

MC-709

Box 37

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The Ombudsman Association newsletters

1992-1996

# OMBUDSMAN UNIVERSITY

News

Fall 1992

## NUTS & BOLTS...



One of the skills in the ombudsman's toolbox, and possibly one of the most valuable, is the skill of listening. There are three ways of listening:

**MARGINAL LISTENING** - this occurs when people are distracted by their own thoughts, often building a defense before the other person has finished speaking.

**EVALUATIVE LISTENING** - this occurs when people are hearing the words (the content) of the speaker, but not the intent. Mentally they are saying "I've heard this before - I know what they are going to say."

**ACTIVE LISTENING** - this involves hearing not only what is said, but what is implied, and, perhaps more important, what has not been said.

Of the three types, "active listening" is often the most effective. As the term implies, it requires participation on the part of the listener. That participation is the catalyst that creates a true communication process.

The elements of active listening are numerous, and will often flex to the situation, the content of the conversation and personality of the client. However, there are some commonalities that differentiate active listening behavior from marginal and evaluative listening.

### 1. **Listening without distraction**

- avoid "shuffling" through papers, have someone take your phone calls, avoid playing with paper clips and/or looking at your watch. Be aware of your body language.

### 2. **Neutrality** - don't feel you have to defend management's position at this time; avoid "judgmental" statements.

Neither agree nor disagree, simply accept the client's perception - their perception is their current reality.

3. **Patience** - let the other person finish their story. Don't "jump in" to finish their thoughts and/or sentences. Don't rush their dialogue - let them talk at their own pace. Learn to be comfortable with silence - give the person time to compose their thoughts and themselves. Give reasonable eye contact.

4. **Ask questions** - learn the facts - help the person stay focused and on track.

Active listening allows you to summarize the facts. When you and your client agree on the facts, you can then discuss options, the consequences of those options, and develop a plan of action.

## Profile of an Ombudsman

OH THANK HEAVEN FOR THE  
7 - ELEVEN OMBUDSMAN...

Consumers know that for fast, friendly service they can always go to their neighborhood 7-Eleven convenience store... those purveyors of Slurpee, Big Gulp and Big Bite. Employees of 7-Eleven's 4,000 stores in the United States and Canada know where to go, too, for fast, friendly help with job-related problems - their employee Ombudsman - Gregg Raudabaugh. While most work-related problems encountered by 7-Eleven employees are resolved through local channels, there are times when individuals seek out a third party within the Company for help in addressing specific problems or questions.

Gregg Raudabaugh, Employee Liaison Manager, is available to all employees to assist in accommodating those needs.

"I hear from employees at all levels in the organization and throughout the United States and Canada," Raudabaugh says. "My job is to help those individuals by listening to their concerns and giving them suggestions or assistance in dealing with work-related problems, or getting them in touch with the appropriate Company representative who can help them."

Raudabaugh also administers the Search For Solutions/Open Line program from within the Human Resources Group. This program allows an employee to remain anonymous when asking general questions - only the Ombudsman knows who the employee is and that remains confidential within the Ombudsman's office. Raudabaugh also acts as a confidential referral resource for employees who use the Employee Assistance Program (EAP) when faced with work-related issues.

Gregg maintains strict confidentiality in his dealings with employees, keeping no permanent records of those contacts. The activity of the Ombudsman is designed to assist in the communications/problem solving process, and is not intended to replace or interfere with the responsibility and/or authority of local management.

Gregg has held this position for the past 10 years. He has been a member of The Ombudsman Association since 1984 and has served on the Association's Board of Directors. If you would like more information about his activities and/or programs, you may reach Gregg at (214) 828-7845.

## EXECUTIVE OFFICER CHANGE

Because of the demands on his time, Gene Herbert resigned as TOA Executive Officer effective November 1. He continues as a member of the TOA board.

We want to thank Gene and his secretary, Sydney Bridges, for their valued service and efforts on behalf of TOA during the past two years.

TOA was fortunate to have Vince Riley, retired Ombudsman at the World Bank and former President of TOA, interested in taking on the Executive Officer position. Vince has moved the office operation to his home and changed the mailing address to a more convenient location. The new mailing address is:

P. O. Box 7700  
Arlington, VA 22207

His telephone number is (703) 536-7939; the fax number is (703) 532-2795.

We all wish Vince well in this new position and again, Gene, we say "Thank you."

## RECENT ARTICLES OF INTEREST

"A Neutral Third Party," Zetlin, Minda, *Management Review*, September 1992.

"Tipsters Telephoning Ethics Hot Lines Can End Up Sabotaging Their Own Jobs," Rigdon, Joan E., *The Wall Street Journal*, August 27, 1992.

"New Tricks for An Old Trade," Martin, Justin, *Across The Board (The Conference Board Magazine)*, June 1992.

## REQUEST FOR ASSISTANCE

It has come to our attention that several ombuddies are now "in transition." If you are aware of any openings, please contact Lou Garcia at (212) 916-4640. Anything we can do to help our colleagues will be greatly appreciated.

## 1993 CONFERENCE

The 10th annual TOA Conference will be held on May 12-14, 1993, at the Fairmont Hotel in San Francisco, CA. Please mark the dates on your calendar.

## OMBUDSMAN 101

TOA is planning to sponsor its training and development seminar again in 1993, probably in mid-July in Washington, DC. Information will be sent to all TOA members as soon as plans have been finalized.

## ASSOCIATION OFFICERS

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Chief Ombudsman and Vice President  
TIAA-CREF

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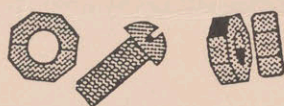
Vincent J. Riley  
Ombudsman (Retired)  
The World Bank

# OMBUDSMAN JOURNAL

# News

Winter 1993

## NUTS & BOLTS...



Attempting to communicate between languages often has humorous results...“Please leave your values at the front desk,” instructs the sign at a Paris hotel. At a Japanese hotel a sign reads, “You are invited to take advantage of the chambermaid.” In Zurich the hotel advises, “Because of the impropriety of entertaining guests of the opposite sex in the bedroom, it is suggested that the lobby be used for this purpose.”

Attempting to communicate in the same language can sometimes have disastrous results if your communication style is at odds with the style of the individual with whom you are working. People have a particular style of communicating with which they are most comfortable. I would venture to say that even among ombudsman, we vary among four generally identifiable styles.

“The Bottom-liner”...gets right to the point, is impatient with long-winded descriptions, flowery anecdotes, and extensive introductions to an idea. This individual is interested in results and likes to be in control of the situation.

“The Nurturer”...will often initiate conversations and works to establish positive relationships within the workplace, abhors conflict and works diligently to make everyone as comfortable as possible. This individual is a “natural” mediator, is supportive of other ideas, and strongly values collaboration of ideas to achieve mutually acceptable solutions.

“The Thinker”...pays a lot of attention to detail and values accuracy. Often found in highly technical professions, the thinker is guided by accepted principles, and is most comfortable when provided with details.

“The Free Spirit”...enjoys the spotlight, motivates people, loves new ideas and an opportunity to be the “hero” in a given situation. The “free spirit” wants to know how an idea will improve the future and the presentation must be stimulating to catch their attention.

Recognize yourself in **ALL** of the above? Of course you do! No individual is a “nurturer” or “thinker” or “bottom-liner” or “free spirit” all of the time.

What often causes conflict, however, is those times when the primary communication style of one individual is at odds with the primary communication style of the other. We often label these as “personality conflicts” when, in fact, they may be communication style conflicts.

Can you imagine how poor the communication would be, and how easy conflict might occur when a “free spirit” is presenting ideas to a “bottom-liner”; or a “thinker” is trying to convince a “nurturer” that health benefits must be reduced - without one or the other flexing the style?

### SUMMARY

An ombudsman can communicate more effectively by (1) recognizing his or her primary style, (2) identifying the primary style of others, and (3) flexing his or her style, as needed.

### RECENT ARTICLES OF INTEREST

“Ombudsmen Proliferate in the Workplace,” Junda Wo, *The Wall Street Journal*, February 19, 1993.

### CALL FOR CASE STUDIES

Carole Trocchio, Editor of The Ombudsman Newsletter, invites all members of TOA to contribute case studies for publication in the newsletter. If you have an interesting situation, please give her a call at (214) 553-1616 to discuss.

### OMBUDSMAN 101

The Ombudsman Association is planning its 3rd training seminar for new (and improved) ombudsmen, July 20, 21 and 22, 1993 in Washington, DC. Information will be sent to all members as soon as the agenda has been finalized.



## Profile of an Ombudsman



“two all-beef patties, special sauce...on a sesame seed bun”

McDonald's — a long-time leader in the fast food industry has also been a leader in providing quality dispute resolution programs for its employees and franchise owners for twenty years. The ombudsman department was founded in 1973 and is staffed today by one executive vice president, three director level employees and a secretary.

### McDONALD'S OMBUDSMAN TEAM

Tom Dentice, Executive Vice President and Ombudsman, sees the ombudsman as crucial to the McDonald's system: “We act as a conscience to the system, and when there is a need to interpret policy, practice and procedure as measured against McDonald's fundamental values.”

Julie Becker, Home Office Director and Ombudsman, joined the Ombudsman Team four years ago. “A background working with owner/operators is invaluable in this work. An understanding of how the system is supposed to work is essential to sort out the facts and issues, to draw appropriate conclusions, and make balanced recommendations,” says Julie, a 15 year McDonald's operations veteran from the Boston region.

Randy Vest joined the ombudsman team in October 1991 after 4 years as Dean of Hamburger University (the training ground for McDonald's management and franchises), building upon his experience in operations, personnel and licensing.

Gordon Thornton is the newest member of the ombudsman team. Prior to joining the team Gordon spent 15 years in

McDonald's operations and three years in Minority Operations.

The McDonald's ombudsman team receives phone calls from owner/operators and from corporate employees who believe something is happening (usually to them) that is not fair or consistent with McDonald's policy, and communications between them require some assistance. Any issue can be brought to the attention of the Ombudsman Team although they do recommend that, where possible, people work with the normal channels first. They even address disputes between operator and operator! The Ombudsman Team notes that the *earlier* they get involved, the *easier* it is to help.

The ombudsman team initially operates as most ombudsman departments working with clients on a confidential basis, identifying the problem, counseling and coaching as to alternatives that the owner/operator or employee might take to resolve the problem him or her self.

### AN INNOVATIVE APPROACH — THE OMBUDSMAN INQUIRY

The McDonald's ombudsman team, when dealing with owner/operator clients, offers a program that you do not find in many ombudsman departments — the Ombudsman Inquiry! It works like this...an owner/operator calls with a problem and, after the initial discussion with an ombudsman, if the owner/operator decides to proceed with an “ombudsman inquiry”, the following actions take place:

The first step is for the complainant owner/operator to advise the regional manager that the owner/operator has requested an “Ombudsman Inquiry.”

The second step involves selecting an Owner/Operator Companion Ombudsman who will work

with the McDonald's ombudsman to gather background information. Together they schedule a field visit.

This visit includes spending a couple of days with the owner/operator (the person who originally called), riding the trade area, visiting stores and speaking with the people involved, including the regional management, gathering information/facts pertaining to the case.

After the initial visit the ombudsman team will return to present its findings, conclusions, and recommendations to the region, as well as to additional parties who may be directly affected such as other owner/operators in the area.

If the owner/operator who requested the Ombudsman Inquiry is not satisfied with the result, he or she may appeal the decision to the CEO. The ombudsman team will assist the owner/operator in his or her appeal. If the region rejects the recommendations of the ombudsman, the Ombudsman Team meet with the CEO and act as an advocate for the owner/operator.

McDonald's Ombudsman Team communicates its role to the system through on-site presentations, newsletters and through satisfied customers, word-of-mouth referrals.

(Note: After writing this column, I'm hungry and heading to McDonald's for a “Big Mac” and fries!) Carole Trocchio

### QUOTABLE QUOTES:

“Learning is not a destination—  
it's a journey”

“If the horse is dead—get off”

Ideas for Helping People Deal With Anonymous Vicious Attacks by Mary Rowe with ideas from the EAST COAST OMBUDS MEETING of February 3, 1993

The recipient of an anonymous attack might:

\*Tell the local security department or campus police. (If one is not sure what this department or police unit might do, and is worried about over-reaction or under-reaction, the recipient or the ombudsman could first ask security "what they'd do in a like situation.")

\*Tell people in the department what is going on. In many cases the recipient will hate having to expose the subject matter of the attack, but it may be best to inform all nearby colleagues, since this group may well have ideas about the identity of the offender, or may otherwise be able to help protect the recipient. Ombudsmen should be prepared to help the recipient consider the possibility that "anonymous" represents a group of individuals. In this case the next option could be particularly valuable.

\*The Department Head or other unit head might speak out against the offense. The idea is to show leadership - to ask for anyone who might know the offender to speak up - to affirm the pain of such offenses in personal terms so that no one can think of the recipient as an object or a "symbol." The Department Head should take steps such that the offender and others have to deal with the recipient as a real person with feelings. Anyone who speaks officially should make a clear statement - and show leadership in rejecting abuse.

\*The recipient should be helped to form and stay in touch with a support group or EAP or religious counsellors or others who will help reaffirm the wrongfulness of the attack and affirm the worth of the recipient. (The ombudsperson can be prepared that some recipients may initially have a negative reaction to this suggestion and that it may take time for the recipient to embrace this idea.) An ombudsperson dealing with such an attack might well reach out to other ombudspeople for support and advice as well as talking with other local resource people.

\*Both the ombudsperson and the recipient should check relevant institutional policies. For example is there an Honor Code or an Ethics Code requiring people to report offenders? If the attack was launched through interdepartmental mail or the U.S. Postal Service, was there inappropriate use of the mail system? Also check whether certain local or state laws might be of help.

\*If the recipient has reasonable ideas <sup>who the offender is</sup> - reasonableness to be assessed by a trained third party such as an ombudsperson - he or she might ask to have those suspects confronted by appropriate third parties. For example this might be the local police or security department. It is often best in such circumstances for the investigator to ask simple, specific, direct questions rather than make accusations. ("Have you seen this poster before? Do you know who sent this letter?")

