as "multi-doors" courts (which are looping procedures to make disputes less legalistic), corporate dispute systems, school dispute systems, institutional Ombuds, and general community-based programs for the populace in dispute work.

Cultures throughout time have had various means of resolving differences. Ancient, Confucian, and modern China have used mediation techniques. (Ginzberg, 1978.) Japan has had community mediation from custom and culture. (Henderson, 1965.) Africa has many traditions of using a high-context community member for resolution of disputes. (Haley, 1978.) Both Judaism and Christianity have norms that suggest the use of organized conflict resolution. Councils of rabbis have historically been used for conflict resolution. (Yaffe, 1972.) In Corinthians 6:1-4, Paul suggests that the community should resolve disputes instead of taking their differences to court. Cultural anthropologists, such as Laura Nader and P. H. Gulliver, have studied cross-cultural dispute settlement systems. In colonial United States there were local informal systems for settling disputes. (Auerbach, 1969.)

Dispute systems in the United States have changed a great deal in recent years. Between 1977 and 1987, neighborhood dispute programs grew from approximately three neighborhood dispute centers to over three hundred centers. The Multi-Door court house system in Washington, D.C. handled 15,000 cases in 1985. In the areas of arbitration and mediation, there have been major increases in their use as evidenced by the revenue to those who provide these services. In 1992, the American Arbitration Association made 37 million dollars handling 60,000 cases; Endispute made 4.8 million dollars; Judicate made 4.0 million dollars; and, judicial mediation and arbitration made 25 million dollars. The increased use of mediation and arbitration remedies has been accompanied by an expanded array of conflict systems now available.

Because legal costs and legal delay have made legal conflict more accessible to the rich than the poor, conflict resolution systems are dependent upon the

financial resources (or lack thereof) of the disputants themselves. One important level of possible remedy is to continue the implementation of efforts to establish systems that provide voluntary and efficient means of handling legal conflicts without the costs of litigation.

Provisions for arbitration, mini courts, rent-a-judge, and the other recent innovations offer more efficiency and cost effectiveness than litigation. The idea of down-looping is that the normal escalation process of conflict would be reversed when possible, and that conflicts would be handled at a lower level of conflict. In an area such as family law, some courts, such as those in California, have mandatory mediation for child custody issues. These procedures offer the poorer disputant some access to having a more balanced playing field for their dispute in that the outcome will not always favor the party with the most money.

The addition of corporate mediation programs, neighborhood mediation programs, and institutional Ombuds programs have created avenues for social change within institutional contexts. Participation by workers in the conflict process has been increasing in corporations in the United States. There is an analytic awareness -- among both the observers of conflicts and the groups they are observing and analyzing -- that there could be mutual advantage to groups of managers and workers within corporations in using interest-based mediation to solve problems instead of using power, violence, or resorting to more polarized litigation and costly legal disputes. The idea of taking issues that would revert conflicts of power to conflicts of law -- plus the idea that some conflicts of law may be back-looped to interest-based conflict -- is defined analytically by scholar-practitioners such as Goldberg, Brett, and Ury, (1988).

At the level of the individual actors, as well as in the aggregate, the level of participation increases in one's resolving differences with others using more interest-based mediation. There exists a potential for those in power to misuse mediation. The ability to have a say in one's differences or to be assisted in resolving disputes without yielding the dispute to someone (other than the disputants) is a form of individual power in a democratic society. The increased use of less polarized methods of dispute resolution has been used to the perceived benefit of the participants. (Rowe, 1989.) Some large educational entities of the same size with different conflict methods have had millions of dollars of variation in their costs to the institution of legal settlements. ("Tale of Two Cities," Perspective: The Legal Monthly, 1992.)

Another aspect of the change in institutional involvement in non-coercive remedies is the expansion of the corporate Ombuds and other institutional conflict systems that allow individuals some opportunity to be involved in their own resolutions. The corporate Ombuds possesses major differences from an in-house mediation program even though both are involved in mediation. However, the Ombuds also negotiates equity for the person's complaint.

The Ombudsman was established in Sweden in 1809 and has served the population since 1910. The Ombuds concept has been expanded around the world. Offices span from Australia to Israel. The corporate Ombuds, a derivative office of the traditional Ombudsman office, has been growing at an increase of about two per month in the United States and Canada. (Rowe, 1991.) Some of the advantages are that persons within the corporation may negotiate equity issues or may have third party assistance in the corporate group. There is little evidence that the service tends to "cool out" clients rather than work

to improve the interactions between the workers or the workers and the management. The independence, the impartiality, the access, the expertise, and the investigative powers of the Ombuds balance the power of management with an agency that allows the worker power that is analogous to what the ballot box accomplishes in electing the government in a democratic society. The Ombuds in the corporation provides a mechanism of involvement that might mitigate against agreeable autocracies within democratic societies.

Since 1810, the Ombuds has provided democratic countries with an independent source of redress of grievances and complaints of inequity or error as well as a source of mediation, assisted negotiations, and a collaborative process. Assisted negotiations allow the disputant to be assisted in negotiating their interests.

The issue becomes one of the relative power of the citizen as opposed to the power of the state or agency vested in the state. The Ombuds Office allows for the citizen to question the actions of the state and to question the abuse of power. Because the history of states reflects their abuse of individuals, the Ombuds institution can put more access and information in the hands of the population. In addition, the Ombuds is a non-coercive agency that uses persuasion to insure that democratic institutions have the potential for enhanced equities for those who are not among the upper classes.

