California Caucus of College & University Ombudsmen

Fifteenth Anniversary
Asilomar – 1988
ACKNOWLEDGEMENT

Shirley Crawford

It is with sincere gratitude and appreciation that the California Caucus of College and University Ombudsmen acknowledges the contribution that Mrs. Shirley Crawford has made to the caucus by way of the support services she has delivered toward the completion of this Journal.

Mrs. Crawford is the Secretary to the Ombudsman at the University of California, Irvine.
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INTRODUCTION

Ron Wilson

University of California, Irvine

Ombudsmen are advocates for equity. Therefore, the role of ombudsman is important as a defense for justice and as insurance that the avenues of equitability remain firmly open and accessible to all who seek it in need. With the close of the 1980's, many universities and colleges are seeing a rise in grievances involving such issues as sexual harassment, racism, financial support, housing, and academic integrity. Indeed, these problems appearing on our university and college campuses reflect the grave concerns demanding the attention of society in general. It is for this very reason that the Ombudsman Office has gained so much support in both the corporate and university systems. And, it is because of this growing visibility, that ombudsmen need to share with each other their individual methods and techniques which they effectively utilize in implementing their role in the communities they serve.

With this Journal we celebrate the ombudsman concept. More important than the celebration -- a 15 year milestone -- is the acknowledgement and support that we extend toward each other with this written tribute. This Journal -- although assembled under the banner of the CCCUO -- deliberately includes ombudsmen from throughout the U.S. and Canada. It is important for us to realize that the ombudsman profession is not a regional entity but rather an international approach to addressing the needs of people who expect justice and challenge their individual communities to provide it.
As you read the Journal, you will find there is much to learn from its rich and diverse contents. Whether or not you are familiar with the different topics, or whether you have reckoned with these same questions in your daily responsibilities, I am certain that you will agree that the essence of the ombudsman's role is to respond with patience, sensitivity, creativity, and, when all else fails, with good old-fashioned "common sense" to the crises he/she is attempting to resolve.

The ombudsmen represented in these pages are professionals who have long and carefully pondered their topics. "Notes On The Caucuses," by Geoffrey Wallace, carefully and considerately assesses our need to come together in a manner that communicates our mutual support for one another. "On Being An Ombudsman," by Merle Waxman, identifies the uniqueness of the position and, at the same time, demonstrates its applicability in the School of Medicine. "When Superhuman Isn't Enough," by Dalene Hoppe, explains the frustrations and yet, ultimate satisfaction that being an ombudsman brings. "A Unique Role For Ombudsmen In Campus Protest," by Susan Hobson-Panico, outlines the Observer Program at the University of Colorado, Boulder and assures us that we need not be alone in responding to volatile situations which require handling with "kid gloves." "Reflections On The Role Of The Ombudsman," by Howard Gadlin, eloquently describes how the ombudsman assignment can re-invigorate and re-energize a person who is clearly dedicated to the position. He confirms the tenet that a lack of "visible" power can provide "real" power in finding a salubrious solution. "Conflict Resolution," by Joaquin Sanchez, involves us in the familiar territory in which we see our "known" selves and, perhaps, the "unknown" dimensions in the practice of our profession.
"Natural Justice and University Appeal Procedures For Students," by Christine McKee and Maury Stephensen, introduces the complex legal dilemma in which the ombudsman will occasionally be involved and the intricate legal stance that he/she must be prepared to take. "Responding to Students With Mental Disorders," by Gary Pavela, responds to the delicate cases involving students with a mental illness and poignantly depicts the precarious avenues down which we must tread while working with these young people who need more than just a quick medical report or an administrative point of view. "The Corporate Ombudsman: An Overview and Analysis," by Mary Rowe, re-affirms the fact that the ombudsmen in the corporate and educational sectors are in the same family and break bread at the same table even though these family "get-togethers" are infrequent. "Notes On Options For Complaint-Handlers," also by Mary Rowe, helps us consider a multitude of alternatives when utilizing our skills. "Why Is UCOA Necessary?" by Carolyn Steiber, evinces the necessity to have a national organization as well as a state organization which allows us the opportunity to work together and to learn, teach, and grow with one another. And, lastly, "Survey Of Burnout Level and Stress Coping Techniques Among University and College Ombudsmen," by Katherine Uetz, reminds us that we are only human; that, as Ombudsmen, we are capable of looking with great sensitivity at numerous problems belonging to our fellowmen; but, in being ombudsmen we may neglect our own needs. Kitty's article allows us to step back; take a deep breath; and, release a sign of relief -- acknowledging that we can only do our best when we are at our best. It permits us to recognize the fact that we cannot be at that point unless we admit that we are both ombudsmen and mortal men and women.
The role of a university and college ombudsman is of a nature that -- not infrequently -- causes us to forget that we cannot solve all the problems and right all the wrongs. However, this does not mean that we are not always heard or that we have failed. The ombudsman at a university or college operates from within a realm where young minds are educated and fine-tuned; where older minds are re-directed and re-focused in new and sometimes uncharted areas. Often the university or college is a place where one can easily say that "Camelot" exists. But, in using the "Camelot" appellation, we must remember that, although our academic colleagues and student clientele may command us to be "Merlin," we cannot fulfill this demand. Indeed, the best we can hope is to create -- from time to time -- a little magic that is real and lasting and not illusionary and fleeting.

Ron Wilson
University Ombudsman
University of California, Irvine

Co-Convener of the 15th Conference for the California Caucus of College and University Ombudsmen

Editor of the CCCUO Journal
NOTES ON THE CAUCUSES

Geoffrey Wallace
University of California, Santa Barbara

In 1988 we pause to celebrate 15 years of University Ombudsmen gathering at Asilomar. Ron Wilson, Ombudsman, University of California, Irvine and Susan Hobson-Panico, Ombudsman, University of Colorado, Boulder convene another gathering at Asilomar this November. In the past 15 years, Asilomar has hosted great sessions with Hodgkinson, Lincoln, Banning, Grahn, and Anderson, plus the constant voices of practicing ombuds. American educational ombudsmen have better learning opportunities than ever because there are more places to work on issues of good practice. UCOA will meet at the University of Massachusetts, Amherst; the Canadian ombuds have excellent meetings each year; and, SFLDR has a session or two on ombuds practice regularly.

What then in Asilomar's history explains the role it has as a growth environment for ombuds? Among the reasons for the way Asilomar satisfies our interests are the place, the people, and the limited structure.

Talking about Asilomar is a bit like John Sayles talking about a reunion of anarchists. Persons who work disputes without coercion can, under certain circumstances, become great believers in broad, open collaborative process. Each year the institutional voice of complaint may travel to be with others who do similar things. The educational ombuds has broad interdisciplinary
frames of reference, as well as extraordinarily diverse backgrounds. At Asilomar, the participants are paired in rooms equipped in early-summer-camp. The dining on the grounds is all in one building, so everyone meets at breakfast. The lack of bedside telephones and televisions turns people's attention toward each other.

Asilomar Beach as pictured in Brando's "One-Eyed Jacks" and Taylor and Burton's "Sandpiper", offers a setting for conflict workers in education to de-stress enough to stand back from their practice and ask a few questions about how they are doing and how the practice is going.

The socially structured environment has people, place and program, but lacks rules for excluding people, a dues structure, and institutional definitions of heathens or philistines. Ms. Hobson-Panico and Mr. Wilson provide this year all the warming, welcoming programming in a fashion that does two things:

1. The conveners meet the needs of practitioners as they were related to the conveners; and,
2. Participants initiate caucuses as they see fit.

The small caucuses may be conducted on the beach, in the halls, at breakfast, over cards, or in the sessions. One outcome of these varied caucuses is that they can be safe for issues like the stress and the potential isolation, or inequities of pay, or issues of appreciation of the binds that
affect ombuds. Small groups allow us to address the less formal, less acceptable questions: What about stress? What about being friends with a disputant? Why do some ombuds receive more institutional support than others?

In the 15th year of this caucus of caucuses at Asilomar, we honor all those who preach and practice peaceful conflict work. Asilomar has offered us a safe and scenic opportunity to help each other make peace work more than piece work. There is a new generation of practitioners who can enjoy the legacy of those who thought to have these opportunities to get together.
ON BEING AN OMBUDSMAN

Merle Waxman

Yale University School of Medicine

I come to the Ombudsman concept from a somewhat unusual viewpoint, since I initially worked in the Ombudsman’s Office at Stanford and more recently have served as the Director of the Office for Women in Medicine at Yale.

It seems to me that many of the underlying premises and concepts of being an ombudsman apply very well to these situations. While my constituencies are somewhat uncommon, the problems and solutions are not. However, the medical school setting presents an unusually ripe setting for conflict, and thus presents a useful model in which to implement the Ombudsman concept.

Special Problems in Academic Medical Centers:

As a result of their complex structures, academic medical centers possess a number of special characteristics that enhance the potential for conflict:

1. There are multiple inter-related missions, including patient care, research, and teaching. These missions are not always consistent with each other. Moreover, the teaching hospital has to interface effectively with various patient constituencies, the community, government agencies, its teaching and support staff, trainees at a variety of levels, and other parts of the academic community.

2. There are many disciplines interdigitated in the running of an academic medical center. Besides the basic science departments such as cell biology, physiology, anatomy, and genetics, there are clinical departments, medicine, pediatrics, surgery, etc. Each department has its own professional
and technical staffs, administrative staff, graduate and medical students, and postdoctoral fellows. Moreover, in some institutions, each department can function relatively independently, with its own set of policies and procedures, criteria for promotion, etc.

3. The teaching hospital includes several hierarchical ladders (academic or faculty ladder; research staff ladder; nursing ladder; etc.), each one characterized by its own tiered structure. Moreover, as in some other academic institutions, the hierarchy can exhibit a considerable range along the vertical axis, extending, for example, from beginning undergraduates to internationally recognized scientists and physicians.

4. At each level there is a high degree of success orientation. Especially as tenure and funding for research have become difficult to obtain, the question of credit, or priority in terms of credit for various contributions has become increasingly complex. This can translate into conflict concerning authorship or ownership of data.

5. Medical education is an inherently stressful process. During their educational and training periods, students and house staff officers are subjected to a variety of stresses and strains, ranging from psychological, to socioeconomic, to marital, and physical ones. Moreover, playing the role of "care-giver" provides little opportunity for the trainee or student to express his/her weaknesses and fears.

Special problems of women in Academic Medical Centers

The past decade has seen a number of striking advances with respect to women in medicine. Enrollment of women in medical schools has been increasing steadily from approximately 10% in 1961-68 to 34% in 1987. The number and
percentage of women in residency programs have also risen steadily from 19% in 1987. Despite this, significant problems remain and, for at least some women, the academic medical environment remains a "chilly" one:

1. **Absence of role models and mentors.** While 34.3% of the entering medical students in the U.S. are women, less than 19% of the full-time faculty are women, and only 9.4% of the women have attained the rank of full professor, whereas 31.5% of men have attained the rank of full professor. The number of women in senior administrative positions is even smaller. Mentors and/or role modeling are important ingredients for success in academia. The need for effective mentors does not end after undergraduate education. The absence of women in visible positions means these important role models do not exist, or are rare for women at academic medical centers. This has historically had an important negative effect in making it difficult for junior women to succeed. In addition, many women medical students, graduate students, house staff, postdoctoral fellows, and junior faculty feel isolated from the networking and collegiality that goes on in their departments. This distancing contributes to a slowing of progress in academics which is manifest for some women at the early end of the pipeline.

2. **Critical mass.** An important factor in the education, recruitment and retention of any constituency is being part of a reasonably sized peer group. People are generally more comfortable in situations in which they are not the only one of a kind or one of a few. This will be an issue of concern to women in medicine until female students, residents, and faculty begin to see more women in the positions that count in academic medicine.

3. **Flexibility vis-a-vis academic progress.** Female scholars do not want standards lowered to allow them to progress up the academic ladder. However,
granting that rigorous standards will be maintained, we nevertheless observe
the difficulties that women encounter when they try to merge the demands of
academia with the demands of family/parenting. Despite trends toward equal
sharing of parental responsibilities in society, parenting is still likely to
remain predominantly an activity of women.

This makes it very difficult to attain the rigorous standards that we
want to protect. **Temporal flexibility** in the time line of the academic ladder
must be introduced, since women and some men cannot always progress along this
time-line without interruption. A gap in the activity of an individual who is
raising a family should not be considered evidence of a lack of ability,
interest or ambition. Judgements should be made on the basis of quality as
well as quantity of work. For individuals with active family
responsibilities, it seems reasonable to suggest that academic progress (i.e.,
research output) should be judged over a more extended time frame. For women
with family responsibilities, a system must be developed which permits
interdigitation of family with professional responsibilities without lowering
standards. Flexible schedules (which build upon strengths rather than
weaknesses) and **effective maternity/child-rearing leave policies** must be
developed as well as part-time positions which will capitalize on the
potential contributions of women to the academic community.