\*Experience indicates that brainstorming with the recipient and appropriate others may lead to identification of the offender. Examples cited by practicing ombudspeople included an hour or more of steady, imaginative thinking that resulted in positive identification. Who has the motivation? Who had the means to do this? What clues were left? Whose interests might have been served? Can the address on the envelope give a clue to the location from which the attack was mailed? 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. Caveat - Be very, very careful to consider the rights and reputations of the "others," <sup>as well as those of the recipient.</sup>

\*The ombudsperson and others might think of generic intervention and systems change. With respect to "generic intervention"....should the school, or other

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

\*The ombudsperson might inform him/herself about specific subject matter that comes up in these cases; for example, what is happening around the country with allegations about satanic cults, voodoo-connected episodes, specific religiously-oriented issues, or other culturally-relevant phenomena...and what is the cultural significance of various specific objects or allegations that might be made.

\*By the same token, in unusual cases, the ombudsperson might consult with relevant experts (for example, with people of the relevant cultural background).

\*The ombudsperson and the recipient should work out with local security experts and supervisors reasonable steps to affirm the safety of anyone that might be in harm's way, such as:

- 1) practical steps - don't be alone, change locks, etc.
- 2) if the attack is over the phone consider:
  - a) having the phone company tapping the phone (*"putting on a trap"*)
  - b) changing the phone number, having it unlisted
  - c) keeping the tape of any messages left on the answering machine
- 3) temporary or permanent change of residence, reassignment of complainant
- 4) security systems/panic buttons
- 5) appropriate changes in personal and professional routines.

\*With respect to all of these points it is probably helpful to get mobilized as early as possible. However, if an ombudsman learns of one of these attacks some time after it has begun, it is probably still worthwhile to review all the points above.

# The Ombudsman

A S S O C I A T I O N

P.O. Box 7700 Arlington, VA 22207

TOA BULLETIN BOARD

February 1993

This is the second monthly TOA Bulletin sponsored by the Communications Committee. It includes articles by some members on situations they are encountering. If you have experience with these types of situations or others which might be useful to share with your colleagues, we would like to include them in a future Bulletin. We are happy to publish your article without your name attached if you request it.

The Communications Committee believes that we must stay in touch with each other more than we have in the past. This Bulletin is one attempt to communicate with you. In addition, over the next few months, the TOA Board Members will be calling members to touch base, get your reflections on the Bulletin and the Newsletter and to ask for your input. If you don't hear from anyone by May 1st, please give me a call (508) 960-6490.

## Ombuds Reports

Thanks to *Barbara Searle*, Ombudsman at The World Bank, for sharing her 1992 Annual Report with us. It is being distributed with this Bulletin to all TOA members (please do not copy it for non-members) as an example of client tracking and reporting.

## ARTICLES

**Violence in the Workplace by a TOA Member**

1992 was a year for a

relatively new and unwelcome visitor in our workplace-- violence. Premeditated murder, attempted murder, and acts of physical and/or emotional abuse by one employee against another are on the rise. The violent acts were blamed on disputes over job duties, age, race, gender, sexual preference, religion, disability, color, and even weight--some overt, others covert. Some acts involved destruction of property, theft, fraud, and threatening letters/telephone calls. Several acts resulted in probation in lieu of imprisonment, fines, prison sentences, suspension or termination from employment.

Violence is real and on the rise and managers are afraid to act. They need to know who to involve and when.

This Ombudsman and staff have been working closely with managers, human resource components (e.g., EAP, Adverse Actions), the Inspector General's office, local police, internal security and other experts to try to get a handle on the problem and to devise constructive methods for education on and prevention of violence.

**Management harassment of employees as a result of downsizing & restructuring.**  
*Submitted by an Ombudsman from one of our larger corporations.*  
In the last few years a number of companies and institutions



have undergone extensive restructuring and downsizing. There is more to come as we convert from a "cold-war" economy.

One of the fallouts of all this change seems to be an increase in management harassment and abuse of employees, coupled with occurrences of employees harassing each other. In 1992, the former was the single most frequent concern or complaint registered in the ombudsman office. Instances ranged from one case of physical abuse to demeaning and profane language (frequently in front of peers) to even isolating an employee away from his peers out on the middle of a shop floor. None of this is based on racist or sexist activity. Activity in those areas is a separate issue and is not what we are discussing. What we are seeing is mean-spirited management or interaction between employees. I believe we will see more of this as time goes by.

There are several reasons for this activity. First, one of the prime targets in restructuring and downsizing has been middle management. Several layers of management are disappearing, and this leads to organizational stress on several counts. Those caught up in elimination of management layers become worried and irritable. Jockeying for the positions that will survive sometimes leads to the vicious anonymous letter, putting the finger on another person in the hope that he/she will go instead of you. Another obvious source of irritation and stress for those who survive is trying to do more or the same with fewer

resources. This can lead to longer personal hours as a manager, with resultant fatigue, irritability, and at times abusive behavior.

Compounding all of this is what may be happening outside the job. Many of our employees have lost another income when a spouse was laid off. Some have seen their children go under and return home. Friends and neighbors have lost homes. All of this becomes emotional baggage that affects performance and behavior on the job.

As ombudsmen we should be aware of this situation and make our senior management aware. We need to stay close to EAP and security departments. We need to make sure that everything is done to preclude violence because in these situations, violence is a very real possibility. Confidentiality when we suspect possible violence, is a very serious issue, involving a test of our conscience and the system. Finally, we should recognize the circumstances that may have led to the harassment or abuse, and place emphasis if possible on rehabilitative, not punitive, discipline. These are tough times; compassion when the situation warrants, makes good business sense.

#### OMBUDS DILEMMAS -

This section contains some Ombuds dilemmas submitted by TOA members. They are addressed to you as the reader, asking for your responses. Please jot down your ideas for handling the dilemmas and send them to the editor (see address at end of bulletin). The editor will work with the

authors of the dilemmas to select responses to print next month.

**#1 "Tell them I came to see you..."**

**Dear Reader,**

A union member who has worked for our company for one year calls to say she's just been terminated for "unsatisfactory performance." She claims it's retaliation for having told her union representative two weeks ago that her supervisor sexually harassed her. She wants me to testify at her union hearing to grieve the termination that two months ago she told me her supervisor took her out for coffee and asked her personal questions during her first week on the job, and the unwanted advances progressed from there. I say I don't testify in any adversarial hearings. She finally asks me, with her permission, to write a letter saying she met with me two months ago.

Under what conditions, if any, should I verify having seen this employee? Can I in any way contribute to an adversarial hearing and still remain neutral? Should I never put anything in writing about a particular case?

**#2 "Credibility of the audit..."**

**Dear Reader,**

An internal audit has just begun to investigate Jim's use of company equipment and time to operate his own for-profit business. Jim's supervisor Joe and Joe's supervisor John are cooperating with the audit. An employee reports to me that Jim himself is still coming to work, meeting with the auditors

in closed session, showing them all his computer records. This employee feels Jim should be suspended pending the investigation, should be denied access to his computer records which others could access for the auditor. The employee is concerned it harms morale and the credibility of the audit to have Jim play a role in the audit; it appears Joe and John may be orchestrating a cover-up.

Do I go to Jim or Joe or John? Do I explore the issue of due process for Jim pending investigation? Do I go directly to the auditor with the cover-up concerns?

**IN THE NEWS!**

The Wall Street Journal article "More Businesses Use Ombudsmen to Prevent Workplace Litigation" appeared February 19, 1993, in the Law section.

Management Review in its September 1992 issue published an article by Linda Zetlin on Corporate Ombudspeople - "A Neutral Third Party, Corporate ombudspeople lend an ear to employers - and some stop lawsuits before they start."

With Management Review and Zetlin's permission, a copy of this article is being mailed to each TOA member.

## **So You Want to Be an Ombudsman?**

*By Ann Bensinger*

To be a true ombudsman means to be fearless,  
To experience fear and yet go forward.

To be a true ombudsman

means you will have courage and ask unpopular questions.  
You will be the messenger - and you will be shot.  
You will rock the boat, challenge the status quo, exist as  
persona non grata.

You will be met with anger and you will need to accept that  
being anger's target is part of this job.

Over time you may come to gain some energy from the fury  
as you become more confident that change often grows from  
anger.

To be a true ombudsman

you will recognize the courage that the other person must  
exercise to hear you.

You will understand that reasonable people disagree,

and that each individual believes in the merits of his or her  
point of view.

To be a true ombudsman you will need to award all public  
victories to others

and make your reward in a quiet facilitation of their  
accomplishments.

You will need to see more in people than they see in themselves.

And as a true ombudsman you will hold confidence in the future  
and confidence in the ability of people to change.

### **Changes**

Effective January 24, 1993,  
*Toni Robinson*, Assistant  
Ombudsman, Social Security  
Administration (SSA),  
Baltimore, MD, will be the  
Equal Employment Manager for  
SSA's Seattle Region. Toni  
will be coordinator and/or  
practitioner for Equal  
Employment Opportunity,  
Affirmative Employment, and  
several Alternative Dispute  
Resolution Programs for SSA  
components in Washington State,  
Oregon, Alaska, and Idaho.  
Toni's new phone number is

(206) 553-4256.

### **Comings**

New TOA members include *Marion  
Cummings* at Lockheed Missiles &  
Space Company, Inc., *Voloria J.  
Drew* at USDA, Forest Service,  
*Carol Pianalto* at Social  
Security Administration, and  
*James W. Vice* at Loyola  
University Chicago.

**SEND ALL SUBMITTALS TO MARY  
SIMON, AT&T, 1600 OSGOOD  
STREET, ROOM 21-385, NORTH  
ANDOVER, MA 01845, FAX (508)  
960-1284**

# The *Ombudsman*

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A S S O C I A T I O N

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TOA BULLETIN BOARD  
March 1993

This is the third TOA Bulletin sponsored by the Communications Committee. One more will be published before the TOA Conference in May. By then we hope to get your input as to the usefulness of this Bulletin and whether or not to continue publishing it.

### **TOA Conference**

The 1993 TOA Conference is May 12 to 14 at the Fairmont Hotel in San Francisco. If you have not received a mailing with the registration form and are interested in attending, call Vince Riley at (703) 536-7939.

### **Ombuds topics...**

The Communications Committee put together a list of topics about which we know Ombudspeople have been contacted. We would like to make this a more complete list by getting your topics. We would also like to keep a closely guarded list of Ombuddies who have dealt with each topic and would allow other TOA members to call them for advice. We think this would be a reasonable way of providing our members with support on many of the tough issues facing us. Please do the following: (1) send me your topic(s), (2) let me know how you think we should handle this list, and (3) make a note of the topic(s) where you have experience.

### **Topics**

#### **Absences**

#### **ADA**

**Advocate** - employees expecting the ombudsperson to be their advocate

#### **Age discrimination**

#### **AIDS**

#### **Anonymous email broadcasts**

**Anonymous** - (dealing with people who remain)

#### **Arson**

**Being jailed for demonstrating**

#### **Breaking the law outside of work**

(how does this affect work?)

#### **Bribery**

#### **Changing identity**

**Communication** (management to subordinate, executive to work group, individual to boss, peer to peer)

#### **Confidentiality**

#### **Conflict of interest**

#### **Corporate retaliation**

#### **Cost-effectiveness**

#### **Crying at work**

#### **Death of a coworker**

**Death of an Asian National** with no relatives in the US

#### **Defamation**

#### **Delusional people**

**Dependent care** (several subdivisions)

**Designated neutral** - not being an employee or management advocate

#### **Dispute resolution systems design**

#### **Dress codes**

#### **Drug use**

**Employee surveys** (how to write them, introduce them, what to do with results, how to act on feedback, dealing with anonymity)

**Fairness and confidentiality** as major issues

**False claims** about what the ombudsperson was asked to do

#### **Forgery**

#### **Fraud**

#### **Gifts**

#### **Graffiti**

#### **Group disputes**

**Groups who hate their bosses**

**Harassment** (many subheadings)

#### **Hexes and curses**

#### **HIV**

Holiday schedules (lack of accounting for diversity)  
Keeping employees informed; i.e. Ombudsman process as a tool provided by management  
Labor relations manager (how the Ombudsman differs from)  
Making love on the laboratory benches  
Mental illness (several subdivisions)  
Missed deadlines due to peer conflict  
Obscene objects (as Christmas presents, etc.)  
Offensive language (swearing, racial jokes, etc.)  
Peer feedback  
People who smell  
Poison  
President/CEO (educating a new)  
Privacy violations (many subdivisions such as email, people's desks, lockers)  
Prostitution ring  
Provocative dress  
Religious disputes  
Restrictive club memberships  
Revenge - not resolution (dealing with people who want)  
Safety (many subdivisions such as lighting, handicap, ramps, etc.)  
Satanic cults  
Severe depression  
Sex change (use of restrooms during)  
Stalkers  
Subpoenas  
Suicide  
Surprise terminations  
The effect of harassment allegations  
Theft  
Threats (many subdivisions such as phone, letters, in person)  
TQM  
Transfers  
Transsexuals  
Upward feedback to managers  
Violence  
Work environment (need for equipment, space, security)  
Working within the Mormon culture  
Workplace mistreatment

#### OMBUDS DILEMMAS -

This section contains some Ombuds dilemmas submitted by TOA members. They are addressed to you as the reader, asking for your responses. Please jot down your ideas for handling the dilemmas and send

them to the editor (see address at end of bulletin). The editor will work with the authors of the dilemmas to select responses to print.

#### #3...

Dear Reader,

An employee who has been scheduled for a disciplinary hearing for serious wrongdoing comes to me with a concern about the fairness of the procedures. He has consulted a lawyer, who feels this is a matter of internal company guidelines. He asks if he can confidentially describe to me his conduct.

Since I don't know the extent of seriousness of his misconduct, what can I say? If his offense is relatively minor, I am unlikely to have to take action once I know about it, since his supervisor already presumably knows? Or if it is a criminal offense, I would have any citizen's obligation to report my knowledge of a crime?

#### #4 "An ethical compromise...?"

Dear Reader,

Jane, a university administrator, comes to me one Friday morning to say her former part-time student worker Sue has been seen in the office, and is suspected of surreptitiously replacing items she may have improperly borrowed in the past. But when Sue is questioned, she responds angrily and blames Jane for accusing her without factual basis. Sue has also told her dean of students that her former supervisor Jane has unjustly accused her of errors. Jane and I discuss ways of improving communication. Later that afternoon, Jane returns--with her department

head Joan, and with the student, Sue. They say they need a safe place to discuss their conflict. I hastily explain to Sue that I am a neutral, but that I have met Jane before; would Sue like a chance to talk with me alone first to balance the sense of rapport? Sue says she feels fine to move right into the business at hand, that Jane and Joan are making unjustified allegations about her.