The major campuses in the United States and Canada have Ombuds Offices that receive, investigate, and negotiate change in Universities. Most reviewers have found that this type of conflict office mitigates against autocratic institutions in democracies. The American University and College Ombuds have been pulled into several contemporary conflicts on behalf of groups of persons who feel that universities have not been fair and hospitable to



underrepresented groups, i.e., the minorities who have not had access to universities in the past. Groups like Chicanos, African-Americans, and Gays, among others, have sought the help of agencies like the Ombuds. Mediations include inter-group conflicts as well as mediating the inherent tensions between the University and the underrepresented groups. The Ombuds uses independence, impartiality, expertise, and persuasion to aid the groups that are seeking the advantages of access to the University. The Ombuds assists the complainant in balancing the power of the state, institution, or corporation by the use of investigation access and doctrines of equity and fairness.

In work on prejudice reduction, Ombuds have the advantage that they are not compelling change but are working on making change possible by airing issues with groups who may be susceptible to increasing awareness of the effects of speech and action on other persons. In addition to the formal means of handling hate speech and hate acts, reasoned persuasion is a useful process in improving the institutional environment in universities. The Ombuds is not in position to punish which allows them to access persons who engage in hate talk and to discuss the implications of this talk. The Ombuds may assist the less powerful persons with a place to question the rules, the roles, and the reason for decisions and actions.

Allow me to show how recent research in multi-cultural dispute systems augments other democratic systems in solving problems. The Isla Vista Mediation Program is a program run by the Ombuds Office at the University of California at Santa Barbara. Isla Vista is a small community of 20,000 with 3,000 Chicano families living within the square mile of the town that includes about 6,000 students. The Mediation Program is involved in a full range of mediation services. During the last four years, data has been collected

regarding the functions of mediation in the mono-cultural conflicts within the three major (yet overlapping) populations of students, Chicanos, and permanent/homeowner residents. In addition, there has been a systematic effort to detail and analyze how conflict mediation is accomplished without specific institutions to perform the roles, i.e., what places, times, and parties perform the conflict work in the cultural skills of each group.

The preliminary case analysis of the program suggests that the major groups have different conflicts which are addressed in different ways. Permanent homeowners are mobilized against taxation and regulations. These persons have felt alienated by a 400% increase in local taxes from the Recreation and Parks Department. The Chicano community has been interested in improving social service interface, including the total lack of recreational facilities such as for soccer. The local forums for both groups have been frustrated by the majority being from the student population who are in flux every year and who leave the community every four years. The local agencies have tended to not serve the two permanent populations. The conduct of complaint and dispute are particularly divergent. Both permanent groups are functional minorities. The major negotiations with power structures and the internal negotiations with groups have been distinct and different experiences for the different groups. The frame of experience for the Chicano population is constructed as a fight for survival in a hostile majority population. There is a lack of comfort for them in most institutional settings. In an effort to make people comfortable within a more intelligible social institution, many of the outreach mediators in the Isla Vista Mediation Program are fluent in Spanish and English, are parents, and are university students. This paid cadre can assist negotiations with most of the challenges in the daily lives of the community. The outreach

mediators are trusted in the community and serve as a bridge to increased equity and access to necessary services.

There is a suggestion in the preliminary analysis of cases that functional minority groups may gain interest satisfaction through use of agencies which assist in the negotiations process. There is also some indication that having language and processes that are able to handle gender, race, and class is vital to the mediation office being of perceived value to the minority populations.

The Ombuds function of being an agency for equity and fairness is perceived by users as offering marginal change in communities, universities, and corporations. The initial indications of mediation and Ombuds offices in providing parallel functions to the ballot box in democracy allow citizens remedies to maladministration, inefficiency, misdirection, and other ills of institutions. (Anderson, et. al., 1978.) These offices are certainly not cures to capricious or exploitative institutions. Rather, they are agencies that enhance citizen power to counterbalance the inherent power of agencies over individuals.

These conflict institutions offer some power balancing for individuals and groups who, due to class and race, are systematically less powerful. The conflict services work to balance the power of the social institutions through investigation, access, and entry into discussions of inequity and unfairness.

Institutions that require deep systematic change are less likely to be mitigated by marginal change agencies such as mediation or Ombuds offices. These micro systems are institutions that allow marginal efforts to provide for those who are treated equally but unfairly in terms of the material and social benefits of democracy. Evidence suggests that equal treatment of those who are

historically disadvantaged is unfair. If neutrality is less useful than fairness principles in mitigating institutional injustice, these agencies might demonstrably help to offer marginal fairness. The data from these programs suggest that they could offer some perceived and material benefit to those individuals who have differences with democratic institutions, with corporations, or with other citizens.

## MENTORING, ROLE MODELING AND THE CAREER DEVELOPMENT OF JUNIOR FACULTY

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During the past eight years, as I have watched the development of students and faculty in the sciences from my vantage point as an ombudsman at one major academic institution and director of the Office for Women in Medicine at another, it has become clear to me that the career development of faculty represents an important area where we have much room for progress. The quality of the faculty and of their teaching efforts have significant implications for the educational programs of any academic institution. The purpose of this article is to highlight the need for mentoring and role modeling for faculty, and in particular junior faculty, in the sciences.