4. **Perception bias.** There is considerable evidence in the literature
that women are perceived as less effective than men when performing at
comparable levels in the academic arena. There is a stereotypical view of men
as authority figures which often translates into higher status, salary and
prestige. Stereotypes of women reflect feelings of subordinate positions and
deferece to authority figures. This perception bias subsequently affects
academic advancement evaluation. Research has demonstrated:

- that men are promoted and tenured more often and more quickly than comparable women;
- that in a review of articles identical except for the name of the writer, those with male authorship were rated as being better and more significant than those with female authorship;
- that requests for promotion and support to attend professional development conferences were granted more often to men than to women presenting identical credentials and justification;
- that competent men are consistently viewed as more competent than competent women; and
- that chairs of academic departments evaluating cv's of PhD's suggested an average rank of "Assistant Professor" status for women, while identical records merited "Associate Professor" status for men (Seeing and Evaluating People, F. L. Geis, et al., University of Delaware, 1986).

5. Absence of support systems. We recently carried out a survey to gather-data as to why female House Staff at a leading medical school chose particular career paths. Surprisingly, gender-related prejudice and discrimination, family expectations, and pressures from spouse played less of a role in discouraging women from entering demanding specialties, than the absence of palpable support systems. In particular, women expressed a need for support systems such as adequate child care. The need does not arise from philosophical issues but, on the contrary, is an operational one. (The primary issue in solving this problem is where to find the economic base, i.e., the funds to implement a solution.)
In practical terms, it is essential to turn attention to the interface with the family and develop mechanisms which facilitate comfortable and productive movement between home environment and academic workplace.

These are some of the issues inherent in academic medicine centers, and in particular, impinging on women. Many of these issues can be productively addressed using the ombudsman approach.

An important thing I've learned from my rather focal starting points, is that an ombudsman, while nominally providing services to a limited constituency, can serve a much more general role within the university at large. Thus, the medical center can serve as a model of conflict within academic settings. Similarly, problems of women in medicine can be viewed as a model of problems of minorities.

At Stanford, although I worked at the medical school, I interacted closely with my mentor and colleague, Leah Kaplan, who was the University Ombudsman. I learned much from her. And, in turn, I feel that I contributed much to the well-being of the University.

Similarly, at Yale, from the vantage point of the Office for Women in Medicine, I've been able to play a significant role in university and hospital affairs.

The ombudsman's most important tools derive from integrity, reputation of objectivity, fairness, and suasion. It seems to be that if the ombudsman learns to use these tools effectively, even from within a constrained jurisdiction within the university, then, he/she can have an effect that reaches throughout the university and even beyond its borders.
WHEN SUPERHUMAN ISN'T ENOUGH

Dalene Hoppe

The Ohio State University

I am fascinated by the 'superhuman being' identified as THE OMBUDSMAN. It is curious, indeed, that a role so potentially powerful and influential remains an enigma to those who do not fill the position, as well as for some of those who do. There is neither operating manual nor rule book to instruct the perspective Ombudsperson on the how-to's or the should-do's necessary to carry out "the mission." The community's expectation is that an Ombudsman will be, every moment of every day into eternity, a critical yet creative collaborator, a free-flowing yet fastidious facilitator, a patient yet passionate philanthropist and a sensitive yet sagacious savant. Key, non-threatening terms such as "it appears that..." or "would you please clarify..." and "it would seem appropriate..." pepper the conversations between an Ombudsman and the public. Why? Perhaps it is because we recognize that language and behavior that vary greatly from this diplomatic mode would dispel the aura and, as a result, would reduce the Ombudsman to a mere mortal standing, but, perhaps, with greater consequence and guilt than for others who walk freely on campus each day.

When Ombudsmen congregate, there emerge a number of war stories, shared among those who can best understand the delicacies and intricacies of reaching the perfect resolution. Each one of us can recall the particularly grueling, complex and ugly cases for which we jumped through many hoops, were clever and resourceful beyond compare, and felt enormously successful and relieved upon
completion. With these blue ribbon performances in mind, I began to question if I were the only practicing Ombudsman in the world who had ever directly affected the demise of a case, or had ever behaved in a manner unbefitting an Ombudsman. I then decided to canvas a dozen ombudsfriends to learn whether or not I was the sole inhabitant of the Ombuds-Bloopers Hall of Fame.

The responses to my non-scientific, statistically insignificant survey were mixed. Some respondents admitted, somewhat sheepishly, that they could not think of a single case where their actions contributed to an unsuccessful outcome. My self-image was slipping fast! I then heard from several others who shared stories that ranged from the gravely serious to the downright silly. I've chosen to outline two of these cases because I think they may represent the two extremes.

The first case comes from a seasoned Ombudsman, who, when asked the question, had an immediate response. Several years ago, he found himself being prodded into taking a much needed vacation (his previous time off was two years prior). When he decided that he did, indeed, need to get away, he hurried to get matters wrapped up so that he could relax during his time away from the office. On his last working day, a distraught, visibly emotional student entered his office to talk with him about the problems he was having in "coming out" with his gay life style, and how he feared rejection by family and friends. The Ombudsman's usual procedure in helping the client in such situations is, among other things, to accompany the client to the Counseling Center, often staying in the initial session until he feels that the person is comfortable with the counselor. On this particular day, however, he did not follow his process and simply referred the client to Counseling and suggested that he confide in the people closest to him. The Ombudsman hurried the
student out of his office and left for his vacation. During the two weeks that passed, the student told his father about his life style and sexual preference and the father instantly rejected him. The student also told his best friend who ridiculed him in public. The student made several attempts to contact the Ombudsman. On the day that the Ombudsman was to return to his office, his secretary called him to say that the student had committed suicide. The Ombudsman feels that because he did not follow his usual procedures in getting the student involved in a relationship with a counselor and because he did not give the student much time and was'n't available at all after the initial contact, his actions contributed to the final act. Whether or not this is true, that event has made an impact that affects the Ombudsman to this day.

The second example of un-ombudslike conduct (and a representative from the silly end of the continuum) belongs to me. A student walked into my office one day and said (I quote), "I'm so and so. I need you to pull some strings for me." Not a terrific opening line, was it? He went on to tell me that he was incredibly busy taking flying lessons...so busy, in fact, that he could not be bothered with using the appeal process or paying the fines for the eleven parking tickets he had received. Between his classes and being "in the air" he had no time to find student parking spaces and parked in places that were taboo. His new car was going to be impounded and he needed "strings pulled" because he was clearly too busy to deal with anything so earthly and bothersome. I explained the process to him but he cut me off and said, "Look. I don't have time waste on this. Are you going to do something or not?" I then asked, "Are you saying that you parked illegally on this campus -- 11 times -- and that you are not willing to pay the fines or use the appeal
"Right. Now what are you going to do for?" "I'm going to tell you to get in your plane and fly away."

My thoughts on this subject are further revealed in a poem by Dalene Hoppe.

When it seems that people are mindless or cruel
Or pay no attention to the printed rule;
When the tangle's so tight, with no room to breathe,
And the feelings' so hot, you must cry or seethe.

Along comes a group with 0's on their chests,
You know in a moment they're not like the rest.
They listen, they care, they advise and they scheme
It's hard to believe this isn't a dream.

So many answers in so little time,
Finding the way to fight every crime.
Beware! I must warn, of absolute perfection,
Perhaps there's a chance of good faith misdirection.

Yes, they try with their might to do right for your fight
Help you move through the tunnel so you can see the light.
But, if there's an act, a costly miscue
You must keep in mind...Ombudsmen are human, too.
A UNIQUE ROLE FOR OMBUDSMEN IN CAMPUS PROTEST

Susan Hobson-Panico

University of Colorado, Boulder

Two years ago the Ombudsman Office at the University of Colorado created an observer program for the Boulder campus. The observer program idea originated at the University of California, Berkeley many years ago during an era when student protest was common. The program uses volunteers, trained in neutral observation, to enter a crowd of protesters and make written observations of "critical incidents." A critical incident is defined as a situation where there is potential damage to person or property. The impetus for the observer program at the University of Colorado came from our police department after several of the key personnel from the department consulted with the campus police department at the University of California, Berkeley.

One of the unique values of the observer program is that it provides protection for all groups involved in protest activities who "need to know." Such groups might include: student protesters, community protesters, police officers, media personnel, administrators, counter-protesters, and those that the protesters may be directing their actions towards (campus recruiters, regents, administrators, student political groups, etc.). Although police may photograph or videotape incidents for use in prosecution, media may capture the flavor of the protest, and administrators may observe an overall demonstration, the written observations offer detailed up-close observation. These reports have come to represent a truly neutral perspective of what may have happened between conflicting parties.
Role of Ombudsman Office

The Director of the Ombudsman Office coordinates the observer program. Coordination involves selection and training of volunteer observers, negotiating with administrators and police around the need for observers, contacting observers to request their presence at an event, supervising observers during their work, providing refreshments, briefing observers before an event, discussing with police and other campus officials observer access to the vicinity of the event and holding rooms in the case of arrests, providing appropriate identification for observers so they may cross police lines and enter other secured environments, receiving and responding to requests for observer reports, and responding to media inquiries. The Ombudsman Office staff do not serve as actual observers.

Role and Training of Observers

Observers are selected from staff on campus. Staff were chosen as opposed to students and faculty because of the flexibility in their schedules which students and faculty lack. Types of people from the staff ranks who have served as observers include: assistant to the vice chancellor, assistant director of admissions, director of academic media, bursar, director of the student health center, director of risk management, tuition classification officer, personnel specialist, recreation center coordinator, and accountant. Observers are given release time, similar to serving on a committee, from their routine work. They are often called at the last minute (since many protests are unannounced). They are required to meet at a certain location, listen to a short briefing, and observe. Some situations may be peaceful and
therefore uneventful and others may require several hours of intensive work. Observer reports are turned in to the Ombudsman Office shortly after the event.

Observers are trained once or twice a year. Training is provided by the Ombudsman Office with guest presenters from the media relations department and campus police department. Training topics include: overview of civil disobedience, police tactics, interacting with the press, neutral observation skills, report writing, and observer program mechanics.

Observer Program Policies

Observers are required to use only paper and pen when making observations. Recording devices and cameras are forbidden due to safety reasons. Special identification tags have been created by the campus police department for observers' use during demonstrations. The coordinator of the observer program works closely with the police department to ensure the safety of the observers. Observers are allowed access to any place that protesters and police are unless it is deemed unsafe by the police. Observers are for the most part silent. They do not engage in discussion with either police or protesters except to properly identify themselves and to answer questions about the observer program.

Access to Reports

To enhance the integrity of the observer program, requests for reports are submitted, in writing, to the Director of the Ombudsman Office. The person requesting the report(s) must demonstrate a "need to know" and specify
the time and location of the incident in question. For example, if a grievance has been filed against a police officer for excess force and the incident occurred on Monday afternoon at 3:00, near the fountain outside building, the request should specify that all observer reports around this time and location be provided. The definition of "need to know" is broad and can apply to students, staff, faculty, police officers, and community members. Reports are kept in a confidential file in the Ombudsman Office.

**Use of the Observer Program**

While the observer program was initially created to serve potentially volatile campus demonstrations (CIA recruiting on campus, divestment in South Africa) the concept has creatively been used in other ways. Observers were asked to walk lines during a recent registration disaster where students were waiting up to 10-12 hours to drop and add classes. Observers recently watched a crowd of 3,000 which was listening to Jesse Jackson and other political speakers. The program has gained the respect of the University community and will continue as a group of well trained staff who can quickly provide a neutral perspective when needed on campus.
REFLECTIONS ON THE ROLE OF THE OMBUDSMAN

Howard Gadlin
University of Massachusetts

Three and a half years ago I was appointed Ombudsman at the University of Massachusetts, Amherst. At the time it seemed like an interesting challenge. It promised a change from a tenured faculty position in which the satisfactions of teaching and working with students were less stimulating because of repetition, the pettiness of department and University politics, and the narrow intellectual scope of academic psychology. I had no idea, when I began, how satisfying this new work would become; nor could I have anticipated how thoroughly revitalizing an experience this job would prove to be.

In addition to its personal rewards, serving in this position has transformed my understanding of power and the functioning of institutions. Being Ombuds has also given me an appreciation of the role of third party neutrals within institutions. Before being named Ombudsman, I most certainly was not a neutral figure on campus, having been something of an activist, and having always played an adversarial role within my department and that of critic within the field. Unexpectedly, I have found some features of being a neutral quite compatible with the ideals of equality and justice which are part of the motivation for activism.

Since every person's understanding of the social roles she or he plays is influenced deeply by personal style and character, I will not pretend that the observations that follow are applicable to all who fill similar roles.
Moreover, the Ombuds position is defined differently at different schools, and in each institution there is a unique history of the position, a history shaped jointly by the personalities of those who have served in the position and by the idiosyncrasies of the institutions.

For example, at the University of Massachusetts, immediately after my appointment, we changed the name of the position to Ombudsperson and the name of the office to Ombuds Office. This was in response to many women's expression of dissatisfaction with the gender connotation of the term Ombudsman. It seemed inappropriate for an office that claimed to be accessible to all members of the campus community to call itself by a name uncomfortable to some who might otherwise use its services. Accessibility seemed more important than linguistic purity. Mine is a campus with a relatively strong women's community and a reasonable sensitivity to linguistic sexism, so such a change met with little resistance. However, there are many campuses where the name Ombudsman persists even though the position is filled by women, some of whom are themselves strong feminists.