Joan outlines three or four suspicious actions on Sue's part--along the lines of using her grandfather's death as an excuse for absence and later saying her uncle died, not her grandfather. Sue insists she is innocent, because there is no proof of dishonesty. But today, Joan says, Sue presented some "paid" receipts for items that they have no record of receiving payment for. Indeed, careful inspection of the photocopied receipts indicates that Jane's signature was forged on them.

Sue breaks down in tears, admits having "doctored" the receipts, narrates her recent family tragedies, current stress, and financial pressures. She apologizes.

Jane and Joan are sympathetic, and do not want to add to Sue's distress. They suggest that if Sue will write a letter of apology, and rectify the error, they will forget the entire incident.

I do not feel ethically comfortable with this settlement. I believe it is likely the student has committed fraud, and has also been dishonest with her dean. The evidence of serious wrongdoing, I believe, should be reported to the dean, who is the appropriate adjudicator in

determining an appropriate sanction for the student. Moreover, I believe the student should learn there may be serious consequences for serious misconduct.

What do I do? I am afraid my role has changed from neutral facilitator to ethics enforcer. Do I take Jane and Joan aside and tell them I am not comfortable with the lenient arrangement they have proposed? Discuss with Sue as well why I am uncomfortable? Suggest a compromise--such as reporting the facts to the dean, with a recommendation of clemency? Try to elicit a compromise suggestion from all of them? Take the matter forward to the dean myself?

#### **Comings**

Welcome to Nancy G. Radcliff at Bronson Healthcare Group, Claudia E. Cohen at AT&T Easy Link, and Merle Waxman at Yale University School of Medicine.

#### **In Memoriam**

Tony Perneski, "Alternative Communications Channel" at AT&T Bell Labs died March 18. Tony was a founding member of TOA and an active Board Member. We will miss him.

#### **ARTICLES**

A recent MIT Tech Talk Newsletter described Mary Rowe's work with the Navy around harassment. There were so many important points in this article that we have decided to include it in its entirety. It's attached to this Bulletin.

#####  
SEND ALL SUBMITTALS TO MARY SIMON, AT&T, 1600 OSGOOD STREET, ROOM 21-3S5, NORTH ANDOVER, MA 01845, FAX (508) 960-1284

# The Ombudsman

A S S O C I A T I O N

The ombudsman function has a long and honorable tradition as a means to protect against abuses, malpractice, or error by officials designated to administer the laws.

Although it is relatively new to the corporate setting, the numbers of ombudsmen, and the numbers of firms employing them has grown rapidly in recent years. Until the establishment of the Corporate Ombudsman Association in 1984, there was no ready means by which a "work-place" ombudsman could learn from the experience of others. In 1992, the word "Corporate" was dropped from the title, reflecting the increasing numbers of work-place ombudsmen in public and quasi-public entities as well as in corporations.

Because the role of ombudsman requires that he or she deal with clients in a way that ensures the confidentiality of the matters discussed between them, an ombudsman cannot readily share experiences and ideas with others in his or her own work place.

A major function of the Association has therefore been to provide a forum in which those serving in the capacity of ombudsman could come together and exchange their experience, their ideas, and their different approaches to the resolution of problems.

The principal means for doing this has been the Annual Conference. This not only provides the opportunity to share views, but also brings in skilled professionals in areas such as law and mediation to talk about topics of interest and relevance to ombudsmen. Another means of education is through the publication of a Newsletter at least twice a year.

A second major function of the Association is the conduct of research. The Research Committee of the Association conducts surveys to study the functions of corporate ombuds practitioners, the reporting relationships, their cost effectiveness and their contributions to employees, managers, employers and society. These surveys have resulted in the publication of a number of academic and professional articles and other materials, as well as an Ombudsman Handbook that is distributed solely by the Association.

The primary objectives of the Association, achieved through the activities of a number of specialized Board Committees, are (a) to educate practicing ombudsmen with respect to the latest developments in the profession, (b) to conduct research regarding the ombudsman function in order to assess how that function is actually growing and evolving in the work-place environment and how it might better serve the public, (c) to set standards of excellence for practitioners, (d) to develop and disseminate ethical guidelines for the profession, and (e) to enhance the quality and value of the ombudsman function.

To become a member of the Association, one must be acting as a neutral party in resolving complaints within his or her organization, and must subscribe to the Association's Code of Ethics.

Current members come from a large number of major corporations in the U.S. and Canada, as well as from public sector organizations, educational institutions and health care facilities.

All members receive a copy of the Ombudsman Handbook as part of the initial membership fee, as well as the Newsletter, a membership Certificate and a wallet-sized membership card.

For further information, please contact: Vincent J. Riley, Executive Officer, The Ombudsman Association, P. O. Box 7700, Arlington, VA 22207; Telephone: (703) 536-7939; Facsimile: (703) 532-2795.

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ombudsman\öm bodz men\One skilled in dealing with reported  
complaints to help achieve equitable settlements

The  
**Ombudsman**  
A S S O C I A T I O N

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**TOA BULLETIN**

May/June 1993

Post conference greetings to everyone. The TOA conference in San Francisco in May was well received. There were 83 attendees this year. An early look at the feedback forms gave high ratings to speakers Dr. Mary Rowe for the "Crystal Ball" (the latest issues in Ombudsmanry); Dr Richard Orange, keynote speaker on the Ombudsman's role in diversity; and Dr. Robert Fein for his talk on Predictions of Danger/Violence in the Workplace. Highlights of the conference will appear in the next TOA newsletter. Elizabeth Pino sent us a summary of Dr Fein's talk (see below). Unfortunately the topic of threats of violence seems all too real to many of us who have already faced situations since the conference.

**Current Views On Violence...**

By Mary Rowe

After the TOA Conference, 6 ombudspeople called with immediate concern of violence or threat of violence in their workplace. One ombudsperson asked me to send out an email survey of what were the experiences of other ombudsmen in North America. Their replies are summarized as follows:

--many workplaces are forming or have formed crisis-type or serious-problem committees. Some meet very regularly and deal with any tension in the workforce/campus.

--some ombudspeople report no increase in reports of violence but two of this group said they were seeing uglier problems and de-

personalized problems arising from recession, layoff and free-floating rage.

--most ombudspeople reported more violence or a lot more violence and threats/stalking problems.

--no one in the latter group is sure whether these are changes in behavior or in reporting, or whether ombudspeople are simply getting worse problems than we used to.

--everyone expressed interest in getting copies of any written material any ombudsperson has about violence, crisis, or crisis committees. For those on the ombudsman email list, just put anything like this on email and I will send it out this way if you like. If you do this, tell me whether or not you want your name and employer's name on the sendout or whether you want the material to be anonymous.

**Report from San Francisco...**

By Elizabeth Walsh Pino

Americans are becoming increasingly violent, and violence in America is an epidemic that is beginning to claim the lives of more young Americans than many life-threatening illnesses.

Evidence of this disturbing reality is everywhere--in daily newspapers, nightly newscasts and, most markedly, in the huge commercial success enjoyed by movies and television programs that offer up graphic portrayals of murder and mayhem.



Dr. Robert Fein, a forensic psychologist who is a consultant to the United States Secret Service, offered TOA members methods for predicting violent behavior and strategies for assessing and managing threats.

At the beginning of his presentation "Assessment of Threats of Violence in the Workplace: When to Worry and What To Do" Dr. Robert Fein asked TOA members to consider the unsettling notion that "we all have a capacity for violence."

Dr. Fein discussed a variety of threatening situations faced by managers in today's workplace including threats against corporate executives (Exxon executive kidnapping), threats made within the organization (1991 Royal Oak, Michigan Post Office attack), threats made by customers against employees (1987 Merrill Lynch attack), and employees who are the focus of non-work related threats (domestic violence).

Dr. Fein who is currently a Visiting Fellow of the National Institute of Justice has served as a consultant regarding violence in the workplace and has worked on developing systems for investigation and prevention of workplace violence.

Dr. Fein said that people who are coping with unbearable stress or people who engage in harassing behavior could become perpetrators of violent actions. Also noted was the fact that most workplace violence is committed by men.

Dr. Fein told TOA members that Ombudspersons are key to systems that assess and manage threats since Ombudspersons have a network of workplace contacts at all levels including management, security, and employee relations as well as the investigative training and expertise so necessary to the threat management process. In addition, the Ombudsperson is very often the one person that a victim, or even the potential

perpetrator may turn to for confidential advice and assistance.

Dr. Fein's presentation was a paradigm of a grace and wit that enabled TOA members to consider the possibility of dealing with workplace violence in a nonthreatening, rational, productive environment.

#### **New TOA Directors**

The TOA Directors for the next year are: Lou Garcia, President; Carole Trocchio, Vice President; Toni Robinson, Secretary; John Murphy, Treasurer; Vince Riley, Executive Officer; Mary Rowe, Board Member Emerita; Tom Furtado, Howard Gadlin, Joan Helmes, Gene Herbert, David Nassef, Jan Newcomb-Briggs, Mary Simon, Ella Thurman, and Marsha Wagner. Please call them and share your thoughts and ideas. The Communications Committee will continue this year with Marsha Wagner as Chair and a new committee to look at long range planning was formed under Tom Furtado.

#### **Communications Committee Feedback**

The Communications Committee asks for feedback about the Bulletin, the Newsletter, regional meetings, or any other ways TOA can provide information and support for practicing Ombudspeople. Specifically, please share your thoughts about the possibility of having a joint conference next year in which TOA would meet together with University and College Ombuds Association (UCOA) and perhaps other professional ombuds groups.

Also, since Ombuds 101 is essentially an introductory seminar on how to establish a new ombuds office and basic principles of the practice, the Communications Committee would like to know if TOA members would be interested in an advanced seminar for practicing ombudspeople, Ombuds 202, which might

address some of the most difficult and sensitive issues we face. If such a gathering were to take place, what time of year would be best? Just before or just after the annual conference? Just before or just after Ombuds 101 in July in the Washington, DC area? Another time and/or place? Send your thoughts and suggestions to Marsha Wagner, Ombuds Officer, 659 Schermerhorn Ext., Columbia University, New York, NY 10027, phone 212 854-1234, fax 212 932-3712. Thank you!

Corporation, 1 Financial Plaza, Hartford, CT 06101 by July 30th.

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NORTH ANDOVER, MA 01845, FAX (508) 960-  
1284**

#### **1994 Conference**

The 1994 Conference will be held at the Forum Hotel in Chicago on May 18-20. Mark your calendars and watch for details...

#### **Ombudsman 101**

Ombudsman 101 scheduled for July 20-22, 1993 in Washington is completely sold out.

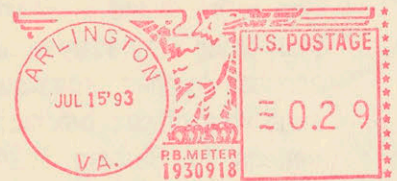
#### **Request for Brochure**

Barbara Searle, the Ombudsman for the World Bank, is planning to update her office's brochure. She is interested in seeing any printed matter that other Ombudsmen use to describe their services to their organization's staff. You can send your office's brochure or any other printed material to: Barbara Searle, Ombudsman, The World Bank, Room E-11-045, 1818 H Street, N.W., Washington, D.C.. 20433.

#### **The NE Ombuds Group**

The NE Ombuds Group met on June 22nd at MIT. It was a very lively, informative meeting. One topic of discussion was that of consenting adult relationships in the workplace (including professor/student). As a result of this discussion, Tom Furtado agreed to collect policy statements which might apply. For example, MIT has a conflict of interest policy. If your company, university, or other employer has a policy about relationships, please send it to Tom Furtado, Corporate Ombudsman, United Technologies

The Ombudsman Association  
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Special Assistant to the President  
Massachusetts Institute of Technology  
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The  
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A S S O C I A T I O N

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TOA Bulletin  
July/August 1993

The Ombudsman Association (TOA) Communications Committee sponsors this news bulletin. It includes brief, informal, and up-to-date information on our profession.

#### **Email Bulletin Board**

Mary Rowe has recently set up an email Bulletin Board system. Everyone on this network must be a practicing ombudsperson. If you are and want to be receiving the email discussions, send email to Mary at MROWE @MIT.EDU. She can then pick off your email address and add you to the list.

Mary set up a few basic rules for us. If you send her a query, she will always delete your name and ID before distributing it unless you ask to have responses sent to you. On the other hand, if you send an answer to a query, she will send it on as is. If you wish to have your name and address deleted, you must specifically request it.

There have already been numerous interesting discussions on the bulletin board. For example:

•How do you feel about people taping their conversations with you? (secretly or overtly?) How about taking notes? Can this information be used in court?

•What kind of records do you have access to?

•One of the largest discussions has centered around the question **"What do you call the people who come to see you?"** With Mary's permission, I have included some excerpts from that dialogue for your consideration.

#### **What should we call the person who comes to see us?**

\*\*I think that someone who comes to see me is a "visitor" and not a "client"...or rather that I have at least three "clients." In any case: the visitor, any alleged source of the problem and my employer. Often there are others. So I think the notion of client, as in client/social worker or client/advocate is an uncomfortable one for those of us who are designated as neutral people.

\*\*I am very interested in the term visitor. I don't quite grasp all the implications, but I believe it may be very helpful to use this term, rather than "client." I suspect that there are some philosophical places it will take us that are quite different from using the term "client." Also, I've been searching for some way to understand the notion that my "client" is "fair process." Given that we are supposed to be interested in "promoting a fair process," rather than "winning" for one person over another, I like the idea of dropping the term client when we refer to the people with whom we work. It's too confusing, given the commonly accepted use of the term by

both lawyers and therapists. Also, "visitor" is informal, which really seems appropriate.

I am feeling my way through this learning process. I believe the term "visitor" may help us avoid the thinking that the complainant is our client. (Side note: I have often wondered why I don't refer to "respondents" as "clients" too, if I am not taking sides. I don't think I've ever heard any ombudsperson refer to the respondent as the "client.")