The initial junior faculty years constitute an important formative period of career development. Education is not a stepwise process that ends when one receives a diploma, but rather is a continuum which proceeds throughout our professional lives. Yet, while we make great efforts to meet educational and personal needs of students, similar needs of faculty, particularly new faculty, are relatively neglected. After ascending one academic ladder (undergraduate education, graduate study, postdoctoral training), new assistant professors in the sciences find themselves at the bottom of still another hierarchy. But as they try to ascend the "faculty ladder," neophyte faculty members are often on their own. Having observed the "syndrome of the assistant professor" in the sciences for a number of years, the following points seem clear to me:

1. **Junior faculty are new independent scholars.**

While all faculty members remain students throughout their careers, junior faculty are poised at an especially delicate juncture; the initial faculty years are pivotal ones which can make, break, or at least shape an academic career. The need for guidance and growth of junior faculty is significant, but it often is unrecognized. We should not negate the important role of new faculty members in teaching, administrative, service, and research activities; and we should not deemphasize the rights and responsibilities of junior faculty as independent scholars. However, we must acknowledge that faculty, and in particular junior faculty, require guidance and support as they attempt to develop their careers.

2. **We cannot assume that junior faculty understand how to successfully climb the academic ladder.**

Advancement in academia requires not only outstanding scholarship, but also the right kind of work. New scholars are expected to achieve credibility and visibility in their fields, but at early stages of their careers, faculty members may not recognize these goals or how to achieve them. Few explicit rules are written about how to ascend the academic ladder. This problem can be especially acute in the sciences where laboratory space and other resources are often necessary for success. Professional expectations at some institutions (when and how to communicate scholarly results; where to publish; how to get grants) are part of an unwritten academic culture that is communicated

informally from colleague to colleague. Scholars can learn these rules as part of the professional socialization process (Rinke, 1981), but some individuals may not be included in the informal network where this communication takes place. Moreover, at early stages in their growth, faculty members cannot always discriminate between various mentors or role models. Therefore, they may not choose the most constructive mentor or role model for advice or emulation.

3. **Little written material is available on how to succeed in academia, and many junior faculty do not read the material that exists.**

In some cases, newly appointed faculty do not read or understand their appointment letters. They may not even receive a letter of appointment until well into the second semester. Few faculty members read faculty handbooks published by their institutions, and fewer understand the contents.

4. **Junior faculty often misunderstand the nature of the decisions that determine academic advancement.**

In some cases, they are not aware of the qualitative expectations inherent in the tenure process. If they are aware of the expectations, new faculty may find it difficult to be objective in judging their own work vis-a-vis these expectations. In either case, there is a critical need for constructive feedback.

5. **Junior faculty in the sciences, like students, can learn from identification and role modeling.**

These processes can help new scholars shape their professional performance so as to meet institutional and departmental expectations. (Hall and Sandler, 1983; Kanter, 1977.) However, in many academic departments role models are not available or accessible to new faculty members. Junior faculty may not perceive their senior colleagues as role models. Moreover, while teaching students may be given a high priority, teaching junior faculty often is neglected.

6. **Members of professional peer groups, such as senior faculty members, tend to pick as mentees persons most similar to themselves with whom they can identify -- this can tend to exclude "new blood."**

Senior faculty may feel more comfortable communicating with younger faculty whom they perceive as extensions of themselves. (Kanter, 1977; Lorber, 1984.) This not only deprives certain junior faculty members of mentorship but can also maintain or reinforce a narrow focus in a given department, and discourage the development of new subfields or approaches. When junior faculty fail to develop to full potential, they are not the only losers -- institutions lose important resources as well.

7. **Role modeling is more effective if it involves a role model of the same gender and ethnic/social origin. (Ducker, 1988; Tidball, 1986; Waxman, 1988.) Yet, in many areas of science, the number of women and minority role models is limited.**



This problem occurs in all academic disciplines, but it is especially acute in the sciences. It deprives minorities and women, who are much needed in some fields, of a crucial support system. Again, institutions, as well as candidates, may lose and the situation can be self-reinforcing.

8. **Junior faculty in the sciences must be taught to teach.**

Many new faculty members are well-schooled in the sciences, but not in how to teach. At some institutions, there are expectations of excellence in teaching and research, and in many cases, pressure to be productive in research ("publish or perish") appears to outweigh the expectation for excellence in teaching. This underscores the necessity of teaching faculty, first, about the importance of teaching, and second, about how to teach.

In the face of these problems, how can we encourage the development, to full potential, of new faculty members? The following solutions may readily be implemented:

1. **We must acknowledge that career development is a continuum, which proceeds throughout one's professional life.**

Junior faculty in the sciences should be regarded, at least in part, as developing scholars. This does not negate their crucial role as teachers, researchers, and professional colleagues, but it acknowledges their need for further growth, and their vulnerable position in the academic hierarchy. At departmental and institutional

levels, the senior faculty and administration need to discuss, at the beginning of their academic appointment, ways in which growth of junior faculty can be encouraged. These discussions must be ongoing.

2. **We must develop better written material, outlining the expectations and goals for junior faculty and providing guidance on how to meet them.**

Each junior faculty member should be given a copy of the faculty handbook, as well as the opportunity to discuss it with a senior member of his/her department or with an appropriate member of the institutions's administration. Several institutions have prepared guides that help interpret the faculty handbook and explore strategies for faculty advancement and promotion. (Committee on the Status of Women, 1990.) It should be emphasized that developing such a "roadmap" does not imply lowering standards, but rather should reflect an effort to promote, in each member of the faculty, performance to full potential.