When I have listened to presentations by ombudspersons at various professional meetings, I have been struck by how often these presentations consist of elaborated definitions of what an ombudsperson is. When I go to the professional meetings of psychologists, people don't spend their time defining psychology, they talk about work within some area of their field. It is a sign both of the relative newness of the field (on the American scene at least) and of the heterogeneity of its practitioners, that ombudspeople repeatedly try to map out the substance and the boundaries of what it is they do.
Surprisingly, no matter how many of these definitional talks I hear, I find that I learn from each one. I think this is because each person defines the position in the light of different experiences, different institutional roles, and the framework provided by different disciplines and professions. In my school each of the six different people who has filled the role since 1971 has come from a different discipline. (At the University of Massachusetts, the ombudsperson must be a tenured faculty member.) Consequently each presentation covers either the same ground from a different point of view, or different ground from a similar point of view. The most useful moments for me as a listener come when a fellow ombudsperson describes something I already know, in ways I had not myself articulated, but which I recognize the very moment they are made explicit.

Much of what an ombudsperson does is improvised in response to the particular requisites of a given situation and the needs of persons asking for help. There is not that much activity which is the result of the self-conscious application of principles and techniques. However, analytical reflection about ways of handling cases can help practitioners in the field begin to develop a more systematic understanding of the position and its potential within complex organizations. It is one failing of the profession that we have not attended to the extensive literature pertaining to organizational structure and dynamics.

Perhaps the single most striking lesson for me in this job has been that not having power is a benefit. The ombudsperson cannot force, order, command or require anyone to do anything. No matter how outrageous the situation, if a party chooses not to follow a suggestion of the office, we do not have the
power to force them to act otherwise. There is a general expectation that people and offices will be cooperative with inquiries from the office, and we have access to all but medically confidential records, but the Ombuds Office has no formal authority to make policy decisions.

Yet, this absence of direct power still gives us considerable influence, in some instances more influence than those who hold power. Lacking power also enhances our ability to elicit cooperation. A new secretary in the office, a woman with a good deal of secretarial experience in other offices on campus, commented after her first month in the office, "It's amazing how when I say 'This is the Ombuds Office calling,' people suddenly find things." She had grown accustomed to the kinds of negligence and unresponsiveness that characterize the functioning of many campus offices.

There also have been cases when resistant personnel suddenly became cooperative when they learned that we really were leaving a final decision up to them, and that our aim was to work out a solution satisfactory to all the parties to a particular situation. When it was clear that a recommendation from the office was a suggestion rather than a judgment or a command, all of the reasons why they couldn't be flexible previously dissolved. The Ombuds Office can afford to be committed to a process for working out differences and solving problems and not just outcomes.

To those with a background in mediation, where a respect for the ability of disputants to participate in the resolution of their own conflicts is part of both its philosophy and techniques, such observations will not come as a surprise. Indeed, soon after I began as Ombuds person, I felt the need for skills and techniques that might help transform the liability of powerlessness

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into an asset. I pursued training in mediation and negotiation through workshops and seminars. The sensibility of the alternative dispute resolution movement has deeply informed my interpretation of the role of ombudsperson (here I need also to acknowledge the counsel of two of my predecessors, Janet Rifkin and Jay Savereid).

I think there may be several reasons that not having the power to make others do what you think they ought to increases the possibility of influencing their actions or decisions. First, when giving a command is not an option, one's approach to the situation changes. It is tempered by the understanding that a solution to a problem must include some possibility of voluntary compliance by all parties. An ombudsperson is more like a consultant than an authority. The perspective of a person in charge differs from the perspective of a consultant, who brings expertise to a situation, but is not ultimately the one to make the decision.

Second, one's approach to the persons in a problem situation becomes not that of an authority dealing with a subordinate in a hierarchy, but of one peer meeting another. From this perspective each party has some responsibility for helping to devise a solution to a problem, even if each person is a part of the problem.

Third, in the same way that authority can compel obedience, it creates resistance. Many people, while seeming to behave obediently, find ways to subvert or resist the intrusions of their bosses. Moreover, people tend to protect domains in which they feel a challenge to their sense of efficacy. While some superordinates may be sensitive to issues of self-respect in the workplace, the authority exercised by the superordinate person mitigates against the full expression of that sensitivity.
The ombudsperson's role compels her or him to work with, rather than against, a person's sense of personal and professional efficacy. Finally there is the issue of face-saving. Both the lack of authority and the confidentiality of the office allow for a degree of face-saving not always available with the intervention of people in authority.

There are some who, upon reading this, will object to the claim of powerlessness. By asserting that the office has no power, I do not mean to deny that it lacks influence altogether. Indeed the Ombuds Office, at least on my campus, has significant moral authority which is enhanced by the perception that people in the office are committed to function as neutrals, objectively examining each situation they confront. Even when we become advocates for someone who has been unjustly or improperly treated, we attempt to communicate our commitment to fairness and neutrality in the processes we employ. And we try to keep things above board. Our general procedure is to tell people in advance how we will handle a situation, who we will contact, and to obtain their assent before acting. But it is my impression that this moral authority is enhanced by the knowledge that the office lacks formal power. We have no direct stake in the outcome, the way an administrator might -- though she or he chose to follow similar procedures. Perceptions count for a great deal. Of course, it must be acknowledged that there are those on campus who are not cooperative with us, who resist our interventions. They may operate within the hierarchical framework, acceding only to superiors with direct authority over them.

There is another structural reason why an ombuds office can be effective in situations where those in positions of power may not. Parallel to the lack of formal power for the ombuds office is a lack of programmatic
responsibility. Our sole function is to resolve grievances and solve problems. While the office is busy and criteria of efficiency affect how our time is spent, the Ombuds Office is less constrained by competing considerations than perhaps any other office on campus. We can put a good deal of time into attempting to rectify a very small wrong (small, from the point of view of the system, not the aggrieved person). It might not be practical or possible for other offices to act that way.

Along with being free from programmatic responsibility, the Ombuds Office can promise confidentiality to those who seek its assistance. The impact here is similar to the impact confidentiality has in mediation. People speak freely about events and people in ways they could not without a guarantee of confidentiality. Not only does this make it possible for us to hear fairly full accounts of problematic situations, but it allows us to provide an environment where someone can express a concern or bring a complaint without necessarily getting anyone into trouble. I have heard from many of my clients how important this was in giving them the strength to raise an issue. In this regard, confidentiality frees up the office from the limitation that constrains others.

There is another feature of the Ombudsperson position that seems essential to its effectiveness, and that is flexibility. There are two dimensions to this. One has to do with the way the position is set up. On my campus I have the option of choosing how to intervene in any given situation. I can function at the formal level, referring to written policies and regulations; or use my access to chains of command. In some situations I assist people with formal grievance procedures. Further, I can act as a fact-finder and investigator, issuing written reports and making recommendations.
either to the disputants or to those with administrative responsibility. Or, I can choose to work on the informal level, functioning as a mediator, a consultant, or an advisor. Some of the most important work I do involves simply coaching people so they may pursue their own grievance in a manner that does not risk further alienating those to whom they are appealing.

The other dimension to flexibility derives from the freedom to reframe issues. By statute the Ombuds Office deals with grievances. But grievances are often symptoms of complex difficulties or problems within a work or educational setting. Rarely does the resolution of the grievance as a grievance address the underlying issues. Many people who contact the office try to squeeze a complex set of concerns into the framework of a grievance. After all, formal channels are provided for grievances. And it is as a grievance that criticisms and complaints have legitimacy.

Yet in practice, many grievances are best settled after they have been redefined in terms not limited to the identification of fault and wrongdoing. Even in instances of wrongdoing, an adversarial stance often makes a fair and equitable correction of improper actions more difficult. Once grievances are reframed, areas of common interest can merge where previously there was only antagonism and mutual recrimination.

On the other hand it is important to remember that there are cases best structured as grievances. But even here we find that the Ombuds Office's option to proceed either formally or informally enhances the effectiveness of both. Having the flexibility to use a mode of intervention appropriate to the characters and issues is one of the office's major strengths.
Yet, flexibility has to be understood in conjunction with two features already mentioned -- the absence of direct power and confidentiality.

The interrelatedness of these features is best shown by an example. Our office deals with most sexual harassment cases on campus. A complainant may bring a formal charge of harassment or attempt to reach an informal resolution through the assistance of this office. Often the mere fact that a person can bring a formal charge makes the accused person more amenable to working out an informal resolution. At the same time, in many instances of sexual harassment the circumstances have been ambiguous enough that it would be difficult to prove a case to the degree necessary to uphold a formal charge. Nevertheless, it is possible to work out a satisfactory agreement through mediation on the informal level.

The confidentiality afforded by the office allows disputants in a sexual harassment case to speak more honestly and openly about events that occurred than they might otherwise, and to reach agreement on terms that, were they publicly known, might be rejected. Powerlessness is important. Because the Ombudsperson is not in a position to discipline the accused, nor to affect that person's annual evaluation, for example, the lack of power becomes an asset. Consequently, the need to deny charges totally is somewhat reduced.

I do not want to appear too naive in this account. I am not suggesting that universities would function better all around if no one wielded power. But the effectiveness of an ombuds office derives from the way it contrasts with the formal university administration. This difference in power constitutes an alternative perspective. The Ombudsperson sees a different university than do other members of the campus community. This in turn generates insights not readily available to others.
After I had served my first year in the Ombuds position, I realized how my understanding of the community had become totally transformed. This provided that revitalization I had been seeking when I took the job. I had a fresh look at a culture I had inhabited for many years. I was able to replace my skepticism with a sense of the possibility for change. Although unable to direct the actions of those I encounter, I have the satisfaction of helping to shape the context for satisfying outcomes.
CONFLICT RESOLUTION

Joaquin J. Sanchez
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None of us likes conflict. In our society we are raised to avoid conflict. We are taught that we should always "get along" with others. Yet conflict is a natural occurrence that is constantly with us. It is a rich language that tells us what is going on between and among people. The very fact that we each have an ego means that we have boundaries and when we cross or enter into each other's boundaries, conflict is bound to arise. In a culture such as ours where competition and success are so highly valued, conflict will inevitably occur.

When conflict is ignored or not addressed, a variety of negative reactions occur -- the main one being a breakdown in communication with a subsequent breakdown of a relationship. While conflict is a most complex phenomena, it is most likely to occur when persons have different perceptions, make different assumptions, possess different values, express themselves in different communication styles, come from different cultures, don't share a common history and a host of other differences. Conversely, communication is facilitated when people share the factors noted above.

When conflict arises, problems often occur not because of the seriousness of the issues, but because of the intense emotional reactions that are elicited. These reactions or feelings cause us to ignore, avoid, or fear the other person. We boil inside and have no way of expressing the frustration or anger that we feel.
The way we usually handle conflict is to let someone else take care of the problem for us. For example, a couple who is in serious conflict and wishes to dissolve their marriage will utilize a lawyer to handle a divorce. Yet in asking others to handle our conflict, we give up our power. How much better it would be if those who are in conflict would address the problem with each other, negotiate with each other. The more we go down the path from personal negotiation to impersonal litigation, the more we progressively give up our power and the basis upon which we will resolve the conflict. Think, for example, how a couple goes from being able to talk about a conflict with each other, maintaining personal control, and contrast this with their giving up control to someone else, for example a lawyer who does all the talking for them, and a judge who imposes an answer on the couple. A verdict which usually pains one of the persons results in resistance to the verdict. Contrast this with two people being able to communicate with each other and coming to an agreement that they can both live with. It is more economical and more effective to be able to resolve conflicts among ourselves.

The goal of conflict resolution is to reestablish communication with the eventual hope of rebuilding the relationship that has deteriorated. Conflict resolution is not a "wimpy" agreement between two persons who give up something that doesn't matter that much. It is not an enforced solution by one person who has more power over someone else who has less power, because the person who feels forced remains in a state of conflict. That person will continue to generate negative tension. It is, however, a way of resolving conflicting forces between two persons in such a way that each side is enhanced. The process of conflict resolution helps each person become more than they were before the conflict arose.
The process of conflict resolution largely involves identifying and helping to acknowledge those areas of incongruity that exist between two people. It involves facilitating communication between persons who are in adversarial positions. It involves redefining the conflict in such a way that it is humanized and therefore resolvable. It involves identifying specific agreements as to how to reestablish contact or communication, listing the specific steps that will be taken to resolve the conflict. The steps should preferably be in writing.

Not all conflicts lend themselves to resolution. There need to be at least two conditions present in order for the conflict to be amenable for resolution. First, there has to be a balance of power between the two persons. If one person has too much power over the other person, the one with the power usually attempts to use that power towards his or her own end. For example, consider a husband who has fiscal power in a marriage or a supervisor who has hierarchical power over an employee. Further, if one of the persons is too passive or unassertive, there tends to be an imbalance that prevents effective communication and resolution. In situations such as these the "bottom dog" has to learn to perceive himself or herself in a more equal way.

Secondly, each of the persons has to be motivated to resolve the conflict. There has to be something at stake. The parties involved should stand to lose or gain something of significant value. If there is nothing to gain or lose, then motivation for change is low and resolution is hard to achieve.
The Four Stages of Conflict Resolution

The San Francisco Community Board has identified four stages that are necessary to bring about conflict resolution. In my opinion these four stages can be applied in a variety of settings, e.g., mental health, social programs, educational programs or community programs. In other words, the stages appear to be generic.

I have used and refined these four stages in a university counseling setting with students, faculty and staff and have arrived at certain findings which I would like to share. Before I begin to identify these four stages, I would like to note important and basic skills one should possess in order to attempt to bring about conflict resolution.