The more I thought about visitor the more its euphemistic qualities bothered me. We have many visitors to the office who are not clients and would not be counted in annual statistics re cases.

\*\*One advantage of client is that it honestly represents the dependence most of our visitors feel. Still, visitor covers a much broader range of the people who seek us out.

\*\*For what it's worth...I think visitor is too cold. Everyone we serve is a client. The notion of service from a neutral perspective, rather than a visitor (some visitors have wholly different reasons for stopping by). Client does not necessarily mean a business or psychotherapeutic relationship. "A person who engages in the professional advice or services of another." From Noah...I think it works.

\*\*A comment regarding "visitors" versus "clients" - for those of us becoming familiar with Total Quality Management (TQM), the politically correct term would be "customers." Since we are in essence providing a "service," the term customer could be appropriate whether we are discussing (a) the complainant, (b) the respondent and/or (c) the organization. Thoughts?

\*\*I bristle at the word "customer"...it seems to be a word that screams "consumerism" and

obliterates "collegiality"...I want to think that our office provides a human (and humane) oasis for people who feel as though they have been mistreated by the bureaucracy...is it possible that the word "customer" might feed that feeling?

\*\*I also use "person who came to see me." "Customer" has too many overtones relating to a system that it seems to me is one of the problems ombuds are, by function, having to encounter. I think I understand TQM well enough to recognize the positive value placed on the term "customer," but most folks who come my way are not that familiar with the TQM lingo...I guess what I call such folks varies a little with whom I am talking...a few colleagues communicate well with the word "case"...a few hear and integrate "client" in a way that it helps me to use that...most of the time, I just refer to "a person who came to see me." When I'm talking with the person, it hasn't occurred to me that I need to label them anything, other than their name...when talking about them, the above would apply. I do refer, in my statistical reports, to "initial contacts," which is only a statistical identification, lacking, I hope, any public health implications.

\*\*The day we adopt the use of the term customer I will resign from the profession. Ombuds should not be word-pimping for the TQM devotees who can't tell the difference between ombudsmen and management. At least the term client shows some respect. Remember caveat emptor.

\*\*The issue of what to call persons consulting with an ombudsperson interested me from an editorial point of view. Each of the suggestions did have unfavorable connotations and I tried to think of an alternative, but finally gave up and agree with you client is best. However, a non-word did occur to me--consultee--which seems to carry only the intended meaning without

euphemism. Unfortunately, it appears in no source that I checked, including Noah's unabridged!

I use the word "contacts." I keep statistics based on those who initiate contact with me on an issue.

### **When? Where?**

By Vincent J. Riley

(Results of a survey of site preferences taken of TOA members, May/June 1993.)

For 1995, TOA members prefer to meet in a downtown/center city location (New Orleans favored), at the end of the work week, and in a hotel with a room rate not exceeding \$125 a night. These are the results of the WHEN? WHERE? survey conducted in May/June. The survey questionnaire was provided to attendees at the San Francisco conference, and was sent by mail to members who didn't make it to the conference. A total of 62 "ballots" were received.

Asked to choose the preferred region in which to meet, respondents divided their votes almost evenly among every region of the country. The Midwest (where we'll meet in 1994) and the Pacific Coast (where we met in 1993) were "least preferred" for 1995; otherwise, no region got a favorable response from less than 22%, nor more than 32%, of the voters. A suggestion by one member, to keep moving the site around the country, would appear to capture the mood of the membership generally.

Several cities actively seeking our 1995 conference were listed on the ballot. The strongest preference was for New Orleans (34 votes), with Albuquerque (23 votes) and Virginia Beach (20 votes) as runners-up. Aside from

Orlando (16 votes), none of the other cities got more than 11 votes.

(An open question on city preference, in the general conference evaluation form, brought a much greater diversity of response, but New Orleans again led the list, with Orlando a very close runner-up, and Albuquerque and Boston tied for third).

More than 75% of respondents favored a downtown/center city location, but 40% liked a resort. Suburban and airport hotels drew little favor from our members.

On the question of timing, there was a similarly strong preference (75%) for "End of Week (Wednesday-Friday)." "Beginning of the Week (Monday-Wednesday)" drew support from 25%; the other choices (Midweek and Weekend) continued to draw little support.

A new question in this year's survey asked what nightly room rate was considered MAXIMUM. While the answers ranged from \$90 to \$220, the median figure was \$125 and the arithmetic mean was slightly higher (\$126). As members have already been advised, the special TOA rate at the Forum Hotel in Chicago, for May 1994, will be \$99 (plus tax, of course).

The Association was pleased to receive several positive responses on the question of hosting a future meeting (some conditioned on a particular location), but all deserving further consideration.

### Postscript

On September 14, following Board approval, the Executive Officer contracted with the Fairmont Hotel, New Orleans, to hold TOA's twelfth annual conference there April 26-28, 1995. The agreed room rate for TOA Conference participants will be \$105 a night (single or double).

### How to Get onto Email

First, be very persistent with your information management folks to get access to Internet. If this doesn't work, consider purchasing a modem for your home computer, and sign up for a service like America On Line (AOL).

Robert E. Mathews put together a very comprehensive article called "Getting Connected to Internet." You can reach him at Mathews and Associates, 63 Crescent Drive South, Albany, NY 12208-1229. Phone (518) 438-6870, or (800) 942-9337 to request a copy.

### East Coast Ombuds Group

The next meeting of the East Coast Ombuds Group is October 19, 1993, at MIT. Call Linda Wilcox (617) 432-4040 for details.

### In the News...

According to the September 20, 1993 Financial Times, page 4, the World Bank is setting up an Ombudsman panel. This panel will hear outside complaints "about the Bank's failure to follow its own procedures on policies, not about the content of those policies."

The Ombudsman Association  
P.O. Box 7700  
Arlington, VA 22207

### SPIDR

The next SPIDR conference is in Toronto, Canada, October 20-23, 1993. Howard Gadlin will be speaking on gender issues and ethical concerns. Call (416) 860-1772 if you are interested in attending. If you do attend, please consider writing a brief summary of any topic and submitting it for the Bulletin.

### Next TOA Conference

The 1994 Conference will be held at the Forum Hotel in Chicago on May 18-20. Mark your calendars and watch for details...

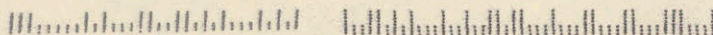
### Cost Effectiveness

We are collecting ideas on cost effectiveness, evaluating the Ombuds service, and job descriptions. If you have anything on these topics, please send it to Mary G. Simon.

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The  
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A S S O C I A T I O N

P.O. Box 7700 Arlington, VA 22207

**TOA Bulletin**

September/October/November 1993

**Annual Conference**

The TOA 1994 conference will be held at the Forum International Hotel in Chicago, May 18-20.

**Ombuds Training**

Ombuds 101 will be offered February 22, 23, & 24, 1994, at the Sheraton at Fisherman's Wharf, San Francisco, CA. It offers a 2-1/2 day introduction to principles of best practice in the Ombudsman profession. If you know anyone who is interested, have them contact Vince Riley at (703) 532-2795.

The TOA Board has approved plans for Ombuds 202, an advanced theory and practice seminar in 1994. The first 1-1/2 day pilot program for Ombuds 202 will take place immediately after the spring conference in Chicago, May 20-21, 1994. Participants must have at least 2 years experience as practicing ombudsmen.

**Subpoena**

Many ombudspeople are asking what to do if they are asked to testify in a formal hearing inside or outside the workplace. Some have been subpoenaed. TOA has pulled together a list of the briefs and materials that have been found by others to be the most helpful:

- McDonnell Douglas Corporation brief
- United Technologies Corporation brief
- The Upjohn Company write-up
- Ombudsman Dilemmas: Confidentiality, Neutrality, Testifying, Record-Keeping
- Generic notice to adopt and post outside your office

For a copy of this packet, please call or write to Mary

Simon at AT&T, 1600 Osgood Street, Bldg. 21-3S5, North Andover, MA 01845, (508) 960-6490.

**TOA Projects**

Many TOA members are becoming active in numerous committees and projects. We can always use more help. If you would like to help with short- or long-term planning, communications, training, conference planning, or other topics, write or call the TOA office or a Board member.

**Mentoring**

Ella Thurman is heading up a mentoring project. She will call new members to see if they would like to hook up with an experienced TOA member. If you are a new TOA member, and this interests you, please call Ella at (216) 844-1485.

**Email**

The electronic mail network is proving useful for many of us. This may be the quickest way to get a variety of ideas for handling a situation. Just send Mary Rowe an email message at mrowe@mit.edu and she will add you to the network (as long as you are an ombudsman), and circulate your inquiry to the rest of the network.

**Congratulations!**

Mary Rowe received the Pete Small Award Ombudsman of the Year 1993 from the California Caucus of College and University Ombudsmen "In recognition of your outstanding contributions to academic ombudsing." This special award was presented to Mary at the Cal CAUCUS Conference, Asilomar, CA, on November 8th. She is Special Assistant to the President, Massachusetts Institute of Technology, Ombudsperson and Adjunct Professor of Negotiation and Conflict Management at the Sloan School of Management.



**Articles**

Boardroom Reports, October 15, 1993, carried an article under "Problem Solving," entitled "The Case for Hiring an Ombudsman...helps prevent personnel problems in small companies, too."

This article is based on Boardroom interviews with Virg Marti and Mary Rowe.

**Publications in Progress**

TOA is revising the Handbook to reflect the growth of the function and changes in the TOA organization. The new handbook will go to print at the end of the year. It will be loose-leaf style to allow for more expeditious changes in the future.

We are also revising the small brochure used to introduce the organization. We expect to have copies available by early 1994.

**TOA Board Members**

Louis R. Garcia, *President*, (212) 916-4640; Carole M. Trocchio, *Vice President*, (214) 553-1616; Toni P. Robinson, *Recording Secretary*, (206) 615-2104; John D. Murphy, *Treasurer*, (508) 493-9590; Vincent J. Riley, *TOA Executive Officer*, (703) 532-2795; Mary P. Rowe, *Board Member Emerita*, (617) 253-5921; Tom Furtado (203) 728-7864; Howard Gadlin (310) 825-7627; Joan Helmes (415) 542-0727; Eugene T. Herbert (202) 623-4660; David Nassef (203) 351-6471; Janet L. Newcomb-Briggs (310) 496-7218; Mary G. Simon (508) 960-6490; Ella W. Thurman (216) 844-1485; Marsha L. Wagner (212) 854-1234; and Jerome N. Weinstein, *Ex-Officio Board Member and Clerk* (617) 573-0100.

**TOA Address**

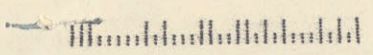
Vincent J. Riley, TOA Executive Officer, The Ombudsman Association, P. O. Box 7700, Arlington, VA 22207, phone and FAX number (703) 532-2795.

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Special Assistant to the President  
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77 Massachusetts Avenue, MIT 10-213  
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P.O. Box 7700 Arlington, VA 22207

TOA Bulletin

December 1993/January-February 1994

This Bulletin is a bit lengthy due to some urgent updates which came in recently. The first is a draft of an update to a paper by Rowe, Simon and Bensinger on confidentiality, neutrality and testifying. Another is a note about AAA and Ombudservice<sup>(c)</sup>, a third is about the Structure Committee of TOA, and a fourth is a job opening in dispute resolution. Please check each article for whom to call with your comments.

**Confidentiality Update**

(Draft Paper--please send comments to Ann Bensinger, Deputy Corporate Ombudsman, United Technologies Corporation, 1 Financial Plaza, Hartford, CT 06101)

**Not Everything is Confidential**

A previous article (*Ombudsman Dilemmas: Confidentiality, Neutrality, Testifying, Record-Keeping*<sup>1</sup>) discussed the profession's need for a confidentiality privilege and the jeopardy to the profession of testifying in any adversarial proceedings. We argued that confidentiality is essential to the effectiveness of the profession. We continue to believe that ombuds should seek to quash most subpoenas for records or testimony. Yet, (as we noted in the original article) we believe that there are certain exceptions to confidentiality.

If a subpoena for the ombudsman arises under one of these exceptions, we believe that an ombudsman should not seek a protective order against testifying or offering records. Most importantly, we believe that to attempt to claim privilege in such instance jeopardizes the ability of the profession to establish a confidentiality privilege.

Circumstances under which ombudspople should not claim privilege:

- The ombudsman agrees to do a formal, written investigatory report submitted to a decision maker - and includes either judgments about the substance of what is uncovered, a recommendation to management about a decision, or both<sup>2</sup>.
- The ombudsman has essential information that can **only** be offered by the ombudsman. As in one real example -- if a client dies just after communicating vital information which cannot be obtained in any other way, to the ombudsman, the ombudsman may need to testify.
- The ombudsman is a direct witness to a felony. For example, the ombudsman witnesses an individual, who has been a visitor to the ombuds office, assault someone.
- The ombudsman is asked to testify about something that occurred when he/she was not an ombudsman.

We urge our colleagues **not** to attempt to claim privilege in such circumstances.

Circumstances under which ombudspeople may choose not to claim privilege:

- An ombudsman is misquoted as having done or said something that was never said. Even in this situation the practitioner first should consider whether he or she really needs to testify about the given case. For example, suppose the alleged improper actions were actions which a true ombudsperson would never have taken under the office terms of reference. In this example the ombuds practitioner might be inaccurately quoted as promising a job or a benefit, or as stating formally that a visitor was wrongfully treated. Here the practitioner may be able simply to testify about consistent office practice - which is always appropriate - in a way that is useful in a hearing. In this example the ombudsman might simply say, "As the notice in my office door indicates, I do not make management decisions about (benefits) (wrongful treatment) and I never have done so."
- The ombudsman has been accused of improper actions in exercising her or his duties as an ombudsman. Again under these circumstances the practitioner should first seek an alternative to direct testimony about any specifics of the particular case.

We stress that in all circumstances, we believe that the ombuds should consider every possible way to preserve confidentiality. For example, practitioners are urged to discuss - of course without any identifying details - any requests for their testimony or records as ombuds with other ombudsman colleagues. These discussions should fully explore all responsible alternatives to testifying, such as customary office practices, limiting testimony, and so on. We also urge ombuds to seek the support of TOA in attempting to quash a subpoena.