It is also important to develop mechanisms whereby junior faculty can be educated about the academic "culture" of their department, and of the discipline in which they work. Implicit, as well as explicit, expectations should be discussed. For example, junior faculty in the sciences need to become aware of the relative importance of teaching, professional service and research in evaluations vis-a-vis academic advancement. (Waxman, 1991.) Similarly, beginning faculty members should be educated about strategies for developing a scholarly program, grant support, publication practices, interactions with co-authors, and the relative importance of "visibility" at departmental, institutional, and national/international levels.

3. **Academic departments should consider appointing a faculty advisor on professional growth and the promotion process.**

This role could appropriately be filled by emeritus faculty members. Consultations with advisors should be followed up by discussions between chairs and junior faculty. Chairs should provide junior faculty with information about departmental evaluation procedures and tenure prospects and, when appropriate, encouragement and instructions on ways to proceed in furthering their academic growth. This does not mean that all junior faculty should be given equal cause to believe that they can necessarily become a tenured member of the department. It is important to note that junior faculty should receive appropriate and proper information to evaluate their potential and keep them on a proper course of career development.

4. **We must develop effective methods for mentoring junior faculty in the sciences.**

Mentoring is much more than simply supplying junior faculty members with information -- mentors need to make a strong commitment of time and energy. Attention should be given to development of an advisory system, whereby each junior faculty member is paired with a more senior scholar who can act as mentor and/or role model. Faculty should be exposed, moreover, to a spectrum of role models. This can be done singly or in small groups through a seminar series, informal lunch-time meetings, an advisory system at the college or university level, or meetings with invited scholars from other institutions.

5. **We must make available the most appropriate role models from the perspective of gender and minority status.**

In addition to one-to-one relationships implied in "strong mentoring," multiple ties can be established, for each junior faculty member, to a variety of role models. This approach provides each new faculty member with a spectrum of styles and may be especially effective because it involves a lower expectation of a "complete fit" between mentor and mentee and thus "depressurizes" the mentor-mentee relationship.

6. **We should consider developing courses or seminars for faculty members dealing with the following issues:**
  - a. how to teach;
  - b. grantsmanship;
  - c. how, when, and where to publish;
  - d. balancing teaching, professional service and research activities;
  - e. strategies for academic success.

Even if faculty members know the goals, they need to be provided with a roadmap to achieve them.

7. **The development of an office for minority affairs, at the institutional level, deserves careful discussion. An office for women in academia should be considered. (Waxman, 1988.) The concept might be extended to the development of an office for junior faculty. Alternatively, a**

number of institutions have successfully utilized the ombudsman concept, with junior faculty included as an important and relatively unrepresented constituency. (Rowe, 1984; Waxman, 1987.)

These offices have been extremely effective at several institutions. They provide, at a very visible level, a locus where issues of these various constituencies can be addressed, and represent a clear "statement" emphasizing institutional commitment to all qualified individuals. (Waxman, 1990.)

8. **We must emphasize, for new faculty members, our commitment to teaching.**

Many institutions are committed to excellence in undergraduate science teaching, but new faculty may not understand the priority of teaching. Chairs and course directors must emphasize the importance of high quality teaching, and must insure that there are mechanisms for positive feedback which will encourage faculty to develop their teaching skills to full potential. This should include a significant role of teaching evaluations in reviews for promotion and tenure.

9. **Finally, we must consider, at each of our institutions, the development of policy statements, reflecting an institutional commitment to the career development of faculty.**

By signaling concern for career growth of its science faculty, the institutional administration can significantly promote the development of this important group of individuals.

The most important resource of any academic institution is its faculty. In this regard, junior faculty in the sciences represent a crucial pool of future talent. By properly nourishing and guiding young faculty scholars, colleges and universities may foster the careers of these individuals at a formative time and also maximize the human capital that is so crucial to the academic enterprise. The cost of doing this is relatively small, and the benefits -- especially when viewed in the context of the value of truly excellent teachers -- can be substantial.

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DEALING WITH ANONYMOUS VICIOUS ATTACKS

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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. Because 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.

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 a 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

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\* 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 also have been altered.

imbalance in their relationships with him. Therefore, it was now 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 in 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 to ruin his career. Who might have the ability to send such a letter? (The letter 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 to call a departmental meeting. He arranged a time to be available after the meeting for private meetings in case someone wanted to privately discuss the situation with him. 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 about whom she was thinking 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 so they could be compared 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 ambience 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 she had tried to sever the relationship after a few months. However, Lloyd had made it clear, at that time, that he wanted to continue seeing 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, had appeared unexpectedly in places she was, and, on a few occasions, 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 Lloyd and her positive 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 ended. 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 the following aspects of the situation:

- If, and how, should the suspect be confronted?
- How to stop 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 that nothing else would happen? 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? With what kind of individual were we dealing? How likely was Lloyd to react by executing 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 installing an alarm system in 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 proceed 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. Because 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 manner 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 because 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 encouraged 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 did not hold 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.<sup>1</sup>

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1. Mary Rowe reported that in other incidents of anonymous vicious attacks handled by ombudspeople 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 a feasible idea 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 counselled 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 in which he might be known to the attacker. The target then convened small groups of friends from each area of his life and, together, they brainstormed who the attacker might be. The fourth such group came up with a name that proved correct -- a person who 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.