At the heart of conflict resolution is the ability to listen with empathy. Active listening skills are imperative. The main reason for this is because no one in a state of conflict is going to listen to you unless you first listen to them. Another very important attribute is self awareness because you need to have an awareness of yourself before you can begin to understand others. Also you need to have the ability to validate the existence of another person, to be able to witness or pay attention to the reality of another person. It is only by doing this that the person in conflict will be able to open up, to consider other ways of seeing their situation. As the saying goes, "Every person is their own universe."
Conflict resolution occurs when two previously isolated universes can come together and interact for mutual gain.

Stage 1. What Is The Conflict?

The two persons are in a state of conflict. Communication has broken down. They come to you for mediation. The first step is to have them each
state to you (not to each other) what the conflict is about. The persons in conflict are not communicating with each other, but they can communicate with you. It is important to listen-listen-listen and validate-validate-validate. Remember that people won't listen to you unless they have been heard first. If a person in conflict keeps repeating himself or herself, then most likely they are telling you that they don't feel they are being heard. At this stage, it is very important to not seek resolution. The important thing to remember during this stage is that you can't resolve a conflict unless you know what the conflict is. You have to give each person time to really let you know what the conflict is to him or her. Your ability to listen is critical as you are modeling for them how to listen to one another. You will feel a definite end when each person feels that he or she has had sufficient time and understanding in describing the conflict. There will be a definite pause.

Stage 2. Talk With Each Other

After each side has been heard by you (Stage 1.), have them turn to face each other and ask them to speak with each other. A good way to get started is to say something like, "I heard you say . . ." and then turn to the other person and ask, "How did you feel about what she/he said?" You have to be rather direct in keeping the parties talking with each other. The tendency is to try to keep talking with you, but you should direct the communication back between the two parties. Encourage them to react to each other's ideas. Try to keep them on track and periodically encourage them to continue. Praise them for any effort they make to communicate. Periodically summarize what they are saying in order to keep the main points going, but always redirect back to them so they continue communicating. At some point, one or both of
the parties will show deep emotions such as anger or fear. Acknowledge their feelings and support them to continue to communicate. During Stage 2, no resolution is sought. It is like Stage 1 except that they are speaking with each other and not you.

The intent is to have them communicate as clearly as possible what the conflict is. Your job is to facilitate communication between the two of them. You will get a sense of when Stage 2 is done because again, like Stage 1, there will be a pause, a silence. Usually this silence or pause means they are reconsidering their positions. If each of them has truly communicated, there will be a change in the perception of each other's position.

Hopefully the conflict has been humanized because of the communication that has taken place. Conflicts can't be resolved unless they are humanized because it is the individual person who experiences the conflict. It is very helpful to summarize at this stage. Take pains to point out the courage that it takes to communicate with a person with whom you are in conflict. Also point out any positive communication that took place, especially noting any demonstration of understanding that might provide the foundation for resolution. You can now proceed to Stage 3.

**Stage 3. Now What Is The Conflict?**

By going through Stages 1 and 2, the conflict has changed. It is very difficult to maintain the same perception of the conflict if communication has taken place. A very important aim of conflict resolution is to humanize the conflict because otherwise the conflict is not resolvable. The parties will remain stuck in their own separate "universes" and no communication will take place. Hopefully, the two parties are now ready to see that they each have a truth, but have to seek a common truth that will encompass both their truths.
The job of the conciliator at this point is to identify those statements or feelings that can provide a basis for the common truth, the resolution. The basic question to be asked is "Now what is the conflict?" You will find that each party will state the conflict in a much different way which should provide the opportunity to suggest ways that the conflict may be resolved.

This stage is full of creative forces that need to be acknowledged and supported in order for the conflict to be resolved. Usually there will be a host of suggestions as to how the conflict can be resolved. The job of the mediator is to synthesize the suggestions into workable, specific actions that both sides can accept.

At this point, some people might want to pull out. They may not want a resolution. They may be uncomfortable in resolving their conflicts or simply feel it is to their detriment that a resolution might be reached at this point. It is important to point out that even if there is no resolution, each party understands why they are in conflict. At least there has been a clarification as to why they are in conflict. The two parties are now ready for the final stage of conflict resolution.

Stage 4. Specific Agreements

The final stage of conflict resolution is to identify very specifically what is to follow in order to facilitate the resolution of the conflict. It is much better if the two parties can be very specific and put in writing (a contract) what they have agreed to do. If necessary, there should be timetables for delineating what is to take place. The conciliator may ask for follow-up visits to check to see if there are some minor adjustments that might be helpful.
NATURAL JUSTICE AND UNIVERSITY APPEAL PROCEDURES FOR STUDENTS

Christine McKee and Maury Stephensen

The University of Manitoba

Universities in the 1980's are being asked to do more with less and to respond to issues like access versus quality and vocational relevance. Internally, they are being forced to adopt more sophisticated and complex management systems and procedures to manage and arbitrate the competing pressures and demands of different constituencies within the University. Growing interest in and emphasis on human rights, and an increasing tendency to question academic and administrative decisions are imposing further pressures on the University. The response has been to develop a framework of new policies and procedures, and a cadre of professional facilitators to deal with conflict when it arises. Formal tenure and promotion procedures, faculty and staff grievance procedures and administrative reviews are an important part of the contemporary University. In the case of students there is a 'cradle to the grave' maze of Senate/faculty/school and departmental regulations which provide guidelines for teacher/student interaction, evaluation, and academic progression. Also, in the case of students, a network has emerged of appeals procedures and hearing tribunals at the departmental, faculty/school and University level, the use of which is facilitated by a brigade of dispute and grievance resolution professionals such as the Dean of Students, the Ombudsman, the Student Advocate and the Sexual Harassment Officer.
Although there is often nostalgia for the old days of informality and collegiality and understandable concern about the complexity of our academic regulations and the adversarial nature of the appeals process, given competing pressures and demands, these developments are necessary tools to ensure fairness, consistency and equity within the University system. It is also important that academic and disciplinary decisions and appeals procedures for students are developed and conducted in accordance with the principles of natural justice and procedural fairness. This article considers how these concepts should be applied to administrative tribunals in Universities which we know as appeals committees. It is intended as a discussion paper based on a selected literature review which reflects the views of the authors. Although it is hoped that the article will be generally helpful in developing policy related to College and University appeal procedures, it should not be seen as a reflection of official policy at the University of Manitoba.

WHAT IS NATURAL JUSTICE?

The first basic requirement of natural justice is that no one is to be condemned unheard (audi alteram partem),\(^1\) otherwise known as the fair hearing rule; and second, that to avoid bias, no one is to be a judge in their own cause (nemo judex in causa sua).\(^2,3\) However, Universities are under more than a moral obligation to provide for natural justice and procedural fairness. In the conduct of appeal hearings, recent case law suggests that Universities may face intervention by the courts, if decisions are made, and appeal hearings conducted, without due regard for the rules of natural justice and procedural fairness.
UNDER WHAT CIRCUMSTANCES MAY A COURT INTERVENE IN A UNIVERSITY DECISION?

No blanket rule exists which determines which types of decisions and hearing proceedings may be subject to judicial review. However, Lewis provides a useful framework for examining the kinds of decisions and processes which are dealt with by University and College appeal tribunals which could be open to judicial challenge if natural justice and procedural fairness are not followed fully, or to a reasonable and appropriate degree. Lewis identifies three broad types of decisions which affect students:

- decisions related to grading, evaluation and requirements for degree granting purposes.
- decisions related to academic ethics such as plagiarism and associated disciplinary sanctions.
- decisions related to the need to regulate the conduct and behavior of members of the University.

Lewis argues that the courts will not normally intervene in decisions involving purely academic assessments, but may undertake procedural review of the appeal process in both academic and disciplinary matters if there has been an undue departure from procedural fairness. Lewis recognizes that in some situations, it may not be appropriate or necessary for the appeal process to include a 'full hearing format', particularly with regard to academic decisions which do not have serious repercussions for the student. The guiding factor appears to be the importance and seriousness of a decision and/or penalty to the future of the student. In referring to disciplinary decisions, Lewis points out that... "Among the factors relevant in deciding an appropriate procedure in disciplinary decisions is the severity of the sanction involved. The graver the consequences, the stronger must be the presumption in favor of more stringent procedural requirements to
safeguard the individual and with correspondingly less importance attached to administrative convenience. Within a university, sanctions may range from expulsion and suspension down to library or parking fines. Obviously a different approach is required when expulsion is in issue rather than fines for overdue books . . ."\(^5\) However, in the interests of fairness, even in more minor situations, wherever possible, a student should have a basic right to be heard before a decision is taken.

**ELEMENTS OF NATURAL JUSTICE AS THEY APPLY TO UNIVERSITY APPEAL COMMITTEES**

Given that most Universities and Colleges have found it appropriate and necessary to develop a network of appeal committees which hear student appeals at the faculty/school and University/College level, what elements of natural justice should we optimally include in appeals procedures? As indicated earlier, natural justice involves the duty to provide a fair hearing, and the duty to avoid bias. Each of these general principles has a number of elements.

1. **THE FAIR HEARING PRINCIPLE**

   a. **Notice**

   There is a duty on the hearing tribunal to ensure that those people affected are given adequate notice of the hearing. This includes notice of the issues to be raised at the hearing and the time and place it is to be held.\(^6\) One Manitoba court has said that . . . "There can be no adjudication between parties without notice of proceedings."\(^7\) The notice only has to be reasonable rather than optimal. "The notice must be reasonable . . . also in the sense that every possible step must be taken to ensure that the party
affected is in fact aware that a decision is to be made on the
particular issue and that (s)he may make representations." This
allows the person to have some idea of the arguments to be presented
against them and will allow them to prepare accordingly. It is also
desirable that wherever possible, these principles are followed for
preliminary hearing situations, e.g., when a Dean is investigating
alleged cheating on an examination but has not yet made a decision.

b. Disclosure of Information

The right to proper notice of hearing is associated with the
right of the appellant to know the issues and the arguments they
have to meet. A second element under the fair hearing principle is
the disclosure of all available information. In other words, the
individual should be given access to all the evidence that is before
the Committee that is relevant to their case.

c. Oral versus Non-Oral Hearing

Under the principles of natural justice, there is not an
absolute right to an oral hearing, there is only the right to be
heard. Again, the level of appeal and the seriousness of the matter
for the student should determine the procedure to be used. At the
University of Manitoba, grade appeals are usually heard on the basis
of written submissions, and some faculties and schools use this
approach at the next level for academic appeals. However, oral
hearings are used at the final level of appeal for Senate Appeals
Committees and the University Discipline Committee. Oral hearings
provide a more flexible format for ensuring that all aspects of a
situation are taken into account. Also, oral hearings ensure than
an individual has an adequate chance to present their arguments and respond to arguments presented against them. In more serious situations, it may be desirable that the calling of witnesses and cross-examination be allowed.

d. **Right to Legal Counsel**

As with oral hearings, there is no absolute right to legal counsel under the rules of natural justice. Like other rights under the fair hearing principle, it depends on the circumstances of the case. Some court cases suggest that if a charge is serious enough, and its consequences might affect an individual's livelihood, tribunals should provide the right to legal counsel. At the University of Manitoba, appellants may use legal counsel at all senior levels of appeal and certain faculty procedures (e.g., the Faculty of Graduate Studies provide for counsel to appear at academic panels). Under the present University of Manitoba Student Discipline By-Law, counsel can be used for representation at the University Discipline Committee level but not at a Local Discipline Committee, although provision is made for counsel to attend as an observer in the latter situation. Notwithstanding these arrangements, it is an important principle that the student gets appropriate help to prepare and present their arguments at all levels of appeal. Under our system, this help can be provided by the Ombudsman, the Student Advocate, the Vice President of U.M.S.U. or another representative of the student's choice.
e. Cross-Examination

Although the right to cross-examine opposing evidence is a fundamental part of our court system, the right is not so deeply entrenched for administrative tribunals. However, there may be instances where it would be unfair not to allow cross-examination. As with the right to an oral hearing, the final judgment seems to be left up to the tribunal themselves.\textsuperscript{11} However, if cross-examination would serve a necessary and useful purpose, and if it seems to be the only way a person can properly respond to evidence brought against them, then it should be allowed.\textsuperscript{12}

f. The Right to Reasons for a Decision

Although common sense would suggest that a right to the reasons for a decision should be part of the rules of natural justice, such is not the case. At present, no general duty falls upon an administrative board exercising any type of function (quasi-judicial or administrative) to provide reasons to an individual as to why the board reached the decision it did.\textsuperscript{13} One writer has even gone so far as to suggest that the lack of such a duty is the most important flaw in the procedural fairness doctrine.\textsuperscript{14}

2. THE RULE AGAINST BIAS

The second main principle of natural justice and procedural fairness is the rule against bias. This rule is properly considered one of the most fundamental elements of natural justice and the least flexible. "It is not uncommon to see statements in the literature to the effect that 'nemo judex' is an absolute rule, not to be tampered with in any way.
Unlike the other elements of natural justice, this rule cannot be shaped by administrative convenience."\(^{15}\)

a. **Personal Bias**

The general rule on personal bias often relates to situations where a decision maker or member of an administrative tribunal has a financial interest in the outcome of a hearing. Financial interest would obviously disqualify, but what if a person has some other personal interest in a decision or outcome of a case? Participants in administrative tribunals may be disqualified if a 'reasonable apprehension of bias' exists. In a University situation, this might include previous negative dealings with an appellant or being involved earlier, directly or indirectly, in the decision being appealed. At higher levels of appeal at the University of Manitoba, members of appeal committees from the same department or faculty/school, or who have a conflict of interest, may be disqualified from sitting on a University Appeal Committee.

b. **Institutional Bias**

Institutional bias is said to exist where the decision maker is not necessarily interested in the outcome personally, but rather his or her institution has an interest in seeing a certain outcome come about.\(^{16}\) This can be particularly relevant to institutions like universities that have a multi-level appeal process and cross-membership can be the norm, rather than the exception.\(^{17}\) As with personal bias, it is subject to the test against bias.
c. **Test Against Bias**

The test to determine whether bias exists or not has been fairly settled in Canada, but not before it took several decades to develop in Britain. Since the turn of the century, the question has been whether the standard for the bias test should be 'a reasonable apprehension of bias' or a 'real likelihood of bias' (the latter test being the more difficult to prove of the two).\(^\text{18}\) A secondary issue was from whose perspective should the test be viewed (i.e., from the view of the tribunal, from the person before the board, from the view of a reasonable man, etc.). This issue was settled when the courts adopted the reasonable man standard.