<sup>1</sup>Mary Rowe, Mary Simon and Ann Bensinger Journal of Health and Resources Administration. pp.329-340, Winter, 1993. (For a copy of the article please feel free to contact United Technologies Corporation, Office of the Ombudsman, 1 Financial Plaza, Hartford, CT 06101.)

<sup>2</sup>A formal report could consist of simply provable, ascertainable facts - such as could logically be recorded on video or audio tape - and which facts or materials are otherwise available. In this case, these facts should presumably be used on their own without implicating the ombudsman.

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**Subpoena Update**

In 8-10 weeks, there were 28 requests for the "subpoena" packets (see the September/October/November 1993 Bulletin or call Mary Simon 508-960-6490). Given the interest in this topic, we have pulled together two sample confidentiality statements for the packet. We would be delighted to add others, so if you have a different one, please send yours to Mary Simon and/or post it to everyone on email.

**1. Is the Ombuds office confidential?**

Confidentiality is the rule. No formal written records are kept. No action is taken without permission, except for the rare situations where there is a reason to believe that criminal behavior is involved or a life or national security is at stake and there appear to be no options except to act without permission.

(Please Note: If the ombuds is not allowed to act, XYZ Company/University itself will be unaware of your complaint and unable to respond or assist you.)

2. The ABC ombudspeople are designated neutrals. Their offices are completely confidential; they keep no formal written records. They do not act without permission, except for the very rare situation of a serious crime or where there is reasonable reason to believe a life is at stake, and there appear to be no other options except to act without permission. (Obviously an ombudsperson may have to work long and hard together with a given complainant, to design some kind of acceptable option for surfacing delicate problems, but it is almost always possible to find an option acceptable to each person with a problem. Moreover, this may be important to a complainant. If a complainant does not give permission to notify

ABC, then ABC will be unable to respond to a problem. ABC does not call the ombudspople on its behalf in proceedings outside ABC and has consistently sought to protect ombudspople from subpoena by others.)

We are also interested in collecting current information about ombuds who are being subpoenaed. If you have faced this issue in the past 12 months or so, or almost faced a subpoena, please consider sending Mary Simon your answers to the following questions (we promise to publish an anonymous summary of the responses):

1. Briefly describe the elements of your situation (for example, what kind of case is it, how were you involved, how long ago was this).
2. Who is asking for your records or testimony? The complainant or your employer or...who?
3. What stance have you taken in response?
4. What documentation have you used to substantiate your position?

#### **Anonymous Ombuds Survey Update**

Various TOA Board Members have received many dozens of requests for new salary and caseload information. In response to these queries, a survey has been drafted and is going into production soon. This year, about 650 ombudspersons will receive this survey. It includes questions about length of time in office, type of ombuds, reporting relationship, constituency, caseload, and salary. This survey will be anonymous, and scored by machine. The data on each survey will be disaggregated (and then answers aggregated by questions asked). The survey answer sheets will then be destroyed -- no individual survey score sheet will survive.

#### **American Arbitration Association Flyer**

Many ombudspople received a flyer from AAA about their new Ombudservice<sup>(C)</sup>. Some 31 people got in touch with each other and with Mary Rowe on -- email and the phone -- expressing various concerns (28 people) or other comments (3). These comments were summarized for the TOA Board which is working

with the AAA about this. If you have a specific comment, you may wish to drop a line to Lou Garcia. The basic orientation of the TOA Board is to see how things can go better in the future. For example, suggestions include recommendation to AAA that they refer for ombuds assignments only such people as are or have been ombudsmen for the equivalent of two or more full-time years and who ascribe to the Code of Ethics of one of the major ombuds associations.

#### **Job Openings**

*Assistant/Associate Professor of Dispute Resolution.* Applications are now being accepted for two anticipated assistant/associate professor positions in the Department of Dispute Resolution in the School of Social and Systemic Studies at Nova Southeastern University in Ft. Lauderdale, Florida. The projected positions, pending funding approval, will begin July 1, 1994. Applications should be post-marked no later than March 11, 1994 in order to receive full consideration. For more information contact Bill Warters, Chair of the Dispute Resolution Search Committee at (305) 424-5703.

#### **Mentoring Update**

Ella Thurman received some calls and these people have been paired with mentors. If there are other new ombudspople looking for mentors, they should call Ella at (216) 844-1485.

#### **Mentors -**

If you have at least 2 years full-time experience and want to serve as a mentor, please call Ella to volunteer.

#### **TOA Structure Subcommittee Report by Linda Wilcox**

The Structure Subcommittee has been asked to provide the TOA Board with recommendations regarding its operational structure in light of TOA's recent accelerated growth, demands being made on TOA to provide education and information on the profession.

We expect our first recommendation to be that TOA try to maintain an executive officer who is, or has experience, as an Ombudsperson. We have become keenly aware through the American Arbitration

Association's Ombudservice Brochure that few people really understand our profession. It seems imperative that we have an individual answering questions for us who is able to provide accurate information. We believe that this can best be achieved by someone with experience in the field of Ombudsing.

We are now looking more specifically at the nature of the responsibilities and the magnitude of the workload that such a person could expect. We are anticipating that we will continue to grow and have increasing demands made upon us in the future.

Vince Riley, our present Executive Officer, has shared with us the position's job description, written three years ago by Jim Hendry, and summarized job requirements as he is experiencing them today. Vince tells us that there are essentially four main job functions for the executive officer. They are conference site selection, finance management, member relations, and communications. The organization has grown from 100 to 189 members in just the last 17 months. The tasks needed for each of the four functions has expanded as well. These demands are swiftly outgrowing what might normally be expected from a part-time volunteer executive officer. For instance, Vince told us that in the last year alone, in order to respond to the needs of the membership and of people inquiring about our profession, he has sent out 5000 pieces of mail!

Based on Vince's experience, we will probably also recommend that the executive officer's new job description include tracking the nature of the queries from people requesting information from TOA. Using this list the Communication Subcommittee might develop a series of short, pre-written responses that could be sent directly to the inquirer.

Since the executive officer may live anywhere in the country, we have grappled with how we might insure that TOA have the consistency and stability required for a national professional organization. We will likely recommend that we have a New York telephone number (already in the works) and be listed in the Washington, DC phone book stating our New York phone number and the address of the executive officer. Since listings are updated yearly, a change

in the executive officer would only require a change in the listing name and address. This will insure that people will be able to reach us via phone or mail no matter where the executive officer resides.

We are also looking into a "user friendly" state for us to re-incorporate. Presently, we are incorporated in Massachusetts. This state has incorporation guidelines which require meeting in the U.S. -- a restriction we would like to be able to bypass.

Finally, we will also include in our recommendation that an ad hoc subcommittee be formed, or an individual be selected, to be responsible for making arrangements for the annual conference site. This person should probably be appointed as soon as the site is established, should live in or near the site, and should act as host or co-host for the event.

Over the next few weeks, we plan to further explore the growth of the executive officer's job so that it can be better defined in terms of the time commitment, additional help needed, and the financial implications. If anyone has some input regarding any part of our task, please call Linda Wilcox at (617) 432-4040.

#### **Comings (since April 1, 1993)**

Welcome to *Kathy Baker*, Johns Hopkins University; *Kathleen H. Bouchard*, University of Southern Maine; *Judi Brophy*, Perot Systems Corp.; *Karen J. Challberg*, MIT Lincoln Laboratory; *Janice M. Charette*, Department of Public Welfare; *Frederic K. Conover, II*, The Faegre Group; *Charles N. Dawson*, Office of Assistant Secretary of Defense - Reserve Affairs; *Jessie L. Douglas*, Baltimore County Public Schools; *Thomas S. Fess*, Montgomery County Public School; *Jerome G. Fields*, City of St. Louis, Department of Corrections; *John W. Finalrock*, U. S. Army Missile Command; *Patricia J. Folan*, New York Life Insurance Company; *Duncan C. Fowler*, State of Alaska; *Willie Mae Gallahan*, DOD-Department of the Army; *Tim D. Griffin*, Northern Illinois University; *Lucy L. Guernsey*, Seattle Pacific University; *Philip C. Gugel*, Hawthorne Management Company; *Richard A. Hansen*, New York Life Insurance Company; *Wilbur Hicks*, Princeton University; *Brodrick Wm. Hill*, Chevron Chemical Company; *Scott Hurley*, General Dynamics - Electric Boat Division; *Robert L. Hutchins*,

The Johns Hopkins University; *Marti Julte*, Perot Systems Corp.; *Linda L. Kangur*, Chester County Hospital; *Jim Konetsky*, God's Love We Deliver; *Mary Mareno Kowal*, MIT Lincoln Laboratory; *Elizabeth Lorimer*, The Bank of Nova Scotia; *James J. Lucey*, U. S. Secret Service; *John T. Lynch*, MIT Lincoln Laboratory; *Wendy L. Mahle*, National Radio Astronomy Observatory; *Joyce Matheny*, TM Products Inc.; *Robert E. Mathews*, Mathews & Associates; *Susan Genevieve McAdams*, The Ovid Bell Press, Inc.; *David E. McCloskey*, Holliston Human Relations Commission; *Francine McFalls*, Royal Bank of Canada; *Alan D. Meyer*, United Parcel Service; *Jerry L. Murase*, Total Employee Relations Services, Inc.; *Richard L. Querze*, Buffalo Tire Corporation; *Beverly Raimondo*, John F. Kennedy School of Government (Harvard); *Dr. Benjamin D. Reese, Jr.*, The Rockefeller Foundation; *David Rehel*, Bank of Montreal; *Sallie Reid, PhD*, Pacific Graduate School of Psychology; *Holly Roos*, Life Management Systems; *John S. Stephenson*, W. J. Connell Company; *Beverly J. Taylor*, Prog. for Appropriate Technology in Health (PATH); *Donald R. Timms*, Cleveland Electric Illuminating; *Edward S. Warfield*, Johns Hopkins University; *Harry D. West*, United Telephone of Florida; *Cherryetta Williams*, General Board of Global Ministries of the United Methodist Church; *Clarence G. Williams*, Massachusetts Institute of Technology; and *Sue Rosenberg Zalk*, City University of New York.

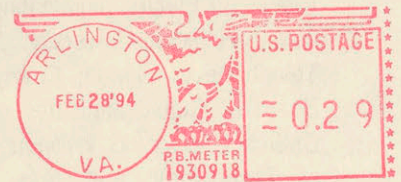
**New members who joined prior to April 1993, but were not listed in a previous bulletin**

*Kevin Chin*, American Arbitration Association; *Claudia E. Cohen*, AT&T Easy Link; *Marion Cummings*, Lockheed Missiles & Space Company, Inc.; *Victoria J. Drew*, USDA, Forest Service; *Mercedes S. Evans*, Tufts University; *Carol Pianalto*, Social Security Administration; *Jane L. Pietrantoni*, Tufts University; *Nancy G. Radcliff*, Bronson Healthcare Group; *James W. Vice*, Loyola University Chicago; *Merle Waxman*, Yale University School of Medicine; and *Jill Miller Zimon*, Bellefaire.

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SEND ALL SUBMITTALS TO MARY G. SIMON,  
AT&T, 1600 Osgood Street, Building 21-3S5, North  
Andover, MA 01845, FAX (508) 960-1284

The  
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**Mary Rowe**  
Special Assistant to the President  
Massachusetts Institute of Technology  
77 Massachusetts Avenue, MIT 10-213  
Cambridge, MA 02139

# The *Ombudsman*

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A S S O C I A T I O N

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P.O. Box 7700 Arlington, VA 22207

## TOA BULLETIN March/April 1994

### **IMMEDIATE ATTENTION REQUIRED**

IF YOU ARE PLANNING TO ATTEND THE TOA CONFERENCE ON MAY 18-20 OR OMBUDSMAN 303, THE CUT-OFF DATE FOR THE NEGOTIATED RATE AT THE FORUM IS APRIL 22. THE DEADLINE FOR REGISTRATION FOR THE CONFERENCE AND OMBUDSMAN 303 IS APRIL 25. ACT NOW! CALL THE FORUM AT (313) 944-0055 TO RESERVE A ROOM AND VINCE RILEY AT (703) 532-2795 TO REGISTER FOR THE CONFERENCE.

### **TOA'S TALENT SEARCH**

Every organization relies on its members to supply energy, talent, and skills through committee work -- in turn, that's how an organization provides value to its members. At the annual conference this May in Chicago, you will find information regarding the committees of The Ombudsman Association and will be invited to let the Board know of your interest and willingness to participate on a committee of your choice. Current committees include:

*The Communication Committee* whose focus is enhancing the communication of TOA with its members and those interested in establishing an ombudsman program in their respective organization.

*The Training Committee* whose focus is developing and providing valuable, practical training for new and experienced ombuds.

*The Shield Law Committee* whose focus is establishing a Shield Law to protect ombuds in their confidential role, much like ombuds are now protected under many state laws.

*The Membership Committee* which has the responsibility of establishing criteria for membership in TOA.

*The Nominating Committee* which has the responsibility for proposing qualified individuals for membership on TOA's Board of Directors.

*The Conference Committee* which has the responsibility of developing and organizing the annual conference, working with host companies when applicable.

TOA would also entertain the establishment of new committees which focus on the variety of issues facing today's ombudsman.

Committee members "meet" on a regular basis via conference calls and make formal recommendations to the Board of Directors. To qualify for committee work, the individual must be a member of TOA in good standing, be a practicing ombuds (retired professional ombuds will be considered), be willing to devote time and energy to the focus of the committee. Good writing skills are in demand, as are good organizational skills and follow-through.

The Ombudsman Association will continue to provide valuable education, networking, mentoring, information and support only through the efforts of its members. Please give some consideration to what you can contribute for your organization and take the opportunity to let us know at the conference.

### **MEDIATION & ASSAULT**

Recently, an Ombudsperson submitted to the email network a case now referred to as the "slugger case" asking for views on how to handle confidentiality. The statement of the case as submitted to email is included below. This is followed by a summary of the issues covered in the responses, a list of questions to consider in similar cases, and a brief update on the situation. This article is not intended to provide answers or to give you direction about what to do if you find



yourself in a similar situation. The intent here is to provide ideas and questions for each of us to evaluate and make our own judgments about how to proceed in our practice.