After these incidents, the **Northeast Ombuds Group** met and discussed how best to proceed in dealing with Anonymous Vicious Attacks. On February 3, 1993, together, under Mary Rowe's stewardship, we developed the following list of suggestions that a recipient of an anonymous attack might take:

- a. 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 would they do in a like situation?")
- b. Tell people in the department what is happening. In many cases, the recipient will be reluctant to expose the subject matter of the attack. However, it may be best to inform all near-by colleagues because this group may have ideas about the identity of the offender, or may otherwise be able to help protect the recipient.
- c. The department head, or other unit head, might speak publicly against the offense. The idea is to show leadership; to ask for anyone who might know the offender to come forth; 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"; and, to take such steps that the offender, and others, must 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.

- d. The recipient should be helped to form and stay in touch with a support group, religious counselors, or others who can help to reaffirm both the wrongfulness of the attack and the worth of the recipient. An ombudsperson, dealing with such an attack, should reach out to other ombudspeople for support and advice as well as talk with other local resource people.
- e. 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 an inappropriate use of the mail system? Can the address on the envelope give a clue to the location from which the attack was mailed?
- f. 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 the 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, i.e., "Have you ever seen this poster?" or "Do you know who sent this letter?" rather than to make accusations.
- g. Experience indicates that brainstorming -- with the recipient and the appropriate others -- can lead to the 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.

- h. 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 these types of cases? Should there be an institutional protocol of a simple nature? Should department heads be informed about the existence of these cases -- from time to time -- and what they might do?
- i. The ombudsperson might inform him/herself about specific subject matter that comes up in these cases, i.e., "What is happening around the country with allegations about satanic cults, voodoo-connected episodes, specific religiously oriented issues, or other culturally-relevant phenomena?"
- j. By the same token, in unusual cases, the ombudsperson might consult with relevant experts, i.e., with people of relevant cultural background.

k. The ombudsperson and the recipient should work with local security experts and supervisors to devise reasonable steps which will assure the safety of anyone who might be in harm's way. The following measures can serve as examples:

1. practical steps: don't be alone; change locks, etc.;
2. if the attack is over the phone, consider these options:
  - a. having the phone company tap the phone;
  - b. changing the phone number; having it unlisted;
  - c. keeping the tape of any messages left on the answering machine;
3. security systems/panic buttons;
4. appropriate changes in personal and professional routines;
5. re-assignment of complainant;
6. temporary or permanent change of resident.

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 "gathering of the troops" in a collaborative brainstorming session and a systematic investigation of the facts should prove helpful and can serve as a useful resource in determining the correct course of action.

WHAT BUYING REAL ESTATE TAUGHT ME ABOUT

EMPLOYEE ASSISTANCE PROGRAMMING

Shannon E. Williams

University of California, Irvine

As a longtime California resident, I, too, have obsessed about buying real estate; and, in fact, have done so twice. In so doing, I learned that this process can be applied to successful EAP programming. Now for those of you who are not residents of California, you are probably thinking: "This is yet another example of why California deserves its weird reputation!" But bear with me.

Location, Location, Location!!!

The UCI Employee Assistance Program was originally located in Human Resources during the first four years of my employment at this campus. While it is true the program was in its developmental stages at that time, it is also true that the service was not perceived as neutral because it was located in Human Resources. This resulted in more supervisor referrals than self-referrals. However, when the program was moved to the Ombudsman Office five years ago, the situation changed for the following reason: The Ombudsman Office is perceived as a neutral, confidential program -- (yes, I know I am preaching to the choir) -- which increased both the perception of confidentiality and the self-referrals. Also, Employee Assistance Programs, historically, have worked closely with professionals in Human Resources, providing consultation and assistance. This is an important working

relationship; but it needs some distance in order to maintain the consultative role of the Employee Assistance Program and that all-important image of neutrality and confidentiality. To achieve this goal, an Employee Assistance Program cannot be located in, or report to, an entity that provides administrative services for corrective action and termination.

Who Are Your Neighbors? Will you Like Living Next Door to Them?

Having stated why the Employee Assistance Program does not belong in Human Resources, it is time to talk about how it does work in the Ombudsman Office. It has already been established that neutrality and confidentiality are commonalities of the two programs. However, each program utilizes the other as a referral resource because there are differences in program concept that identify each as a separate resource, especially with respect to dispute resolution. For example, the Employee Assistance Program does not contact a department to aid in a specific resolution of a conflict; rather, the Employee Assistance Program refers the individual to the Ombudsman Office for that assistance.

Another advantage in being near the Ombudsman Office is the placement of the unit in the organization. In order for an Employee Assistance Program to be effective, it must be placed as high in the organization as possible in order to insure senior management support of the program. As a part of the Ombudsman Office, this Employee Assistance Program is within the administrative control point of the Chancellor's Office.

Last, but not least, it has been helpful to have "neighbors." In this system, Employee Assistance Programs are very often alone in providing direct

services. Being part of the Ombudsman Office diffuses some of that feeling of "operating in a vacuum." In addition, there is an opportunity to consult with one another and renew one's perspective.

#### Pride of Ownership

If you have ever lived on the same street with someone whose front yard looks like the jungle ride at Disneyland, you will appreciate the "pride of ownership" concept. An Employee Assistance Program demonstrates that maxim based on the degree of organizational support and the degree of ability and interest of the Employee Assistance Program practitioner(s). The organizational support component is the acknowledgement that EAP provides a necessary service to the employees and is not a luxury item. And naturally, there must be funding to provide programming. I believe you can recognize these two items, "n'est-ce pas?"