Eventually, Canadian courts have adopted the position that an objective person must have a reasonable apprehension of bias. If such an apprehension is found to exist, then the rule against bias has been breached.

d. **Exceptions to the Bias Rule**

One exception to the rule against bias is necessity.\(^\text{19}\) If the decision maker is the only person capable of resolving the dispute, then the rule against bias will be waived. Similarly, the rule will be ignored if there is statutory authority allowing a certain board member to be present for hearings, etc. As has been mentioned earlier, some of our legislation at the University of Manitoba specifically excludes participants in an appeal hearing where the possibility of bias exists. The general principle of avoiding bias is one that should guide recruitment and appointment to appeal committees.
EXHAUSTION OF REMEDIES

Finally, the requirement of exhausting all of one's remedies (appeal alternatives) as a prerequisite to judicial review is an important question. Related to this is the question of whether a breach of natural justice at a lower level can be compensated for by a properly conducted appeal hearing at a higher level. Harelkin v. University of Regina is the guiding case.²⁰ Although Harelkin could probably arguably be restricted just to its own facts, it has come to stand for the wider principle that a breach of natural justice does not in itself allow an individual to apply to the court to have the administrative board's decision quashed.²¹ That is, of course, assuming that an adequate right of appeal exists. The only exceptions to the rule seem to be if the right of appeal isn't adequate (i.e., the appeal board also breaches some rule of natural justice) or if 'special circumstances' exist. Such special circumstances would include things like situations of "... great urgency and flagrant injustice, including corruption or bias."²² Harelkin, among other authorities, also tells us that a properly conducted appeal hearing can compensate for a defect in natural justice at an original level of administrative hearing. The concept of 'exhaustion of remedies' seems to be the accepted position as a result. A student would therefore normally be required to exhaust internal appeal remedies before judicial review would be used.

WHAT ARE THE IMPLICATIONS OF THE PRINCIPLES OF NATURAL JUSTICE FOR STUDENT APPEALS TRIBUNALS IN UNIVERSITIES?

This article has indicated that there are two main elements to natural justice, the right to be heard (audi alteram partem) and the need to avoid bias (nemo judex in causa sua). Although the case law related to
administrative tribunals in general and University appeal mechanisms in particular is sometimes contradictory and does not provide definitive guidelines for shaping University appeal mechanisms, certain directions are implied, to ensure procedural fairness and minimize the possibility of judicial review. Some conclusions are outlined below:

1. Wherever possible, students should have an opportunity to present their side of an issue both before a decision is taken and if they decide to appeal to a hearing tribunal.

2. Although there is no absolute obligation to provide an oral hearing, rather than using written submissions from both sides, the graver and more important the consequences of a decision for the student, and at final levels of appeal, the more desirable it is that the student be allowed to present their case orally and with appropriate representation.

3. Whether appeals are decided on the basis of written submissions or an oral hearing, the appellant has the right to expect reasonable notice of a hearing to allow them to prepare accordingly. Also, the appellant should be given access to evidence that is before the tribunal that is relevant to their case.

4. At final levels of appeal, where an oral hearing is used, hearing procedures should allow the appellant to fully present their case and respond to evidence brought against them. This may involve appropriate representation, the calling of witnesses and allowing cross-examination or some form of modified cross-examination, particularly where the outcome of an appeal will have serious consequences for the student.

5. Wherever possible, any real or perceived conflict of interest or bias should be avoided when appeal committees are selected or convened.
6. Finally, it is desirable that appeal committees have written procedures which outline arrangements for the student's right to be heard (such as the right to speak at an Appeal Committee); which deal with the problem of real or perceived bias; and which outline the rules of procedure for the conduct of an Appeal Committee Hearing.
FOOTNOTES


2. Yardley, p. 87.


5. Lewis, p. 324.


8. Pul, p. 95.


14. Craig, p. 278.

15. Pul, p. 119.


17. Lewis, p. 331.


20. 1979 96 DLR 3d 14 (SCC).

RESPONDING TO STUDENTS WITH MENTAL DISORDERS

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I. Many educators are increasingly concerned about the appropriate response of the academic community to suicidal students, and to students who appear to be suffering from a mental disorder. Too often, that response entails the mandatory "psychiatric" withdrawal of students pursuant to broadly worded policies which provide for little or no procedural due process, and which reflect insufficient attention to the requirements of Section 504 of the Rehabilitation Act of 1973. While it is possible to draft psychiatric withdrawal policies which may avoid these difficulties, campus administrators should be alerted to the danger of misusing any psychiatric withdrawal policy in an effort to remove students who are simply perceived as "troublesome" or eccentric. Furthermore, in instances when apparent violations of student conduct regulations have occurred, the frequent resort to psychiatric withdrawals will deny to students and to the campus as a whole the important benefits and protection associated with formal disciplinary action.

A. Substantive Due Process

1. Some campuses have chosen to adopt psychiatric withdrawal policies which could serve as unintended parodies of student conduct regulations at the turn of the century. Students are "withdrawn" because their "state of mind" so "recommends" or because their "mental health" renders them "undesirable."
2. Broadly worded psychiatric withdrawal policies at public schools may be unconstitutionally vague. See Shamloo v. Mississippi State Board of Trustees 620 F. 2d 516 (CA 5, 1980) (campus regulation authorizing only "wholesome" demonstrations invalidated; the court observed that "[t]he regulation must not be designed so that people of common intelligence must guess at its meaning and differ as to its application.")

3. The use of "medical" language will not be a panacea. See Burger, C.J., concurring in O'Connor v. Donaldson 422 U.S. 563, 586 (1975): "[w]here claims that the state is acting in the best interests of an individual are said to justify reduced procedural and substantive safeguards, this court's decisions require that they be 'candidly appraised.'"

B. Procedural Due Process

1. A common characteristic of many psychiatric withdrawal policies is the almost complete absence of procedural safeguards for students.

2. The Department of Health and Human Services regulations require most recipient institutions to adopt grievance procedures with "appropriate" due process standards. See 45 C.F.R. 84.71 (b).

3. At public schools, the imposition of a stigma associated with a finding of mental or emotional illness may constitute deprivation of a protected "liberty" interest, thereby requiring some due process protection. See Lombard v. Board of Education for the City of New York 502 F. 2d 631 (CA 2, 1974):
Plaintiff was deprived of his reputation as a person who was presumably free from mental disorder. Without his being given the right to confront witnesses, the termination of his probationary employment was recommended by the Committee of the Superintendent on the primary ground: 'Illogical and disoriented conversation, causing request for examination by the Medical Department, which found him unfit for duty.' This is not only a finding but a stigma. If it is insupportable in fact, it does grievous harm to appellant's chances for further employment, as indeed the record demonstrates, and not only in the teaching field. For that reason he was entitled to a full hearing.

4. Bishop v. Wood 426 U.S. 341 (1976) may not be applicable in this context, since the mental illness stigma may be so intrinsically damaging and dehumanizing as to require at least some procedural protection, regardless of whether or not the stigma is made public.


[the question whether an individual is mentally ill... 'turns on the meaning of the facts which must be interpreted by expert psychiatrists and psychologists....' The medical nature of the inquiry, however, does not justify dispensing with due process requirements. It is precisely 'the subtleties and nuances of psychiatric diagnoses' that justify the requirement of adversary hearings [citations omitted].
C. **Section 504**

1. Department of Health and Human Services regulations issued pursuant to Section 504 have defined the statutory words "physical or mental impairment" to include "any mental or psychological disorder" such as "emotional or mental illness." Drug addiction and alcoholism are included. 45 C.F.R. 84.3 (j) (2) (i) (B).

2. Section 504 has not been construed to mean that a college or university must ignore or excuse the behavioral manifestations resulting from a student's mental disorder. See 43 U.S. Atty. Gen. Opinion No. 12 (1977) and 45 C.F.R. 84 App. A, at p. 353. See also Doe v. New York University 666 F. 2d 761 (CA 2, 1981) ("if the handicap could reasonably be reviewed as posing a substantial risk that the applicant would be unable to meet [the institution's] reasonable standards, the institution is not obligated by the Act to alter, dilute or bend them....")

3. It would not be permissible, however, to exclude a student on "psychiatric" grounds:
   
a) simply because the student was suffering from a mental disorder, or had a mental disorder in the past, or

b) because it was assumed, without sufficient supporting evidence, that a student suffering from a particular mental disorder would be unable to meet reasonable institutional standards, or

c) because, out of paternalistic concern, it is hoped that a student suffering from a mental disorder (who,
nonetheless, continues to meet reasonable academic or conduct standards) will obtain treatment elsewhere. See generally, *Pushkin v. Regents of the University of Colorado* 658 F. 2d 1372 (CA 10, 1981) (reasons for excluding handicapped candidate rested upon "incorrect assumptions" derived from "psychologic theory.")

4. Basically, in order to exclude a student on psychiatric grounds, it would be prudent for a recipient institution of higher education to conduct a careful inquiry into whether or not the student had engaged in some demonstrable behavior which indicates that he or she can "reasonably" be viewed as posing a "substantial risk" of being unable to meet "reasonable [institutional] standards." *Doe*, supra.

II. Policy Considerations

A. The Limitations of Psychiatric Evaluation

1. Most psychiatric withdrawal policies have been designed to remove students experiencing "emotional problems" who might "represent a threat to themselves or to others." The notion that psychiatrists and psychologists are somehow able to predict violent behavior (especially in the absence of a verbalized threat or a pattern of violence in the past) is not supported by the professional literature. For example, in 1978, an American Psychological Association Task Force reported that "the validity of psychological predictions of dangerous behavior....is extremely poor, so poor that one could oppose
their use on the strictly empirical grounds that psychologists are not professionally competent to make such judgments."

2. It is questionable whether or not mental health professionals can form any kind of a scientifically valid conclusion based upon the brief evaluative interview required in many psychiatric withdrawal polices. Karl Menninger has been especially critical of the legal profession for its expectations in this regard:


most lawyers have no conception of the meaning or methods of psychiatric case study and diagnosis. They seem to think that psychiatrists can take a quick look at a suspect . . . and thereupon be able to say, definitely, that the awful 'it' . . . the loathsome affliction of 'insanity' . . . is present or absent. Because we all like to please, some timid psychiatrists fall in with this fallacy of the lawyers and go through these preposterous antics. (Menninger cited in Murphy, Punishment and Rehabilitation 137-38 [1973]).

3. The unwillingness of psychiatrists and psychologists to recognize the limits of their expertise increases the chances that mandatory psychiatric withdrawal policies may be misused by mental health professionals to impose their own social or moral values on the campus. See, generally, Gross, The Psychological Society; Kittrie, The Right to be Different; and Ennis and Litwack, Psychiatry and the Presumption of Expertise: Flipping Coins in the Courtroom 62 Calif. L. Rev. 693 (1974).
4. Psychiatry and psychology appear to be more akin to an art than a science. Such an "art" is best practiced in the context of individual therapy on a voluntary basis.

5. In extraordinary situations, campus administrators may have no alternative but to rely upon the diagnoses of psychologists and psychiatrists. Such reliance, however, should not be based upon unrealistic expectations of the current capabilities of those professions, and must always be tempered by an awareness of the damaging stigma associated with a finding of mental illness.

B. The Benefits of Discipline

1. The psychiatric withdrawal of a student, based solely upon a finding that the student was suffering from a mental disorder, would be precluded by Section 504 of the Rehabilitation Act of 1973. Accordingly, the focus of inquiry in any psychiatric withdrawal proceeding must be upon specific, usually prohibited, behavior which indicates that the student poses a physical threat to self or others, or is otherwise unable to meet reasonable institutional standards. With very few exceptions, these are precisely the forms of behavior which campus disciplinary systems should be designed to address.

2. Perhaps the greatest benefit associated with the imposition of discipline on campus is that the language used to define prohibited conduct can be relied upon to affirm a shared set of behavioral standards. One critical difference, for example,
between a disciplinary suspension and a psychiatric withdrawal is that the latter is based upon hidden value judgments disguised by "medical" language.