### **Case Statement**

During a mediation session, Disputant A had been verbalizing his anger towards Disputant B when he abruptly stood up and slugged Disputant A. The police were called and in the course of their investigation, they asked the ombudspeople who were mediating the dispute to describe what they saw and what they heard surrounding the incident. What should the ombudspeople tell the police?

### **Summary of Responses**

1. The ombuds should uphold confidentiality and refer the police to the parties involved.
2. An act of violence is outside the mediation process, so what was said remains confidential, but the ombuds should go ahead and give the police a fairly general description of the situation as a mediation attempt to resolve a dispute and a physical description of the assailant striking the blow, where the victim was, etc.
3. The ombuds is required to cooperate with a police investigation of an assault (a law was broken) that took place in their presence.
4. The individual, not the ombuds, committed an illegal act on another person and, therefore, violated the mediation process and revoked the confidentiality statement.
5. The ability of the ombuds to respond depends on the conditioning of the mediation. The ombuds should not promise such broad confidentiality that it prevents the ombuds from acting when a person is harmed or a law broken.
6. The TOA code of ethics addresses the "threat of violence" before the act, not after the act, so it may not apply here.
7. The ombuds should be explicit about the promise of confidentiality not extending to the commission of a crime and adamant about the misuse of the

process for the purpose of injuring anyone.

8. Ombuds have the obligation to insure the safety of the parties and should evaluate the situation's suitability to mediation. If there is a significant imbalance of power or an individual who cannot control his/her anger, negotiations or shuttle diplomacy might be a better option.

### **Some Questions to Consider**

1. What was promised? What were the terms/conditions of the mediation? What was the extent of confidentiality promised?
2. Does this violent act void the confidentiality agreement? How does that affect the injured party? Does the injured party "lose" twice? - he/she was hit, and the ombuds won't testify on his/her behalf?
3. How do we make the mediation a safe process? If we hide the assault, do we make the process less safe for others? At what point would we break confidentiality - if someone is wounded? or if someone dies?
4. How do we assess what conflicts are suitable for mediation?
5. Could the ombuds be liable for not providing a safe environment? What happens if the injured party files suit against the ombuds for failure to provide a safe environment? What will the ombud's insurance company require in the way of information about the incident?
6. What if one party threatens to kill the other party? Do we stop and call the police? At what point would we stop a mediation? At what point would we call for security or the police?
7. Is the room in which we plan to conduct the mediation set up well?

### **Case Follow-up**

The ombuds decided that they could describe the physical assault because they felt that the action had pulled all parties out of mediation. They maintained that the comments made during the mediation just

prior to the attack should remain confidential. So far the police have accepted their belief that the description of the attack was all that was necessary.

According to the most experienced ombuds, the mediation did not seem to be unfolding in an unusual way. However, the physical layout of the room was awful - a small room with a huge table occupying most of the room. Upon seeing the room, the ombuds tried to get another room and were told that this was the only room available at that time. Rather than try and reschedule the disputants, they went ahead with the session. Because of the room layout, the ombuds were hemmed in by the table and the disputants were both seated together by the door. The ombuds didn't want the disputants to feel hemmed in, but this forfeited any non-verbal or positioning ability that the ombuds might have otherwise had at their disposal.

**SPEAKING OF MEDIATION...**

*Good news from California...*

*Submitted by Jan Newcomb-Briggs*

Evidence Code 1152.5, effective January 1, 1994 - statements made in, and documents relating to, mediation are PRESUMED to be confidential. (Before, mediation was only confidential if all parties signed a written statement agreeing to confidentiality.)

Evidence Code 703.5 - The amended statute now grants mediators the same immunity previously afforded judges and arbitrators.

The judge in the Kientzy cases noted that "The purpose of the Ombudsman program and office is to mediate, in a strictly confidential environment, disputes between MDC employees and between employees and management." Therefore, this new legislation should give us much greater protection for our function.

**DISPUTE RESOLUTION EMAIL LIST**

Dispute-res is a list designed to promote communication among those teaching about dispute resolution and working in projects involving alternative forms of conflict resolution. It provides an opportunity to raise issues and share concerns related to

the use of non-adversarial models of dispute resolution in many different contexts.

You may subscribe to the Dispute-res list by sending the following message to listserv@fatty.law.cornell.edu.

***subscribe dispute-res yourfirstname yourlastname***

In other words, President Clinton would subscribe with the following message:

***subscribe dispute-res Bill Clinton***

If you have any problems subscribing, please contact Janet Rifkin or Ethan Katsh. Please feel free to forward this message to any individuals you may know who might be interested in it.

Janet Rifkin, Ombudsperson and Professor of Legal Studies, University of Massachusetts, Amherst, MA 01003. Internet: jrifkin@legal.umass.edu.

Ethan Katsh, Professor of Legal Studies, Department of Legal Studies, University of Massachusetts, Amherst, MA 01003. Internet: Katsh@legal.umass.edu.

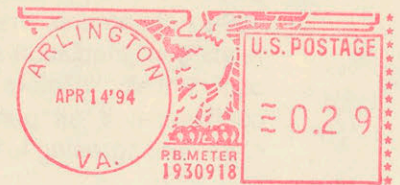
**COMINGS**

Welcome to *Lynn Atwood*, A & C Enercom; *Lynne M. Brown*, Washington Gas; *Norma Carey*, General Services Administration; *Linda M. Chape*, Kerr McGee Corporation; *Gary R. Gilbertson*, Human Resources Consultant; *Marilyn V. Joyce*, McDonnell Douglas Transport Aircraft (TA); *Maryann Lally*, G.E. Capital; *Irene M. McReynolds*, Los Angeles County Sheriff's Department; *Donald F. Minor*, Barnett Banks, Inc.; *Susan Garth Stott*, Phillips Academy; *Terry Walker*, Edward D. Jones & Co.; *D'Arcy W. Warner*, BC Gas Utility, Ltd.; *Michael J. Williams*, Indianapolis Department of Capital Asset Management.

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**SEND ALL SUBMITTALS TO MARY G. SIMON, AT&T, 1600 OSGOOD STREET, BUILDING 21-3S5, NORTH ANDOVER, MA 01845, FAX (508) 960-1284**

The  
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# OMBUDSMAN CIVILIAN

News

WINTER 1996

## Message From The President



Tom Furtado  
President – TOA

Dear Colleagues: As I write this column, we are only a week away from the beginning of winter. Some of you have already had your first winter storm, and if you follow the news, you know that Ella Thurman, TOA board member in Cleveland, got her dearest wish — 40 plus inches of snow. Way to go - Ella!

We've had a very successful year in TOA. Membership is at an all-time high. Training programs have increased with some interesting new offerings, and they are well attended.

Our financial situation is excellent. We are fortunate to have persuaded Carole Trocchio to stay on as executive director for another two years. We have a very active board and several productive committees. We are blessed with wonderful members, associates, and friends. Let's all work to keep it this way.

The end of the year also brings holidays and some free time. It's an opportunity to reflect on the past year and take stock of where we are, personally and professionally. It's a time to renew. Recently in Baltimore, while working in Ombudsman 202, I was approached individually by several ombuds on the issue of burnout. For the most part they were general inquiries, but one person suggested that burnout was becoming a problem. This person acknowledged that he/she was putting in 12 hour days, some weekends, and hadn't taken any serious vacation time in several years. This may sound familiar to some or many of you. There are people who can do this forever — they are rare. Most of us try to do whatever the workload demands, but we may be fooling ourselves into thinking that everything is under control.

There is no easy answer when we are understaffed and overworked. Caseloads ignore the size of a staff or the mental and physical health of the ombuds. We have to recognize the downside of trying to do everything. It's a given that health can suffer and morale drop. Worse yet, there is the danger of depression. There is also the possibility that quality suffers, which compounds the problem, because then the more people we see, the less help we can offer.

The end of the year is a good time to ask ourselves how we're doing. It's also a time to latch on to the holidays or vacation or semester break time and treat ourselves to a change of pace. Stay away from the office, go somewhere different, read that book you have been putting off (hopefully, not something related to the job), and just revel in the wonderful options you have to renew your spirit.

Happy Holidays, everyone.

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# SUA SPONTE

(Lat. Of his or its own will or motion; voluntarily; without prompting or suggestion.)



by Sharan  
Levine,  
Attorney

## ADRA Reauthorized

One year after it expired, the Administrative Dispute

Resolution Act ("ADRA") is back on the books — new and improved. Co-sponsored by Senator Carl Levin, (D-MI) and Representative Chuck Grassley, (R-IA) the legislation signed by President Clinton in October continues the six year tradition of encouraging Federal agencies to resolve disputes through arbitration and mediation.<sup>(1)</sup>

Senator Levin emphasized the cost effectiveness of ADR: "Before it originally became law (in 1990) about 25% of all civil cases filed in Federal Court involved the Federal Government. The Army Corps of Engineers' ADR Program successfully resolved 53 of 55 contract disputes, including settling a \$55 million claim for \$17.3 million in four days."

"Ombuds" is now a "defined term" in the statute. Alternative dispute resolution includes "any procedure that is used to resolve issues and controversy, including, but not limited to, conciliation, facilitation, mediation, fact finding, mini-trial, arbitration and use of ombuds or any combination thereof."

A second Congressional focus exempts dispute resolution communications from Freedom of Information Act queries. This provision may assist public university ombuds. Public universities subject to the Freedom of Information Act have pressured ombuds to turn over their files when administrators request them. Now that ADRA supports shielding such communications, public universities may be more willing to fend off petitions for the information on behalf of university ombuds.

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Last June, the Distinguished Professor Emeritus of Law at Southern Methodist University, Charles J. Morris, wrote "Ombudspersons and the limits of the general counsel's authority under the National Labor Relations Act: An open letter to Fred Feinstein." <sup>(2)</sup>

His open letter addressed an advice memorandum published in 1995, in which the National Labor Relations Board found that Polaroid Company had not unlawfully created an "employee committee," and that the ombuds ... "acts as a neutral party to hear any type of dispute from any employee at all levels of the company."

Professor Morris contends that the Polaroid Company violated the National Labor Relations Act by creating an unlawful labor organization when Polaroid established "a company wide cadre of 5 ombudspersons to informally resolve employee complaints." In his comments, Professor Morris argued that the NLRB's decision in the Polaroid Case (Advice Memorandum, Case No. 1-CA-32607-NLRB) was wrong and asked the Board to reverse its decision involving "managerial ombudspersons who deal with an employer on behalf of employees regarding employee grievances." (emphasis added).

Certain points raised in Professor Morris' letter require clarification. This column addresses only the most salient points in his letter.

Morris' concerns are valid, but he mischaracterizes the role and function of the classical ombuds as well as the organizational ombuds, specifically those organizational ombuds who are members of The Ombudsman Association (TOA).

Nevertheless, his comments are a reminder for all TOA ombuds to be vigilant in their practice, to adhere to the Associations' Code of Ethics and follow the Association's Standards of Practice.

Duncan Fowler, ombuds for the state of Iowa says, "Both in the United States and Canadian classical realm, clear statutory language define the ombuds' role which typically requires

them to be confidential neutral resources in order to investigate and to resolve problems in government."

Organizational ombuds are not members of management. The Standards of Practice established by TOA make it clear: "we are designated neutrals and remain independent of ordinary line and staff structures."

Organizational ombuds do not have the power or authority to make decisions that properly belong to management. While ombuds consult with members of management to assist in arriving at an appropriate solution, the final decision always rests in the hands of management.

An organizational ombudsman is not a designated resource for employees' grievances. The ombudsman is a voluntary, informal, resource. The employee typically chooses from a variety of resources, including management, human resources, and EEO officers who formally handle employee complaints. The ombuds is the confidential, off the record, source of assistance.

Professor Morris raises a philosophical question which has real practical affect for ombuds and to which ombuds must respond. He referred to the legislative history of the National Labor Relations Act, 1935, in which Senator Wagner said "a man whose very livelihood depends upon maintaining the favor of his employer cannot be outspoken and independent in representing the interest of employees" (emphasis added).

The central distinction between Senator Wagner's historic comment and the organizational ombuds function is that organizational ombuds do not represent employees. The ombuds, as a neutral, considers the interests of all parties, ie: the visitor and the organization, and works to create an environment of problem solving for mutual benefit, that is found nowhere else in the organization.

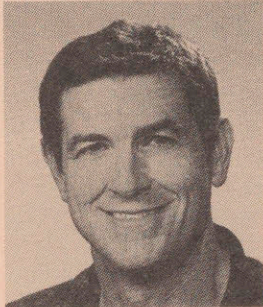
Whether an employee of the organization, an independent provider of ombuds services by contract, or a gov-

(Continued on page 4)

## THE BOOK SHELF

by Wendell Jones  
Ombudsman — Sandia Labs  
E-Mail: wbjones@sandia.gov

### *The Tao of Negotiation*



Joel Edelman  
& Mary Beth  
Crain

Harper  
Business  
Publishing -  
356pp -  
\$12.00 US

This is a small book that has managed to grow into all areas of my life and my ombuds practice. I will first attempt to define the "Tao." However, to even purport to describe the Tao is presumptuous for me. I have only a limited sense of this Eastern concept. In its simplest description, "Tao" means "way" or "path." But, it is much more than a recipe or prescription. It is, rather, a transcendent approach, view, and process of responding to what happens in front of us. Edelman and Crane say... "Attitude and intention are, to the Tao, the most powerful tools of human existence. How we perceive a situation - how we choose to perceive it - will often determine its outcome, says the Tao."

This book is written directly to, among others, us as ombudspeople. We are in a profession of women and men with no organizational power working with only influence and process. In the preface, the authors state their goal: "The Tao of Negotiation" is intended to show you how you - and you alone - can prevent conflicts from occurring in your life, and how in the process, you can make your relationship more energizing, enlightening and fulfilling."

The first half of the book develops many of the principles with which we are familiar from the Harvard Project on Negotiation (without using the same vocabulary). That's part of what makes this book so useful. It provides a different window into things that are already part of our practice. Key to their approach is the Oriental notion that it takes two to start a conflict and only one to

end it. This is in contrast to our more Western view that one person starts a conflict and it takes both to end it. Starting from their point of view leaves a person with choices influenced by others, but not controlled by others. The first portion of the book describes this way of looking at conflict and the opportunities this provides. This half concludes with a discussion of two important topics. First, the aspect of our nature that causes us to project our internal selves into our external worlds. While dealing with this directly is more in the realm of therapy than ombudsmanry, the insights in this chapter have been useful for me in examining my role in cases. The last topic covered in this portion of the book is how to deal with anger. The view taken is, again, Eastern. Anger is energetic, and needs not to be repressed, but to be redirected into creative efforts at problem solving.