There is a guide to EAP programming, but there are many, many variations on that theme. Basic programming is comprised of counseling and referral, management training, employee education, and marketing. (Could these be transferrable skills for selling real estate?) Very often, the person providing direct services (at least with internal programs) is also the person who created the program. Therefore, there is a great deal of pride of ownership and there is significant effort to provide a program of integrity. For those who would like more detail on any or all of the above programming components, please see the Addendum on page 6 for telephone numbers and addresses.

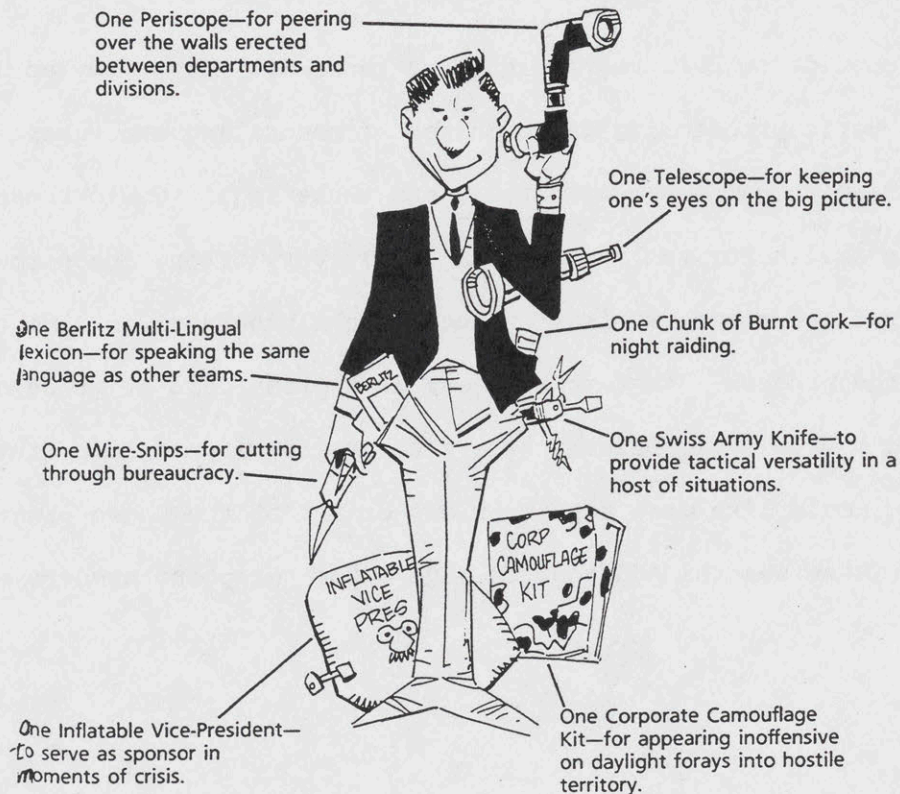


Does It Have a Pool?

As I write this section, five o'clock has come and gone, and so has the air conditioning in this office. It is also hot outdoors and it occurs to me that RON has a pool; JAN has a pool; and these are my neighbors, the Ombudspersons. I think this might be an equity issue for the Employee Assistance Program. But, I digress.....

Is the Neighborhood Safe?

In reading a book called, Turf Wars, (no pun intended), I spotted this illustration of a Corporation Commando which I found both amusing and familiar to the concept of starting an Employee Assistance Program. Who else identifies with this person?



Dealing with conflict, peoples' secrets and vulnerabilities, bad behavior, and pathology is tricky business because, in this case, I am not referring to client behavior. There are those folks who think that we have information that, being obtained within the confines of the organization, belongs to the organization. Sometimes, these people have power. Being a devoted owner of felines, I have learned a valuable lesson from them in terms of survival: Fluff your fur to make yourself appear large and formidable to scare off your enemies! It has been known to work in a metaphorical sense. So when faced with the above situation, you ask yourself, "Do I fluff or fold?"

Fortunately, my boss (the Ombudsman) also knows how to make himself appear large and formidable, and he has reiterated the importance of confidentiality and how compromising this process can destroy a program. The fact that there are recurrent episodes of attempts to obtain confidential information; apparent signs of discomfort with "shared secrets"; and, a concern about whether this type of activity can be in the best interest of the organization emphasizes the importance of on-going education about how the program works. Additionally, it is important to keep reiterating what makes the program successful and what can cause it to fail within an organization.

SOLD

Finally, what kind of a person makes the commitment to do this kind of work? I know, I know, -- one who should be committed. However, it has been my experience that it is people who care about truth, justice, and the American way. How do I know this? Because Ron has a Cape, Jan has a Wonder Woman doll, and I have three cats named Fred, Ethel, and Ricky.

But, seriously, I believe the individual profile of a practitioner in the Employee Assistance Program, not unlike an Ombudsman, is one who has an interest in organizational behavior and problem-solving. It is also important to this person that his/her client base has access to due process, receives fair and honest treatment within the workplace, and has adequate referral resources to aid in problem resolution. These practitioners are usually honest, caring, intuitive, intelligent, and articulate people. As I said, people who care about truth, justice, and the American way.