3. Another benefit associated with the disciplinary process on campus is that school officials can properly impose sanctions for reasons of deterrence and retribution. Punishment imposed for those reasons focuses upon the community and the individual; it is designed to redress the unfair advantage which the individual acquired over those who "restrained themselves" and adhered to established behavioral standards; it "teaches" the individual that self control is a necessary part of living within a viable community; above all, it encourages students to regard themselves as being responsible for their actions. The affirmation of personal responsibility is a critically important component of "personhood" which is denied to those students withdrawn on psychiatric grounds. Indeed, under the pretense of devising a humane procedure, campus administrators may "dehumanize" such students by asserting that they lack the capacity to be held morally accountable for their actions.

4. Students who are accused of disciplinary violations may be able to engage in substantive discussions with decision makers about the underlying wisdom or fairness of a university regulation. Students withdrawn on psychiatric grounds are not usually accorded such an opportunity, since psychiatric diagnosis locates the sources of aberration within the individual and
encourages administrators to focus exclusively on student "pathology." Likewise, students subject to disciplinary sanctions can compare the nature of the infraction for which they were held responsible with the punishment which was imposed. It is therefore possible to make an appeal to justice or fairness in seeking to modify the result. Students withdrawn on psychiatric grounds, however, are told that the action is taken to "help" them and to insure that they obtain longer term "therapy." Appeals to "justice" appear to make no sense in such a "medical" context, even though the result may be comparable to a disciplinary suspension or expulsion.

C. Appropriate Uses of a Psychiatric Withdrawal Policy

1. A student suffering from a mental disorder who did not violate the institution's reasonable standards of conduct might be referred to some sort of counseling or therapy, but should not be withdrawn on psychiatric grounds. Even though the student might ultimately be dismissed for academic deficiencies, the stigma associated with such a dismissal is far less damaging than that which would result from a mandatory psychiatric withdrawal.

2. The practical problem on most campuses, however, is not the passive student in need of psychiatric treatment. Instead, what seems to be of most concern to administrators is the student who is apparently suffering from a mental disorder, and who engages in behavior which significantly disrupts the
academic process, or which threatens the physical safety of others. As suggested in the preceding section, colleges and universities should rely upon a properly drafted disciplinary code in order to protect the campus community. In some cases, however, it would be unjust to subject a student to disciplinary sanctions, even though the student had engaged in prohibited behavior. For example, a student who was suffering from a mental disorder, and, as a result of that mental disorder, thought he was squeezing lemons while he choked his roommate should not be held fully accountable for his actions. Instead, campus officials would want to rely upon an equitable psychiatric withdrawal policy rather than a disciplinary suspension or expulsion.

3. Any decision to rely upon a psychiatric withdrawal policy in lieu of disciplinary action should be guided by some articulated standard. Given the various benefits associated with the imposition of discipline, such a standard should be very narrowly defined. Essentially, a student suffering from a mental disorder who is accused of a disciplinary violation should not be diverted from the disciplinary process unless the student, as the result of the mental disorder, a) lacks the capacity to respond to the charges against him, or b) did not know the nature and quality of the act in question.
4. Another appropriate use for a mandatory psychiatric withdrawal policy might be to remove suicidal students from campus. It would be unwise, however, to adopt a policy which required the automatic removal of all students who threatened to harm themselves. A primary cause of suicide appears to be social isolation. Educators should be willing to make a reasonable effort to counsel students in these circumstances, rather than simply withdrawing them from school on psychiatric grounds. See Benard and Benard, "Institutional Responses to the Suicidal Student: Ethical and Legal Considerations" 21 Journal of College Student Personnel 109 (March 1980).

5. It may not always be possible for school administrators to render ongoing assistance to a suicidal student in every case, especially if the student has made a serious suicide attempt and is suffering from a mental disorder which might be exacerbated in the academic environment. Such a student would be likely to continue to engage in self-destructive behavior and could, eventually, contribute to a climate on campus which might encourage suicidal behavior in others. There would be no alternative under these circumstances but to withdraw the student, unless some sort of voluntary leave of absence could be arranged.
6. If a suicidal student is withdrawn from school for psychiatric reasons, it will be imperative to make some reasonable effort to refer the student for psychiatric care or to arrange for an involuntary commitment at a state facility. Those campus officials who would be quick to withdraw a student on the ground that the institution might otherwise be liable for failing to prevent the student's suicide should understand that their legal risks are substantially greater if they simply "dump" students in the larger community. See generally, Bogust v. Iverson 102 N.W. 2d. 228 (Wisc. 1960); Note, "Torts-Liability for Suicide" Wisconsin Law Review Vol 1961 p. 517 (May 1961); and Note, "Civil Liability for Causing or Failing to Prevent Suicide" 12 Loyola of Los Angeles Law Review 967 (1979).
CONCLUSION

It would not be administratively sound or legally sufficient to use vague and ambiguous language (e.g., "disturbed", "behavior of concern to others", "abnormal") to remove a student from a college or university. Instead, if "medical" language must be used, it is best to use words capable of at least some professionally accepted meaning, such as the term "mental disorder", used in the current American Psychiatric Association diagnostic manual.

Furthermore, good administrative practice and (at public institutions) current constitutional standards, require some minimal due process protection before students can be removed on psychiatric grounds. Removal on the basis of a mental disorder alone, however, would be precluded by Section 504 of the Rehabilitation Act of 1973, even with sufficient procedural due process.

Consequently, the focus of inquiry must be upon specific, usually prohibited, behavior. It is recommended, on policy grounds, to rely upon the disciplinary process in response to incidents of such prohibited behavior, unless the student lacks the capacity to respond to the charges against him, or did not know the nature and quality of the act in question. Furthermore, in cases of threatened or attempted suicide, an initial effort should be made to allow the affected student to remain on campus. If the student is to be withdrawn, school officials should refer the student to an appropriate facility for psychiatric observation and evaluation.
1. Suggested due process procedures are outlined in the *Journal of College and University Law* article.

* Gary Pavela, the author, has prepared an article on this subject which has been published in *Journal of College and University Law* 101 (1982-83).
THE CORPORATE OMBUDSMAN: AN OVERVIEW AND ANALYSIS

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

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

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

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

**Is a Corporate Ombudsman Really a Neutral?**

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

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

Practitioners tend to talk about these matters in company-specific terms, such as: "I am an advocate for fair process, not for any specific person or position."
"I am impartial and neutral up to the point that I find a law or company policy being flouted."

"My company believes the long-range interests of the company lie with anyone who has been unfairly treated. If two people have each treated the other unfairly, the company may have an interest on both sides."

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

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

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

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

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

Confidentiality

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

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

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

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

One purpose of an ombudsman is clearly to foster and support fair and proper communications and processes. But, typically, the major purpose is to help with a very wide variety of problems and inquiries and concerns at work, in whatever ways are perceived as helpful by the employer and by the managers and employees of the company. For example, one ombudsman has two formal charges:

1. To help every individual manager and employee who comes in, as well as possible; and,

2. To get needed information back to line managers (in ways consonant with the privacy and confidentiality of clients) so that the managers will be more effective.

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

- **Dealing With Feelings**

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

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

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

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

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

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

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

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

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

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

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

- **Shuttle Diplomacy**

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

- **Mediation**

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

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

- **Adjudication or Arbitration**

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

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

- **Upward Feedback**

  Possibly the most important function of the ombudsman is to receive, perhaps analyze, then pass along information that will foster timely change in a company. Where policies are outdated or unintelligible, or new problems have arisen, or a new diversity appears in the employee pool, an ombudsman may be a low-key, steady-state change agent at very low cost to the employer.
This function also provides a mechanism for dealing with some very
difficult confidentiality problems. An ombudsman can, for example,
suggest that a department head instigate an apparently "routine,"
department-wide discussion about safety or harassment or waste-
management or theft, in response to an individual concern, at no cost to
anyone's privacy or rights, in such a way as to eliminate an individual
problem (if not necessarily the perpetrator).

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

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

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

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

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

Moreover, most ombuds practitioners avoid any appearance of substantive decision-making, work hard to get line managers the data they need to manage better, and place great emphasis on the protection of everyone's privacy, including that of line managers. The typical ombudsman wants line managers to get the credit for any constructive changes that occur -- and never, or almost never, uses the name of the boss to get something to happen. The role of the practitioner is support rather than competition. In addition, most ombuds practitioners take on themselves full responsibility for getting along with other managers, in the spirit of commitment to the employer and to the team.
It is quite common to find that the ombudsman conforms his or her working style considerably to the style of other senior managers. Thus, if a department head says, "Fix anything you can; the more time you save for me the better!" , the ombudsman may scarcely see that department head, and will problem-solve at the lowest possible level. If a department head says, "Look, let me know if you can, when you're on my turf!" , the ombudsman is more likely to seek permission to do just that. To the employee in that area, the ombudsman may say, "Look, how do you feel if you or I let Sandy McHierarch know about this problem? You know old Mac really cares about knowing what's going on; would it make sense to touch base with Mac?"

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

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

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

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

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

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

- because it is seen as neutral;
- because someone they once knew did not trust the Employee Relations (or Personnel) office;
- because they do not like the specific Employee Relations or Personnel officer assigned to them, or think "their supervisor eats lunch with that person;"
because they do not want the this problem in their (real or imaginary) personnel file;

- because some Employee Relations offices increasingly handle administrative matters like benefits, rather than listening to people;
- because the concerned person has no idea where to go or hates formal grievance procedures.
- because the problem is seen as bizarre or embarrassing or shameful;
- because there is a hidden agenda (for example, to seek referral to a counsellor or clergy), and they would rather get there via an ombudsman;
- because the ombudsman is seen as close to the CEO and they want to take an ethical or whistleblowing problem up higher. Ombuds practitioners who come out of Employee Assistance often note that the problems brought to the ombuds office are more directly work-related, including for example, safety and ethics issues, and require detailed knowledge of the individual company.

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

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

- the office more than pays for itself -- it is cost-effective;
the rights and responsibilities of employees and of the company; are well-supported by such an office;

- it is humane and caring human resource policy to have such an office.

It should be noted that a number of companies with an in-house Employee Assistance program have decided to locate the Employee Assistance and ombuds offices in the same place. This is especially true where both functions are available to managers and employees via an 800 telephone line, as well as in person. It may also be noted that this "Who needs it?" question parallels an older, similar question as to why one wants any Human Resource Department also might lodge with line supervision. The practical answer to that question is, of course, that many line supervisors are promoted for technical skills, and that many do not have all the human resource management skills needed by the company. In addition, most employers wish to provide an option for managers and employees who want advice and data they do not get from line supervisors.

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

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

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What Kinds of Problems Does an Ombudsman Handle?

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

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

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

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

How Effective Are Ombuds Offices?

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

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

- **Client Use**

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

  Several ombuds practitioners have attempted to estimate what proportion of their clients are "satisfied." Their estimates of the "satisfied" range from 50 to 90 percent. One practitioner reckoned in
his first year that 55 percent of his visitors received positive help, and another 30 percent expressed appreciation, although no substantive change occurred in the situation they reported. Another practitioner also estimates that 10 - 20 percent of her caseload feels that "nothing much was done," with about 50 - 60 percent receiving at least some immediate improvement with the problems reported. A number of practitioners have reported that they receive unusually favorable ratings in routine employee attitude surveys.

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

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

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

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

Cost Savings

Most practitioners have many examples of cost-savings attributable to their offices. Typical examples include: keeping very valuable employees who would otherwise have left; averting expensive litigation or damaging publicity; preventing or averting theft or sabotage; timely apprehension of unsafe or unethical practices; timely intervention in cases of bizarre or psychotic behavior; introduction of cost-saving or damage-prevention or morale-enhancing suggestions from employees.
In addition, practitioners hypothesize some reductions in absenteeism, sick and disability leave, and turnover, as a result of their work. And many practitioners believe their work enhances the productivity of others, especially if some particularly good idea is adopted by a line manager.

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

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

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

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

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

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

An ombudsman typically has no particular need to rush off to act in the face of a harrowing tale, and in fact finds a sense of accomplishment in helping other people help themselves. Nevertheless, the successful practitioner is capable of recognizing an emergency and prepared, if necessary, to take decisive, swift action. Most practitioners are very curious about other people and about management dilemmas, but seem to have a low need for power and public accolade; many in fact are somewhat shy.
The effective ombudsman appears comfortable as a neutral, and relatively comfortable with paradox, and may be known for not leaping quickly to conclusions. The practitioner is likely to be very sensitive to "data," to be somewhat analytic, and to be interested in problem solving and in puzzles for their own sake. Most are very independent people, who can either deal peacefully with high emotion from others, or who quickly learn how to give that impression. Most also are -- or become -- very circumspect at work, avoiding major social issues (like abortion or politics) where responsible people do not agree with each other.

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

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

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

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

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

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

Ombudsmanry is a relatively old concept. People who served this kind of function appeared in rabbinical courts, as court jesters, as troubleshooters, etc., over the ages. The first classic ombudsman appeared in Sweden at the beginning of the 19th century. Classical ombuds offices now appear in many countries.

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

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

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

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

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

APPENDIX ONE

ELEMENTS OF DUE PROCESS

(As commonly recognized in the United States)

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

II. Due process seen as "that which is due" under the circumstances.

Sometimes people use the term loosely to mean just "the process that I deserve," whether as a matter of law, company policy, or just as a matter of what an individual perceives as "fair."

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

APPENDIX TWO

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

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

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

- be seen to produce some change in the treatment of individuals and with respect to policies and procedures and structures in the organization.