The second half of the book is devoted to specific relationships and how this "way" can be applied. Included in these chapters are discussions of workplace disputes, partnership disputes, and customer/supplier disputes. There is plenty of specific and useful information. Words and thoughts from this book have shown up as part of every service we provide. The challenge of encouraging visitors to take responsibility for their part in a conflict and to encourage them to be in action on their own behalf is always going to be a significant part of what we do. The "Tao of Negotiation" can contribute much that is useful in that part of our work.

This book would have been an interesting read and would have returned to a static place on my bookshelf if these concepts were handled only as intellectual principles and processes. Instead, my copy has dozens of Post-It tabs sticking out and pages dog-eared from use. Practical examples of how this "way" of being can be applied are given throughout.

Next time I'll talk about one of the newest books from the Harvard Project on Negotiation: "Getting Ready to Negotiate," by Fisher and Ertel.

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## MARK YOUR CALENDAR

BAY AREA OMBUDS FORUM  
December 12, 1996  
Sandia National Laboratory  
Livermore, CA.  
Contact: Geri Albright  
510 294 2065

OMBUDSMAN 101  
February 3-5, 1997  
Fisherman's Wharf  
San Francisco, CA  
Contact: TOA  
(214) 553-0043

COACHING AND MOTIVATING  
VISITORS TO HELP THEMSELVES  
February 6, 1997  
Fisherman's Wharf  
San Francisco, CA  
Contact: TOA  
(214) 553-0043

VIOLENCE AND THE FEAR OF  
VIOLENCE IN THE ORGANIZATION  
February 7, 1997  
Fisherman's Wharf  
San Francisco, CA  
Contact: TOA  
(214) 553-0043

TOA ANNUAL CONFERENCE  
May 13-16, 1997  
Montreal Bonaventure Hilton  
Montreal, Canada  
Contact: TOA  
(214) 553-0043

ACCUO ANNUAL CONFERENCE  
June 22-25, 1997  
University of British Columbia  
Vancouver, BC Canada  
Contact: Suzanne Belson  
(514) 848-4963

## THE MYSTIQUE OF OMBUDSMAN 202

contributed by George Wratney  
Ombudsman - United Technologies



Had Sir Arthur Conan Doyle, the creator of Sherlock Holmes, lived to the late 20th century, he would have tipped his hat to the complexity

and subtleties of the case that form the basis of TOA's Ombudsman 202 course which I recently attended in Baltimore this past October.

The solid three-day course began with an intense discussion of culture, communication, and conflict in a diverse society, and it then moved quickly to a complex case study that unfolded to reveal as many facets as a fine gem.

The case involves fictitious companies but is based on late 20th century realities: a corporate acquisition, old-line managers, aggressive up and coming professionals, office gossip, prejudice, and a host of other human characteristics. Sound familiar?

Twenty-four ombuds professionals from throughout the United States and three other countries attended the session. Through assorted role-playing sessions and discussions, they were required to address the case as the ombudsperson in search of "the elegant solution."

TOA President, Tom Furtado, one of the creators of the case and an instructor for this most recent Ombudsman 202 course, said the case represents "some trial and error and a lot of work" by TOA's training staff. "We developed the course, tested it, and realized early on that we had made a few mistakes," Furtado said. "And, so we continued to refine it to its present state."

Based on informal comments of course participants, the Ombudsman 202 course and its search for "the elegant solution" are well worthy of any practicing ombudsperson's attention. And, one feels very confident that Sir Arthur Conan Doyle, Dr. Watson, and yes, even Holmes himself, would agree.

## OMBUDS SURVEY

by Mary Rowe, Ombuds, MIT

If you are a practicing ombudsperson we hope you have received your anonymous ombudsman survey which was mailed the end of November. The survey is 13 pages long (down from the 25 pages originally drafted!) but requires mainly that you know your practice and caseload. You should be able to fill it out from memory, making quick estimates and checking things off.

Each question in the survey comes from an ombuds who wanted the answer — so please be patient and fill out as much as you can. You will find that the survey is oriented toward cost-effectiveness questions — nearly 100 ombuds asked for these questions.

Data from the surveys have been especially important for helping practitioners get paid fairly, so we encourage everyone to spend a few minutes to fill it out when you get it.

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**(Sua Sponte, continued from page 2)**  
ernment entity, ombuds are supported by their respective organization/government specifically to furnish a neutral, confidential environment in order to deal with issues in their community.

In fact, Dean Gottehrer, former Alaska State Ombudsman, notes that regulations promulgated pursuant to the Alaskan Ombuds Statute specifically preclude the Alaskan ombuds from investigating a complaint "which constitutes the grievance of an employee covered by a collective bargaining agreement" (Section 21 AAC 20.010) Further, organizational ombuds working in an organization where employees are union members will often be precluded from assisting union members in addressing issues which are included in the union's contract. It's interesting to note, however, that it is not unusual for some shop stewards to refer union individuals to the ombudsman when the issues are not union related. Professor Morris also castigated ombuds when they perform "other corporate functions" and he referred to Mr. Kandel and Ms. Frumer's 1994

article<sup>(3)</sup>. Classical ombuds usually maintain stiff internal policies pertaining to conflicts of interest, as well as, jurisdictional issues. The Ombudsman Association, too, has recognized such a conflict of interest, and the potential danger of jeopardizing the value and necessity of the ombuds role as a neutral and confidential resource if they perform certain functions outside their ombuds role. To avoid such pitfalls, TOA's of Standards of Practice provide "we serve no additional role (within an organization where we serve as ombuds) which would compromise this neutrality."

Professor Morris' comments are indicative of misconceptions about ombuds throughout our culture. Even in the ombuds' work environment, many experience confusion and misunderstanding as to what the ombuds can and cannot do on behalf of a visitor. The process of educating the uninitiated serves as a reminder to ombuds to be steadfast in exercising consistency in their practice.

Footnotes:

(1) The bills are identified as S.1224, H.R. 4194.

Note - TOA President Tom Furtado submitted testimony to the Senate Subcommittee on Governmental Affairs in support of the legislation in November 1995 which is part of the congressional record. The Hearing before the Subcommittee on Oversight of Government Management and the District of Columbia of the Committee on Governmental Affairs United States Senate may be cited as S. Hrg. 104-401, November 25, 1995.

(2) Fred Feinstein is General Counsel of the NLRB. This article was printed in the Labor Law Journal, Volume 47, No. 6, June 1996.

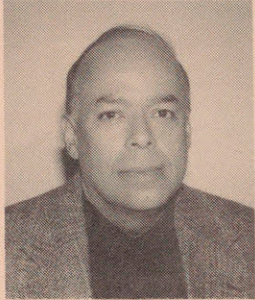
(3) (The Corporate Ombudsman and Employment Law: Maintaining the Confidentiality of Communications.) Employee Relations Law Journal, Vol. 19, No. 4, Spring 1994.

**Sua Sponte is written quarterly. I welcome your comments and suggestions for topics. If you have specific questions you would like me to address in this column, write to me at Levine & Levine, 429 South Burdick Street, Kalamazoo, Michigan 49007. My e-mail address is SLEVINE555@AOL.COM. The comments and opinions contained in Sua Sponte are the opinions of the author and do not necessarily represent the opinion of TOA.**

**Sharan Lee Levine is a partner in the law firm, Levine and Levine, located in Kalamazoo, Michigan and currently provides counsel to several corporate ombuds. Mrs. Levine is an associate of TOA.**

# TELEPHONE TECHNIQUES FOR OMBUDS PROFESSIONALS

Contributed by Bill Morales  
Associate Director - NYNEX Office of  
Ethics and Business Conduct



Under many circumstances, a face-to-face interview is the preferred method of communication for ombuds, ethics or similar professionals. But

for growing numbers of ombuds working in companies or institutions both large and small, the telephone is fast becoming an indispensable communications tool.

The reason? Employees frequently work in multiple geographic and satellite locations or from home offices. In these situations the phone allows ombuds — particularly those who manage high case volumes — to respond quickly to problems and conduct interviews with greater speed, flexibility and efficiency.

While there is no doubt that letting your “fingers do the walking” can often enhance your overall productivity and efficiency, there are simple guidelines to follow when relying on the phone as a communication vehicle.

The first general rule for all ombuds is to have a working knowledge of the phone’s functions and features, which can include Call Waiting and Call Conferencing. This knowledge will allow you to make the best use of the phone as you perform your job and maintain sensitivity to those on the other end of the line. If you have Call Waiting, for example, you should know how to cancel that feature before conducting a sensitive interview so that the call is not interrupted.

If you use a speaker phone in an office setting, be aware that the person you are calling may be overheard by others, violating their need for confidentiality.

Familiarize yourself with voice messaging

systems where appropriate. Be aware that some systems actually store messages for a period of time, even if you cancel them, so that they can be accessed. Let people know that voice mail is not the appropriate way to communicate messages that should be kept strictly confidential. And never leave voice mail messages as a means of closing out cases that involve highly confidential material. In these instances, direct communication is necessary.

Whenever you are placing or receiving calls at the office or at your home office, be sure to follow the basic rules of phone etiquette.

- ~ Keep a telephone appointment at the time promised, just as you would a personal interview.
- ~ At the beginning of a call, always ensure that the employee is able to speak confidentially
- ~ Make an extra effort to show you are an active listener by asking questions or responding briefly when the person is speaking.
- ~ Try not to keep callers in a work setting on the phone too long, because this can result in an overall impression that the employee is on a personal call.
- ~ If you have a separate home-office line, it is helpful to forward any calls after-hours into Voice Mail so that you can offer 24-hour accessibility while maintaining your privacy.
- ~ Be sure to identify with your name and your job function when you answer the phone when working from home so that employees know you are fulfilling your role as an ombuds professional even if you are working off-site.
- ~ If you do not have a separate office line at home, never give out your home phone number to a client.
- ~ To further ensure your privacy, you should press \*67 or another appropriate code to block any Caller ID devices from displaying your reach number. Check with your local phone company to find out if Caller ID blocking is available.

Make certain that you periodically retrieve messages from your office voice mail system while working at home or from a satellite location. Find out if you are able to forward calls from your office number to your alternate work site.

The main disadvantage of phone calls is that you are unable to gauge body language, which often is an important sign of how a person is feeling. This means you need to pay particular attention to nuances in the caller’s voice that can communicate urgency or signal a person in trouble. Always have a game plan in place for gaining assistance from medical, security or other appropriate personnel in the event that a call turns into an emergency situation requiring immediate on-site attention.

Taping conversations is another issue when the phone is used to discuss confidential matters. Always be aware that your conversation can be taped by callers. It is also important that you assure callers that you will not tape the conversation because of your confidential role as an ombuds professional.

There may be occasions when using the phone is not appropriate, particularly when someone expresses a strong preference for a face-to-face interview. If a personal shows considerable signs of discomfort about talking on the phone, always opt instead for a face-to-face interview.

## HEADS UP!

TOA’s 1997 Renewal Drive is in progress. Don’t miss out on all the exciting events and activities in the coming year. Remember, an investment in TOA is an investment in your professional future.

Renewal applications were mailed November 1st. and must be returned by January 31st, 1997 to be included in the 1997 TOA Directory of Members and Associates. Don’t delay - it will just take a few minutes to complete the renewal short form, include your renewal fee of \$95.00 and return.

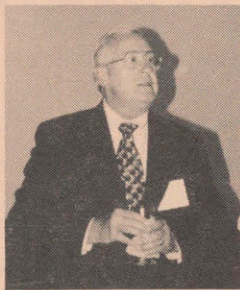


# SAN FRANCISCO HOSTS FIRST MEETING OF BAY AREA OMBUDS FORUM

by Elaine M. Lutkitz, Ombudsman,  
Federal Reserve Bank of  
San Francisco

On September 17, 1996 the Federal Reserve Bank of San Francisco hosted the first meeting of the Bay Area Ombuds Forum. It was attended by ten ombudspersons from Pacific Bell, National Semiconductor Corporation, Stanford University, UC Berkeley, Community Boards of San Francisco, Sandia National Laboratory and the Federal Reserve Bank of San Francisco.

The development of this Forum was the result of two recent educational and outreach efforts to bring members of the ombuds profession together to discuss common areas of interest. One



David Steenhausen, Corporate Ombudsman, National Semiconductor Corporation

was a panel discussion "Ombudsing — Organizational Troubleshooting" sponsored by the Northern California Chapter of the Society of Professionals in Dispute Resolution (SPIDR), and the other was The First North American Conference: Gateway to a Better Future, held in St. Louis, Missouri in May of this year.

We believed that the establishment of a Bay Area Ombuds Forum would provide us with an opportunity to: (1) meet other ombuds in the Bay area; (2) explore meeting several times a year to discuss common issues; (3) listen to speakers whose expertise would enhance our work; and (4) learn about other professional organizations.

The kick-off meeting of the Bay Area Ombuds Forum was a great success. Beginning with a "welcome reception" and taking advantage of many "photo opportunities," the group then adjourned to the conference.

As host, Lutkitz focused on the need for commitment by ombuds. Commitment to the organization — learning of, and

using, the tools of the trade through membership in TOA, SPIDR, and networking with fellow ombuds; Commitment to those who use our services — communicating the function and building trust; (3) Commitment to our profession — keeping connected; and (4) Commitment to ourselves — going the extra mile.

The forum was officially opened with remarks from John F. Moore, First Vice President and COO of the Federal Reserve Bank. Moore stated that the ombudsman plays a critical role by serving as intermediary and troubleshooter and noted that, "As a conduit of change, the ombudsman is in a very unique position to gather information from employees throughout the organization, and identify trends and patterns that we otherwise may not become aware of. This, in turn, helps us identify ways to make the changes necessary to strengthen our organization and make it a better place in which to work."