Addendum

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## THE CONTRIBUTORS

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Stan, a Professor Emeritus of Political Science at the University of California, Santa Barbara, is currently engaged in a study of the Nordic Legal Systems as a Senior Fellow with the Earl Warren Legal Institute at the School of Law (Boalt Hall), UC, Berkeley. In tandem with his specialty as a Scandinavianist, Stan has received Honorary Memberships in the U. S. Ombudsman Association and the International Ombudsman Institute because of his research and pioneer studies on the Ombudsman Institution. Stan holds the following degrees from the University of California, Berkeley: B.A., Philosophy; LL.B.; and Ph.D., Political Science.

### **R. Adolfo de Castro**

Adolfo, a former trial lawyer, turned "Ombudsman" eight years ago. Adolfo's present position is the Ombudsman, "Defensor del Pueblo," for the Commonwealth of Puerto Rico. His past experiences as a state attorney and as a judge have contributed in shaping the manner in which he carries out his present responsibilities. Adolfo has written several articles on the Ombudsman as an "institution" and has discussed the subject in forums around the world. In addition to his Ombudsman duties, Adolfo is a Member of the Board of Directors of the Latin American (Caracas) and International (Edmonton) Ombudsman Institutes; President-Elect of the Ombudsman Forum of the International Bar Association (London); and President of the United States Association of Ombudsmen (Juneau).

### **Nancy Flinchbaugh**

Nancy, a Counseling Specialist and Graduate Assistant at The University of Texas at San Antonio, is currently assisting in the development and implementation of the University's "Problem Solving/Conflict Resolution Program." In addition, Nancy is serving her seventh year as a mediator with the Bexar County Mediation Center. Nancy was involved previously in the mediation training of both youth and adults as well as in developing and implementing a mediation program for an elementary school. Nancy received a B.A. in Sociology at Otterbein College in Westerville, Ohio. She anticipates completing a Masters Degree in Educational Psychology and Counseling from The University of Texas at San Antonio in December 1993.

### **Tim Griffin**

Tim, a 20 year veteran serving in the roles of counselor, mediator, and dispute resolution specialist within the conflict mediation arena, originally earned a B.A. in Music and a M.A. in Counseling from Western Michigan University. These contrasting studies were followed by a Ph.D. from The Ohio State University in Higher Education with an emphasis in Higher Education Law. Tim's academic experience is as diverse as his degrees -- administrative posts at six universities in four states and professorial appointments at three institutions. The positions included five years as High School Band Director and Music Department Chair; President of a local union; Resident Assistant; Residence Hall Director; Director of Campus Union and Student Activities; Assistant Vice President for Student Affairs; and Director of Judicial Affairs. Tim also taught in the Higher Education Graduate Program at The Ohio State University and spent four years as a full-time faculty member teaching undergraduates. In addition, Tim served as an Intern in the Western Michigan University Office of the Ombudsman; worked four years as the Student Ombudsman at the University of Alabama in Huntsville; and is presently serving his third year as the University Ombudsman at Northern Illinois University.

### **Norma Guerra**

Norma is the Associate Vice President for Administration and Planning at The University of Texas at San Antonio. Her present responsibilities include the design of a model systems approach to dispute resolution and the development of a "Problem Solving/Conflict Resolution Program" for the University. Her past positions reflect a unflagging progression in the problem solving field. Norma, a nationally certified School Psychologist, earned a Ph.D. in Educational Psychology at Texas A & M University.

### **Michael Kerze**

Michael carries two titles in his current position at Occidental College, Los Angeles, California -- Director of the Herrick Memorial Chapel & Interfaith Center and College Ombudsperson. After completing his B.A., M.A., and Ph.D. studies in History at UCLA, Michael held teaching appointments at California State University, Los Angeles; California State University, Northridge; and the Loyola Marymount University. Subsequent training for the Ombudsman profession was taken in negotiation and mediation workshops sponsored by the Pepperdine Center for Dispute Resolution and an Employee Relations Law Seminar at the Institute for Applied Management and Law, Inc. Michael's publications reflect his concentration in Religious History and include: "Binary Numbers," "Copernicus," "Euclid," and "Ptolemy" in the Encyclopedia of Religions and An Early Journey: The Los Angeles Catholic Buddhist Dialogue.

### **Beatrice Pearson**

Beatrice began her career at Concordia University, Montreal, Quebec, as a Supervisor in the Registrar Office. In 1978, she became the University Ombudsperson. Beatrice was a member of Concordia's Intervention Team and is particularly interested in "institutional responses" to the current problems facing our universities.

### **Maile-Gene Sagen**

Maile was appointed Acting Associate Ombudsperson at The University of Iowa in September 1989 and became Associate Ombudsperson in May 1990. Maile earned a M.A. degree in Educational Psychology from the University of Minnesota with concentrations in college student personnel work and guidance and counseling. She has participated in the Harvard Negotiation Project and has attended mediation workshops sponsored by the Iowa Peace Institute.

### **Janis Schonauer**

Janis was appointed the Assistant Ombudsman at the University of California, Irvine in October 1989 and was promoted to Associate Ombudsman in May 1992. Her prior work experience includes: Social Worker in both Illinois and Michigan; Group Counselor and Probation Officer in Belmont, California; Police/Community Relations Specialist with the Orange County Human Relations Commission; and several administrative positions at California State University, Fullerton and the University of California, Irvine. Active in the Ombudsman profession, Janis' recent contributions include serving as the Program Convener for the 1992 Cal Caucus Conference in Asilomar and providing consultative services regarding the "Ombuds Role" to the University of Nevada, Reno. Janis received her B.A. in Psychology from Michigan State University in 1968 and M.A. in Public Administration from California State University, Fullerton in 1981.