* "Redundant" here is used in the engineering sense of fail-safe, back-up, checks and balances.
NOTES ON OPTIONS FOR COMPLAINT-HANDLERS

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A. Plan and Prepare

- Determine whose interests are at stake and what those interests are;
- Determine "Who owns this question?" ... (who is responsible for this subject or problem? ... who in management would think they have a right over this subject? ... what about the original source of the complaint ... does that person feel he or she "owns" the complaint or ought to be able to do so?);
- Seek advice, making certain that you have permission to do so;*
  (check for precedents, etc.);
- Gather any facts that are cost-effective (and ethical) to gather at any given time; (depending on the situation, this might be done by you or for you or for someone else);
- Note all the constructive and unconstructive options open to each actor . . . (this will lead you to doing an analysis of the sources of power for each of the actors, and the potential sources of power for each**); . . . be sure that you have thought through the covert, (acting out) options open to each actor;
- Estimate your time constraints, . . . (is this an emergency? Should you give an offended person a little time to get in touch with feelings?);
- Brainstorm again if you can . . . feelings, interests, positions, options; policies and principles that should obtain;
- Make notes . . . figure out a time perspective, and a plan for follow-up, (this is ESSENTIAL in harassment, safety and ethics cases).

B. General Principles

- Help your complainant to pick an option, or, yourself, pick an option that you really think will work; one wants to avoid half-hearted measures and escalation, so plan to expend 101% of the effort that will be required actually to resolve this question;

- Other things being equal, choose a method that resolves the problem at the lowest possible level; ("delegate" as much complaint-handling as you effectively can . . . empowering others is probably efficient for you).

C. Choose an Option, or if Possible, Help Your Complainant Choose an Option

1. Helping People Help Themselves:
   a. How to do it:
      - Consider all the other options first, and again before any action is taken; be sure that if this option is chosen, that the complainant knows other options exist and has freely chosen this one; this is ESSENTIAL for harassment, safety and ethics complaints, so you may wish to make a written note of this process;
      - Explore facts and feelings with the complainant . . . take enough time!;
      - Explore with the complainant, what O (the Other) would or will think, say, do and feel; (you may wish to role-play . . . "I'll be you; you be O" . . .).
- Consider re-reading How to Write a Letter to an Offender;
- Encourage your complainant to draft a letter to O, writing several drafts if necessary, with facts, feelings, and recommendations in separate sections;
- Help your complainant choose an option for handling the complaint. If the option is to be that the offended person will handle the problem directly, help the person to choose whether to handle the problem in person or on paper, (or both, thus delivering the letter in person). The writer should keep a copy of a letter, if any, but does not usually send open or covert photocopies to anyone;
- Prepare for all logical outcomes on the part of the alleged offender, so the complainant will not be surprised by the outcome, whatever it is;
- Follow-up with the complainant; this is ESSENTIAL with harassment, safety and ethics complaints.

b. Why to choose this option:
- The complainant wants this option;
- This may prevent mistakes based on insufficient data and/or different perceptions of the facts; it makes it much more likely that the complainant will learn what should be learned about the facts and O's perceptions of the facts;
- This may help when it is impossible or too expensive for the complainant or the employer to get all the facts;
- This may help to teach offended people a method for dealing with problems and offenses; (teaching a method for dealing with
problems, rather than just solving the specific problem, appears to make it less likely that the complainant will be offended in the future, and helps such a person to learn in general to deal directly with problems); . . . in some cases, this option gives the offended person more of a stake in the success of the employer, with fewer fantasies about how things work and a better understanding of people;

- Delegating complaint-handling makes a more efficient enterprise, (as with any other effective delegation of responsibility);

- Handling the problem directly appears to some people more moral or more fair;

- This helps to support peoples' control over their own complaints; (for many people, handling a problem directly, if it is effective, may be a preferred process, whatever the substance of the complaint);

- This option helps to preserve the privacy of all; this option helps to protect the other rights of O;

- In most cases handling a problem directly is less likely to provoke attempts at retaliation, since retaliation is often provoked by intervention by a third party; (dealing directly does not "rock the boat" and is often preferred by O);

- This option is likely to take much less time and cost much less;
- This option is sometimes better in terms of timing and other psychological variables, due to the complainant's superior knowledge of the situation;

- This option permits a wide variety of "next steps," if this step does not work, and if more action is desired;

- This option provides more leverage to management, if management action is needed later on, because of the evidence provided by a complainant's letter, or by the complainant's direct attempt to get the situation resolved;

- Direct action by a complainant is the most effective option, in terms of stopping offensive behavior, where there is little evidence for the offense beyond the complainant's own statements.

c. Caveats:

- This option has only limited goals; there is not likely to be much system change, or consciousness-raising of others from the use of this option, unless the option becomes widely known and used in the company;

- Follow-up is essential;

- "Justice" may or may not be served;

- There are no central records in the case of repeat offenders; (one is opting for errors of omission . . . too little being done . . . rather than errors of commission . . . too much being done).
2. Shuttle Diplomacy and Mediation:

a. How to do it:

- Consider all other options, with your complainant and by yourself; be sure that you have permission to talk with everyone with whom you will need to talk.*

- Seek advice, from counsel, EO, ER, mentors, superiors, etc.; consider rereading Christopher Moore's *Mediation Process*;

- Consider how and when to enter. Can you enhance your credibility? Is there trust and rapport? Is there anyway you can build trust? Think about timing and place, etc. Is there an understanding of third-party intervention of this type? What are each party's expectations of you?;

- Investigate painlessly if you can. Are there records? Will the parties have data they can prepare for you? (The parties are to come at least in part to their own settlement, in this mode, but you will be better off with as much data as you can get);

- Prepare and plan for all logical outcomes . . . beginning with the standard analysis of feelings, interests, positions, options, policies and principles that may or should obtain;

- Choose a mode for how you will enter, remembering that within hierarchies shuttle diplomacy works better, for most people, than does mediation. (See also point "c", below.) If mediation appears to be a good choice, then consider using shuttle diplomacy first, to prepare people for the mediation.
- Follow the basic steps: prevent emotional withdrawal if possible; protect and support conciliatory feelings if possible; seek out all the interests again and deal with the positions that come up; brainstorm if possible . . . expand the pie if you can . . . wait for their solution if it will come; then help narrow the issues; help in assessing and choosing an option; come to a conclusion; state the conclusion; write the settlement if appropriate;
- Follow up if appropriate.

b. Why to choose this option:
- The parties want this option; you have been asked to conciliate or mediate;
- You feel comfortable with this option and you know you are good at it;
- This kind of complaint-handling is consistent with your employer's "culture"; the norms support each side giving a little; the norms support cooperation;
- The timing seems right; they have tried to settle this themselves unsuccessfully, but they are not yet hopelessly polarized;
- You believe that you will be able to problem-solve, to help them come to their own solution, to help them exchange information and perceptions, to build trust;
- The parties are very inter-dependent; this is not a win-lose situation;
- The parties each have weak BATNAs; there is reasonably equal power in the situation;
- You have a high investment in a good outcome for each person involved;
- The right people are actually available to deal with;
- Because most people . . . perhaps 90% . . . much prefer conciliation and mediation to adjudication, and will be far more satisfied with the process, (and therefore, quite possibly, with the outcome).

c. Why to choose shuttle diplomacy rather than mediation:
- This is the option that the parties want, or that one person wants, or that you prefer;
- Trust is a major problem;
- "Face" is a major problem;
- Privacy is a major problem;
- This is the best way to get the data that are needed;
- A single text option is going to work best with these people;
- This option is more convenient;
- This is the only way to substitute for someone that is not there;
- This is the only way to deal with the situation that you cannot discuss all the relevant data with one person or the other.

d. Caveats:
- Do not use mediation where what you really intend is to lay down the law or otherwise adjudicate, or arbitrate; (people will quickly come to distrust you if they were brought together
to find (or to help to find) their own solution and you provide the solution;

- Do not use mediation as a tool for formal investigation or where you believe that you might learn facts that will force you to adjudicate;

- "Justice" may or may not be served;

- Mediation may or may not provide good "precedents".

3. Investigation and Adjudication or Arbitration

a. How to do it:

- Consider all other options; be sure that you have permission to use the information that you have or will have, except in the unusual circumstance that there must be a truly clandestine investigation;*

- Under ordinary circumstances you should not take adverse administrative action against an employee without a fair process beforehand; (emergencies may be a different matter, but consider carefully whether a fair process can obtain, before you fail to initiate such a process);

- Seek advice, from counsel, EO, ER, mentor, superior, etc.;

- Consider who should be the investigator(s); (for example, to insulate the decision-maker from any bias or perception of bias, or from backlash); to provide special, perhaps technical, expertise at fact-finding, one may wish a separate finder of fact;

- Consider what should be the charge to the fact-finder, and what should be the limits or scope of the investigation;
- Consider whether the investigation should be formal or informal, and whether the investigator should or should not be asked for formal recommendations; (do not ask too junior a person to do make formal recommendations);

- Consider the timing of the investigation, which should typically be "fair, prompt and thorough" . . . (note than an expeditious investigation will not necessarily be possible);

- Consider carefully all the non-invasive sources of data, for example records, reports, etc., before going to disruptive sources of data;

- Consider very carefully who should know about the investigation, beginning of course with whether you will inform the subject of the investigation;

- Consider who will be informed about the process of an investigation if it takes a long time, and on what schedule;

- Prepare and plan for all the logical outcomes, beginning with the standard analysis of feelings, interests, positions, options, policies and principles that may be relevant; it is particularly important to do a careful analysis of the sources of power of each of the people involved, and a careful analysis of unconstructive as well as constructive options open to each of these people;

- Arrange for careful review of the results of any formal investigation, by legal counsel, before administrative action is taken;
- Consider carefully before you start, what may be the important follow-up steps after investigation and adjudication, if any, have occurred.

b. Why to choose this option:

- Where you are required by law or policy to investigate, and/or adjudicate;

- Where you personally are willing and able to undertake a fair process; (for example, you have no serious conflict of interest);

- Where one or both parties wish an investigation and decision-making, and you approve, for example for the reasons above;

- Where both or all parties refuse to negotiate or mediate; where the parties cannot learn how to negotiate fast enough to deal with the problem that must be resolved;

- Where a win-lose decision is the right decision; (it is a distributional problem; there is an emergency; it is the only solution; it is clear that one or both parties are lying about something serious);

- In lose/lose situations where the goal is to minimize the maximum feasible loss;

- Where you can easily see a win/win adjudication;

- There is a hopeless power imbalance, or a desperate problem of saving face;

- Where the future relations of the parties are not a concern or might actually be enhanced by adjudication, or satisfaction of
the real interests of the parties is not dependent on their future cooperation;

- Where the stakes for the parties are low, but they are high for your employer.

c. Caveats:

- Investigations are often very expensive in time, feelings, and money; investigations often make people fear and dislike the investigator;

- Expect that the results of the process and outcome of the investigation may be made public, possibly in a disconcerting way;

- Be prepared for people "voting with their feet" or expressing other dissatisfaction with the outcome of investigation and adjudication; this is especially true in delicate situations where you will not be able to give out much information to the public, (and where you, therefore, cannot defend yourself and the process); in such situations you may need to continue to deal with peoples' feelings, and to try to provide at least some information to disputants and bystanders, for some time.

... this may be especially true with people who are (or who see themselves as) "whistleblowers";

- Too frequent adjudication of disputes may result in inefficient management and loss of motivation (or willingness to speak up), by those involved.
4. **Upward Feedback and Systems Change**

a. How to do it:

- Consider all other options; be sure that you have permission or a right to use any information you will need to use, or devise a method whereby the appropriate manager can be alerted to collect the information that is needed, without your having to break anyone's confidentiality yourself;

- Ask yourself, whose interests are at stake? (Make a list.) Ask yourself, who "owns" this problem . . . who would feel a right over the disposition or prevention of this type of problem? (Make a list.) Consider these lists carefully before you decide where and how to intervene;

- Consider the time constraints. Is this an emergency? Is this a problem that needs careful study?

- Do a quick and practical cost-effectiveness analysis in your head about whether and when and how a systems approach might help;

- Consider whether to design a way to find out later if the systems change is working.

b. Why to choose this option:

- Where a systems change is required by policy or law;

- Where you personally are willing and able to pursue an upward feedback approach;

- Where many people are likely to have the same problem, the costs of not fixing it are high, or for any other reasons the cost-benefit analysis is favorable;
- Where the company culture is, or should be, tilted toward preventive measures as well as complaint resolution;

- Where for confidentiality reasons you cannot address the alleged problem of an individual (e.g., sexual harassment) but a "generic" address to the problem (e.g., a training program on harassment) is likely to resolve the problem of a known individual who will not otherwise come forward;

- Where the complainant or the offender is unknown (e.g., anonymous complainant or anonymous obscene calls);

- Where you have picked up a problem new to the company, that will need to be thought through, or where the ramifications of a problem are as yet unknown and should be considered at top management levels;

- Where the only satisfactory approach will require cooperation between the company and outside persons or entities.

c. Caveats:

- A systems approach may not satisfy the feelings of individual complainants, especially if a problem is taken out of individual hands, or the solution takes a long time, or a "vanilla" solution must be adopted to placate strong competing interests;

- "Justice" may or may not be served in the individual case that is dealt with on a "generic" basis;

- If a systems approach is used to deal with an individual case, follow-up is essential to be sure that the individual problem does not recur;
Some managers will complain that a systems approach was not needed, for a problem that they never knew existed or thought to be trivial or very rare;

One must approach the system in the right manner, at the right time and at the right level; if you think this is not possible at the moment, this may not be a good option.