Susan Porterfield, Vice President of District Human Resources at FRB echoed the comments of Moore and emphasized the importance of "collaborative teamwork" on the part of HR and the ombudsman's office, while at the same time respecting confidentiality unless permission is given by the employee to the ombuds to disclose such information.

The group spent the time remaining discussing expectations of the forum including: (1) supporting one another around various issues such as confidentiality, potential legal actions (requests for ombuds files and testimony); (2) advocating for the ombuds role in the organization; (3) basic skills devel-



Elaine Lutkitz, Corporate Ombudsman, Federal Reserve Bank and Carmen Jevons, Asst. Ombuds, Stanford University

opment, including roleplays and case presentations; (4) how to prevent burn-out in the ombuds role, etc.

To continue the momentum, the group plans to meet on a quarterly basis at different locations in the Bay Area. The next meeting will be held at Sandia National Laboratory in Livermore, California on Thursday, December 12, 1996 from 3 pm to 5:30 pm. All ombudspersons are invited to attend by calling Geri Albright, ombudsman at Sandia — 510 294 2065.

Lutkitz notes that it was an honor, not to mention a challenge, to be able to host the first meeting of the Bay Area Ombuds Forum. Many issues for future discussion were identified — watch for periodic updates in future issues of OMBUDSMAN NEWS.

(Continued on page 7)



(left to right) Susan Porterfield, VP Human Resources, Federal Reserve Bank; Ellen Waxman, Board Member, TOA; Robert Sheardy, Ombudsman, Pacific Bell

## COMMENTS FROM PARTICIPANTS

*"Based on the synergy evidenced at the first meeting, my expectations are that the forum will provide a rallying point for us to highlight resources for our own extended training, as well as to share ideas for communicating 'words of wisdom' with our own client bases, e.g., in employee newsletters."*

**David Steenhausen**  
**(National Semiconductor Corporation)**

.....

*"The Bay Area Ombuds Forum is a wonderful opportunity to meet other professionals in the role of ombuds in the Bay Area. I thoroughly enjoyed the chance to exchange ideas in a more-relaxed setting."*

**Carmen Jevons**  
**(Stanford University)**

.....



Elaine Lutkitz, Ombudsman  
Federal Reserve Bank of San Francisco



Susan Porterfield, V.P. District Human Resources

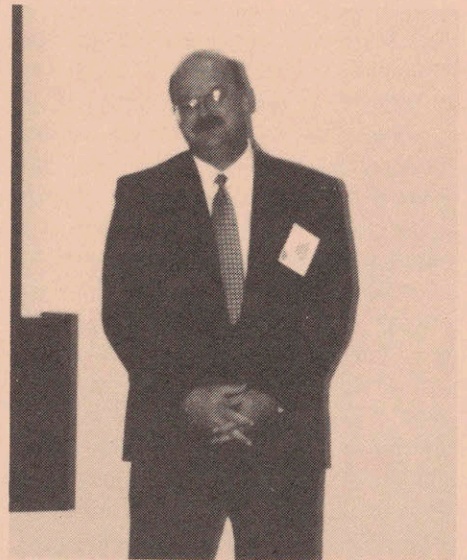
*"As a professional dispute resolver for more than 15 years, I found it especially gratifying to be part of the group that organized the Bay Area Ombuds Forum. Supporting one another in jobs that are stressful and can sometimes be isolating due to the responsibilities of confidentiality and impartiality is a priority for me.*

*Groups like this forum will not only reduce that isolation but will also support skills development and linkages with other organizations."*

**Dianne Walker**  
**(UC Berkeley)**

*"I find meeting with my colleagues to be extremely helpful, especially in staying current on developments in our field. Unfortunately, as in many other organizations, opportunities to attend professional conferences have seriously diminished because of budgetary constraints. Establishing a Bay Area Ombuds Forum was for me a crucial step in establishing a viable venue to maintain this professional contact with my colleagues."*

**Kathleen Dickson**  
**(UC Berkeley)**



John Moore, First Vice President, C.O.O.  
Federal Reserve Bank of San Francisco



(left to right) Robert Sheardy, Pacific Bell; Geri Albright, Sandia National Laboratory; Tracey Lamee, Federal Reserve Bank of San Francisco; and Ellen Waxman, Stanford University

## FEEDBACK!



by Diane Pattee,  
Ombudsperson  
NE Region,  
American  
Express

(Note: This is the first in a series of three articles addressing ombuds surveys.)

Feedback - how to get it and what it means once you have it. These are two issues that we have wrestled with at American Express since we opened our doors two years ago. Judging from the ongoing interest in this topic on the e-mail network, we take consolation in knowing that we are not alone in our struggle.

At Amex we have five regional ombuds covering approximately 50,000 U.S. employees and three recently added international ombuds. From the beginning we were asked, "How will you know if you're doing a good job?" Responding with, "We will each have a warm, fuzzy glow as we go home each evening," just didn't seem scientific enough, particularly when the question was being asked by our chairman in the context of our annual budget review. In giving thought to the question, we decided that there were three groups of people that we would want to hear from in assessing our performance. People who had actually used our service (our inquirers), people who were potential users of our service, and people from the company channels (human resources, audit, security, general counsel, etc.) with whom we worked on a regular basis as we surface inquirer concerns.

We started with the last group, the company channels, as they presented the fewest logistical problems - we didn't have to protect the confidentiality of the responder, and they were of a limited enough number so as not to present an administrative nightmare. We assembled a list of approximately 170 individuals from various staff and line groups that we had worked with in the U.S., and created a 10 question

survey. The survey covered a range of subjects including, how clearly we communicate issues, the appropriateness of the issue to the channel, and the degree to which we maintain confidentiality and neutrality. We used a 5 point scale from "strongly agree" to "strongly disagree," and allowed for written comments. Responders had the option to be anonymous.

We received 67 responses for a 40% return rate. In most categories we received results that were 80% favorable ("strongly agree" or "agree"). Our strongest areas were maintaining the confidentiality of the inquirer, respectfully complementing the channel function, and bringing to the channels issues that were appropriate to their expertise. The areas with the most room for improvement were the usefulness of trend information, and the perception of neutrality. It was in reading the written comments, however, that we were able to put some of the numbers in perspective.

Usefulness of Trend Information - 36% of responses were non-favorable. We found that the timing of the survey was a factor in this feedback. As the survey was sent out about one year after we had opened our doors, we had not yet reached a point where we were sharing information with the channels on a regular basis. We shared case specific information as appropriate, but not trends - there was not enough case volume in many of our business units for it to be meaningful. Additionally, some responders indicated that they had contact with our office only one or two times, and therefore found it difficult to judge our performance. As a result of this, we decided that once we had 6 quarters of data we would begin scheduling updates with management and staff. For certain levels of management the update is every 6 months, while for certain staff groups, such as regional human resource teams, it is monthly.

Perception of Neutrality - 32% of responses were non-favorable. Comments in this area included that certain respondents viewed us as "employee advocates" by the very nature of our jobs, rather than based on our

specific words or actions with regards to a case. As we provide an opportunity for employees to discuss options when they are dissatisfied with a judgment that has already been made by a line manager or a staff group, we are viewed as allowing decisions to be reopened after channels "have already spent months working" on an issue. We also heard that we were, at times, "more involved in a case than (it was) thought appropriate." We were also found to have "sympathy problems" (Given the nature of the question, we optimistically chose to interpret this as our being too sympathetic, rather than the alternative). As a group we ombuds discussed our practices around neutrality, talked about some wording or phrasing that might have worked for one of us in the past and, of course, being competitive, goal driven perfectionists, vowed to get those scores up the next time we did the survey.

We are currently discussing what the timing, scope, and distribution of a second survey might look like. We would welcome the opportunity to see samples of surveys that other ombuds have used for their internal channels, and offer to send a copy of our first questionnaire to anyone who is interested. You can e-mail us at [Amexombud@aol.com](mailto:Amexombud@aol.com) or call us at 800-297-1010.

## DEADLINE FOR TRAINING REGISTRATION:

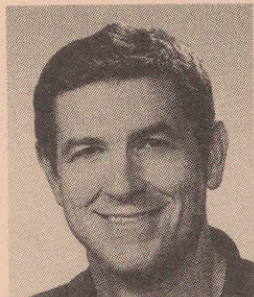
TOA is offering two new specialized courses in February, 1997: ***Coaching and Motivating Visitors to Help Themselves***, and ***Violence and the Fear of Violence in the Organization***.

These classes are filling up... deadline for registration for one or both is January 3rd, 1997. Contact TOA's executive offices for information.

Ombudsman 101 fills up fast. If you are considering attending this class in February 1997 you are urged to contact TOA's executive office ASAP. The next scheduled Ombudsman 101 is July, 1997 in Boston, MA.

## PROFILE OF AN OMBUDSMAN

by Dotti Washington



**Wendell Jones**

**Laboratory Ombudsman Sandia National Laboratories**

Pulsed power accelerators... advanced robotics... weapons stockpile... stewardship...supercomputing... the development of new air bags, mine detection systems and prosthetics... these are but a few of the high technology areas of which Sandia National Laboratories is on the cutting edge. In the midst of highly classified projects and highly educated people, strong opinions often lead to conflict. Fortunately, there is a place to turn for alternative dispute resolution ... the Sandia Ombuds Office.

Wendell Jones is one of the three ombudspeople that service Sandia's 15,000 employees and contractors in New Mexico and California. Jones has been with the program since its beginning in 1992. He reports directly to the executive vice president and the president of Sandia, and Jones is quick to point out that one of the important aspects of the program is that the ombuds office is not tied to any particular department.

Wendell's career with Sandia spans 20 years. His interests in dispute resolution began with church and community volunteer work. Ultimately, in 1991 he realized he wanted to do dispute resolution work full time and was about to craft a second career when the ombuds position was posted at Sandia. Selected as Sandia's first ombuds, Jones was able to combine his career desires with his operations experience bringing a unique perspective to his work.

After two years a decision was made to add a second ombudsman to Sandia/New Mexico. Wendell says, "In a company where reducing overhead costs is so important, the people responsible for funding made adding a second position a priority. We did not

have to use our clout with the president, nor lobby for it. This decision was real validation of the importance of this program to the Laboratories."

Wendell handles a client base of approximately 300 annually and no classification is hugely over represented or under represented. Conflicts with direct management is the most common issue addressed, followed by peer conflict, subordinate conflict, and concern with policy issues. Wendell adds, with a second ombudsman here we can stretch our thinking to offer a wider range of services including managing a mediation cadre of 30 trained peer mediators, leading negotiation workshops, and working with other organizations to set up ombuds offices.

Confidentiality is something that is taken very seriously. Wendell and his colleagues at Sandia are very strict in adhering to the TOA Standards of Practice and Code of Ethics. Sandia's policy states that Sandia will not call on the ombuds office on the laboratories' behalf and Sandia must resist any attempt to compel the ombuds to testify.

The most difficult situations, states Jones, are those where the conflict is highly emotional and polarized. In these cases, it's difficult for people to believe that anyone could be genuinely neutral. No matter what is done or not done, explains Jones, the action will be painted by someone as "taking sides" one way or another. Even choosing not to get involved can be interpreted as siding with someone.

In contrast, Wendell recalls a particular incident which was touched with humor. A female client came to Wendell with an e-mail message she had received which was clearly a love letter misaddressed to her. She wanted the correct parties to find out what had happened so that it could be straightened out without anyone getting into trouble for the incident. Wendell contacted the originally intended recipient, who was extremely embarrassed at what turned out to be an unsolicited sign of affection, and encouraged closer check of e-mail addresses in the future.

When asked for some "words of wisdom" for fellow ombuds, Wendell says, "Really be, and be seen as, your own

sternest critic. We ombuds, who seek the trust of our institution in ways larger than most other employees, are honor-bound to be clear-eyed critics of our own work. The leaders of our institutions need to see us that way... and they need to trust us to hold ourselves accountable for what they don't see us doing. Don't underestimate the extent to which this contributes to our credibility."

## VOLUNTEERS WANTED TO FACILITATE A POSTER SESSION IN MONTREAL

by Elizabeth Lorimer, Staff Ombuds, Scotiabank

Plans are well under way for our 13th annual conference in Montreal from May 13 to May 16, 1997. If you haven't yet marked your calendar please do so now! We're looking for volunteers to run poster sessions which provide great opportunities to learn something new about our profession, swap ideas with other ombuddies, and join in some amazing discussions.

All volunteers have to do is select a topic of interest for which you are willing to prepare a "poster" and let Elizabeth Lorimer know about it. Elizabeth will add your name and topic to the list of presenters. Then you bring your descriptive poster to Montreal, make a brief presentation about the topic, and facilitate the ensuing discussion.

People have indicated interest in hearing about ways to promote the profession, the importance of confidentiality, the "search for values" and record keeping. Poster sessions on these or other topics would be welcome.

Elizabeth can be reached via e-mail at "ombudsb@ican.net" or by phone at 416 866 3501. Please don't be shy — the poster sessions are great, your audience will be appreciative and the discussions are guaranteed to be thought-provoking.

See you in Montreal!

## CONSIDER OMBUDSMAN NETWORK E-MAIL

by Mary Rowe, Ombuds, MIT

If you are not on e-mail you might want to consider the following. Some O's are not on e-mail because they HATE TYPING. This is probably a reasonable thought and may also help to prevent the kind of RSI (repetitive strain injury) that comes from computer use. So, if that is you we will not further nag at you to get up on e-mail. However, if you are sure you do not want to be on e-mail you might want an "e-mail buddy" — connect yourself with a colleague who IS on the net and who will keep you informed about such questions as jobs that come open and training programs available and survey data about the profession.

But others are not on e-mail "because the employer is not yet connecting everyone on e-mail." And, others are not on the internet "because my employer

is concerned about security — our internal e-mail is not connected to the internet."

If that's the case then here's an idea — if you have a computer at home, get a modem and join one of the nation's internet access vendors (this might cost you \$150.00 a year or less.) The ombudsman network, solely for practicing ombudspeople, is a useful vehicle for keeping up on current issues and for discussing difficult problems. The network also provides the possibility of asking anonymous questions of other ombuds. If you are a practicing ombuds and wish to join the network, send a note to mrowe@mit.edu (together with your work address and phone number for identification purposes) to get up on the net.

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*"It is not the strongest of the  
species that survive, nor the  
most intelligent, but the one  
most responsive to change."*

Charles Darwin

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