### **Barbara Schwartz**

After completing her four-year appointment as University Ombudsperson at The University of Iowa in June 1993, Barbara returned to the College of Law as a Clinical Professor. Barbara's additional responsibilities include coordinating the Legal Clinic for the University's Law School. Professor Schwartz holds B.A. and M.A. degrees from the University of Michigan and earned a J.D. from Wayne State University.

### Marsha Wagner

Marsha recently finished her second year as the Ombuds Officer at Columbia University in the City of New York. Her previous positions at Columbia University included Assistant and Adjunct Associate Professor of Chinese Literature and Director of the East Asian Library. During her tenure as the Vice President for Programs at the China Institute in New York, Marsha worked with a bicultural staff. Marsha cites both her participation in the 1992 CDR Mediation Training Program and "living in New York City" as contributing significantly to her dispute resolution skills. In addition, she "negotiated" her way through several trips to Taiwan and China which included living with her family in Beijing during the 1989 Democracy Movement. After three years of study at Bryn Mawr College, Marsha received a B.A. in Chinese and a Ph.D. in Comparative Literature from the University of California, Berkeley in 1975.

### Geoffrey Wallace

After 23 years as the Ombudsman at the University of California, Santa Barbara, Geoffrey holds the distinction of being the senior full-time University Ombudsman in the U. S. and Canada. Moreover, his Ombudsman position is at his alma mater where he earned a B.A. in Anthropology and Philosophy and a Ph.D. in Sociology. A prolific writer, Geoffrey has written the chapter on "The Ombudsman in Education" for the International Ombudsman Handbook and recently delivered a paper on "Multi-Cultural Conflict" to the American Sociological Association. Bicycling 250 miles per week, Geoffrey's "extracurricular" activities have gained him fame and glory among cyclists as a Bronze Medalist and Regional Cycling Champion in the "Pursuit," "Time Trial," Road Race," and "Criterium."

### Merle Waxman

Merle is the Associate Dean for Academic Development at the Yale University School of Medicine. She also serves as their Ombudsperson and the Director of the Office for Women in Medicine. Within these three roles, Merle directs programs aimed at promoting the growth and career development of physicians, scientists, and students at the Yale University School of Medicine. An expert on non-litigation conflict resolution, Merle is the author of numerous papers on gender-related issues in higher education; on the application of the Ombudsperson concept to medical settings; and on mentoring and role modeling. An active participant in her professional organizations, Merle is a member of the American Arbitration Association; a Board Member of the University and College Ombuds Association and the National Council on Women's Health; a Fellow of Branford College, Yale University; a member of the Editor's Board of the Employee Responsibilities and Rights Journal; and the Editor of the Women in Medicine Newsletter at Yale. Merle received a B.A. from Boston University in 1968 and a M.A. in Speech and Hearing Pathology from City College New York in 1972.

### **Linda Wilcox**

As the Ombudsperson at the Harvard Longwood Campus for the past three years, Linda hears concerns from the faculty, staff, and students in the Medical, Dental, and Public Health Schools. In her previous positions, Linda served as a spokesperson for a school system in their union negotiations and as a mediator for a Massachusetts Court "Mediation Program." An active participant in the Ombudsmen organizations, Linda is presently a Board Member of the University and College Ombuds Association. Linda earned a B.A. from Boston University and a M.A. and C.A.S. from the Harvard Graduate School of Education. She also holds a Program on Negotiation Certificate from the Harvard Law School.

### **Shannon Williams**

A firm believer that a sense of humor is vital to serving in the counselling profession, Shannon utilized her unique wit (honed in Missouri) at the onset of her California assignment with the Office of Human Resources at the University of California, Irvine. Shannon's primary responsibility was to design and develop a program that provided counseling, assessment, and referral services for staff and faculty with personal or work-related problems. As the creator and present Manager of the Faculty & Staff Assistance Program, Shannon provides job-related counselling; disability counselling; and rehabilitation information for faculty and staff who are injured or become disabled. Active in the professional associations, Shannon is the Vice President for the Orange County Chapter of the Employee Assistance Professionals Association and also served four years as a Board Member of the Orange County Mental Health Association. Shannon earned a B.A. in Psychology from William Jewell College and a M.ED. in Counselling Psychology from the University of Missouri.

### **Ron Wilson**

Ron Wilson has served as UCI's only Ombudsman since 1979 after joining the staff at the University of California, Irvine. During his tenure, the title has evolved from Campus Ombudsman/Associate Dean of Students to the current title of Assistant Executive Vice Chancellor-University Ombudsman. Concurrent with these title changes, his increased responsibilities include the jurisdiction of the Faculty & Staff Assistance Program and serving as the Ombudsman for the California College of Medicine and the UCI Medical Center. Active in several Ombudsmen organizations, Ron is a past President of the University and College Ombuds Association, and this is his fifth contributing effort as the Compiler/Editor of the CCCUO Journal. Ron received a B.A. in English Literature from Bard College, New York in 1975; a Certificate of Administration and Analytical Skills from the Center for Public Policy & Administration, California State University, Long Beach in 1980 and a M.P.P.A. in Public Policy and Administration in 1983.