* Confidentiality:
You are well-advised always to get permission, if possible, to use the information given by a complainant. Typically one can get permission to consult with others, to use the data on an anonymous basis, to use the information after a certain period of time has passed (that is acceptable to you). If all else fails, a complainant will often give you permission to tell a person very high in management, for example, a CEO. It is usually better to spend the time to work very hard to get permission to use information than to expose someone as an informant. When in doubt, (and when an investigation is not clandestine), work hard to get explicit permission before quoting a complainant, and in general protect people's privacy in any responsible way that is open to you.

** Sources of Power in Negotiation include:
Legitimate authority; Force; Rewards and Sanctions; Commitment to a Position; Referent or Charismatic Power; Information or Access to Information; Expertise or Skill; an Elegant Solution; Good (or Terrible) Relationship; and, a BATNA (or fall-back position).
Addendum

SKILLS NEEDED BY A COMPLAINT HANDLER

and

FUNCTIONS REQUIRED IN A GOOD COMPLAINT SYSTEM

- Dealing with feelings, especially rage, fear of retaliation and grief.
- Helping people get to the point of being able to make good decisions, and being able to deal effectively with their problem or complaint;
- Giving and receiving data on a one-to-one basis;
- Counselling with clients; inventing and exploring all the possible options, helping people choose responsible options; coaching on how clients may deal with problems directly if they choose to do so, (i.e., helping people learn a method to help themselves); problem-solving, role-playing, anticipating possible outcomes, etc.;
- Shuttle diplomacy by a third party, back and forth among those involved in a problem, to resolve the problem at hand, (sometimes called "conciliation" or "caucusing", or thought of as one form of "mediation");
- Having a third party bring together the people with the problem, so they can reach their own settlement, (often called "mediation");
- Fact-finding or investigation; this may be done either informally or formally; results may be used, or reports made, either with or without recommendations from the fact-finder to a decision-maker;
- Decision-making, arbitration or adjudication, where a single person, (for example a line manager), or a committee or board with formal authority, decides a dispute; (this function may occur within line management channels as a normal part of management decision-making, or be
structured as part of a formal complaint and appeals channel, or formal grievance procedure);

- Recommendations for systems change, ("upward feedback"); designing a generic address to a problem or a complaint; actual change in policies or procedures or structures or plans, as a result of inquiry, suggestion, complaint or grievance.

Within organizations, where all these functions are being performed, one may speak of a complaint-handling system. In building a system one should start first with a fair, accessible, complaint and appeals channel (a formal grievance procedure); otherwise the other functions of the system are not likely to be trusted. If, however, the system does have all the above functions, and they are all working well, the formal channel will rarely be used. This is because most (although not all) people prefer informal dispute resolution for most (although not all) problems. By analogy, a manager who has all these skills will usually be able to solve most problems without much "adjudication" of disputes.
WHY IS UCOA NECESSARY?

Carolyn Steiber
Michigan State University

Why is UCOA necessary? It is not necessary, but it is useful, helpful, and probably inevitable for a national organization to form once a critical mass of university and college ombudsmen has developed. Certainly the academic world existed, indeed flourished, before anyone thought to appoint the first ombudsman on a campus. That world would not perish if all ombudsmen disappeared. (We may have come close to decimation if not exactly extinction one October evening in 1986 when a fair number of us were aboard a fog-bound bus winding up a Colorado mountain on a narrow road. The prospect of the next day's headline afforded merriment in an otherwise frightening situation.) Assuming we stay off buses on mountain roads in the fog, it is difficult to imagine disappearance. It is, in fact, now some two decades since the first ombudsman appeared in an academic setting; the number grows steadily.

The occasion of this publication celebrating CCUCO's fifteenth year is further evidence of a stable occupation which has fulfilled its promise to offer a valuable service not previously offered in that way or in that setting. This strange sounding Swedish word is now part of the language. Each week it pops up in places as diverse as the IRS, TIAA, or Lloyds of London.

A few years back, some of the midwest ombudsmen, who have been meeting informally for several years, thought the time was right for a national
organization. It is probably ironic that I write as UCOA's president now because I was somewhat skeptical about the viability of a national organization back then. We seemed to lack everything an organization needs -- numbers, money, an organizing principle. Only recently had we evolved from a round-table of war stories which soon palled to a more structured meeting environment with content and variety.

Fortunately, I kept my misgivings to myself. Others, notably Leon Miller, who was the ombudsman at Northern Illinois, and Ingrid Clarke of Southern Illinois were more imaginative. Leon's plans were much too grandiose but they helped to spark the organization into being. Ingrid's persistence in shepherding the new creation from Bylaws to Incorporation gained the enthusiastic help of many others. By the time the midwest group met in Detroit, in September 1985, we could look around the room and see that we were from regions far outside our old nucleus. UCOA was born officially that fall.

We are still a new organization and new organizations, like any organism, invariably have growing pains. Worried about seed money, UCOA initially set up a two-tier system of affiliation and dues, with voting privileges reserved to "institutional members" who paid more than individuals. By the time of UCOA's second annual meeting, in Cincinnati last October 1987, the impetus for voting reapportionment was irresistible, not least because it was also logical. We now had participants from across the United States and across Canada. The Bylaws were changed so that every member would vote on everything. In order to balance the books everyone would pay somewhat more than before, but that change also had the enthusiastic support of the membership.
UCOA is likely to continue to evolve as it ripens organizationally. What I hope to see before I finally surrender occupation of UCOA's White House is an organization interlocked in some meaningful way to its strongest regional component, CCUCO, with meetings and membership which draw on the vitality, creativity, and experience that exist in both organizations.

I have been known to remind more than one disgruntled professor at Michigan State that none of us is paid to enjoy our work. But a measure of enjoyment does make any job more rewarding. One does not live by gripes alone. I am struck by how much most ombudsmen I have met enjoy their jobs. Members of CCUCO seem very enthusiastic about their organization and their work. They have been terrific role models for the rest of us. On behalf of UCOA, also personally, congratulations! When UCOA gets to be your august age, it will be the year 2000.
SURVEY OF BURNOUT LEVEL AND STRESS COPING TECHNIQUES AMONG UNIVERSITY AND COLLEGE OMBUDSMEN

M. Katherine Uetz

University of Cincinnati
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INTRODUCTION

The phenomenon of "burnout" as a consequence of job stress in dealing with others' problems, is common in the care-giving professions. Much has been written about burnout since 1974 when psychoanalyst Herbert J. Freudenberger began publishing articles on staff burnout in "alternative" help-giving facilities such as free clinics. Since then, levels of burnout have been assessed for teachers, police officers, lawyers, nurses, mental health workers, secretaries, and day care staff. Only recently have studies been conducted among Ombudsmen. Ziegenfuss, Robbins, and Rowe (1988) conducted a quality of life survey among Corporate Ombudsmen and included a series of questions designed to assess burnout levels. The literature indicates no other studies of this unique group of care givers with respect to burnout. This study assesses levels of burnout among University and College Ombudsmen in the United States and Canada, and catalogues their methods of relieving stress.

Ombudsmen are unique in that there are usually only one or two individuals at any institution who have the responsibility to serve as a central clearing house for complaints or inquiries from any member of the university or college community. Generally all faculty, staff, and students have immediate access to the Ombudsman who is then expected to resolve their problems by cutting through bureaucratic red tape to find equitable solutions. Ombudsmen also serve as a primary resource for the institution, being familiar with all policies and procedures, and advising individuals of their rights and responsibilities. Having the unique perspective which comes as a result of hearing first hand the undiluted and usually emotional
Concerns of the university community, the Ombudsman is also responsible for identifying potential problems with institutional policies. The Ombudsman, therefore, functions as an agent for change in an otherwise static environment. Traditionally, Ombudsmen have been a high yield/low cost investment because they function with little to no support staff and small operating budgets. They are the "safety valves" for the institution, defusing potentially explosive and sometimes dangerous situations. Ombudsmen continuously deal with emotionally distraught clients, are always "on-line", and must sometimes perform without institutional support. These circumstances create an environment in which burnout is likely to occur.

As previously noted, many studies have been conducted on burnout. In Burn-out - Stages of Disillusionment in the Helping Professions (1980), Jerry Edelwich with Archie Brodsky, describes burn-out as a process which can be divided into five stages: enthusiasm, stagnation, frustration, apathy, and intervention. Edelwich further states that frustration is the core of burnout. Christina Maslach in Burnout - The Cost of Caring (1982) maintains that "Burnout is a syndrome of emotional exhaustion, depersonalization, and reduced personal accomplishment that can occur among individuals who do 'people work' of some kind." Maslach created the Maslach Burnout Inventory (MBI) to measure burnout in three categories: emotional exhaustion, depersonalization, and reduced personal accomplishment. She strongly supports the theory that the nature of the job may precipitate burnout not just the nature of the person performing that job. Research by Belcastro and Gold (1983) indicates that approximately 90% of the people who experience high rates of burnout
display symptoms of excessive stress, resulting in loss of productivity as well as increased dissatisfaction with work. Stephen Nagy (1985) reports that work orientation and burnout are apparently related, suggesting that individuals who are more work-oriented are less likely to experience burnout.

A study conducted by Isabel Wolock (1978) in eight family counseling agencies suggested that workers with eleven or more years of experience were less effective in their work than those with less experience. A study of social workers by Joan Streepy (1981) concluded that although work pressure and difficulty in providing services are some of the causes of burnout, factors external to the work situation may contribute to its development. She also suggests that burnout can be prevented or alleviated by manipulating the factors associated with it.

Maslach's studies (1982) indicate that the stress of the job is the cause of burnout and is related to the underestimate of the impact of situations on behavior ("fundamental attribution error") and lack of "administrative response." She further states that "The more hours of direct, unrelieved contact with people, the greater the risk of burnout." I think the following statement by Maslach describes an Ombudsman: "It takes a lot of energy to be calm in the midst of crises, to be patient in the face of frustrations, to be understanding and compassionate when surrounded by fear, pain, anger or shame." In other words - dealing with people can be very demanding. Ombudsmen, regardless of the setting, deal with people, problems, and politics.
METHODS

A 44 question survey was sent to 200 University and College Ombudsmen in the United States and Canada. (See Appendix 1 for a sample of the survey instrument.) The survey instrument was designed to collect demographic information (questions 1-21) and measure burnout (questions 22-44). Demographic information gathered included title in institution, gender, ethnic background, age, length of time in position, highest degree, geographic location, immediate past position, current salary, population served, type of staff assistance, volunteers, number of students on campus, location in organizational structure, description of role, number of annual cases, estimate of effectiveness as Ombudsman, stress relievers utilized, career change and possible careers considered.

In order to quantify burnout in a manner allowing comparison with the study of Corporate Ombudsmen by Ziegenfuss, Robbins and Rowe, (1988), their 25 questions (a modified Maslach Burnout Inventory - MBI) were included in this survey at the request of the authors.

RESULTS AND DISCUSSION

Demographic Data

Eighty-four surveys were returned for a response rate of 42%. Forty-five of the respondents were male (54%), and 38 were female (46%). The ethnic background of the respondents is predominantly Caucasian (74), with Black (6), Hispanic (2), other minority (1), and no response (1). Respondents indicated that they served the following populations: Students (29) - 34%, Faculty (3) - 3%, Staff (4) 5%, and all three (50) - 58%. Eighty-three individuals indicated their age range from under 25 to over 65. Fifty percent of the respondents'
ages were in the 45-65 range (Table 1). Over 50% of the respondents are located in the West or Mid-West (Table 2).

In general, most respondents reported some title at their institution which included the term Ombudsman. Table 3 provides a list of the respondents' titles at their respective institutions. When asked which best describes their role, 51% of the ombudsmen responded that a combination of neutral mediator and client advocate fits best. Thirty-seven percent indicated neutral mediator, 3% indicated client advocate, and 9% indicated other roles as well. The average number of years in position was 6.2 with a standard deviation of 5.8. Table 4 shows the distribution of the length of time served as an Ombudsman for the 84 respondents.

Eighty-four individuals reported degree status, with 75% of those responding holding a Masters or above (Table 5). Eighty individuals provided information regarding current salary ranges, shown in Table 6. Eighty-seven percent of the respondents indicated some type of staff assistance, and 33% indicated the use of volunteers (Table 7).

Seventy-nine respondents listed the number of students enrolled at their institution. Institutional size varied from less than 1,000 to more than 40,000 students (Table 8). Seventy-seven respondents indicated an annual caseload, and the range was from less than 100 to more than 1500 (Table 9). The mean annual caseload is 523, with a standard deviation of 614. This high level of variation in caseloads among institutions is related to the size of the institution (Figure 1) and possibly to the manner in which respondents report caseload. For example, some respondents may have reported a total for contacts and cases rather than cases only. In general, a contact is an inquiry
which is quickly answered or addressed, and a case requires investigation, mediation, or problem resolution which may take considerably more time to resolve.

**Burnout and Stress**

Respondents' scores on the burnout questions (22-44) were analyzed in two ways. Following Maslach's MBI method, totals for Emotional Exhaustion (EE), Depersonalization (DP), and Personal Accomplishment (PA) were determined from the answers given on an intensity scale (like me/unlike me). According to Maslach and Jackson (1986), levels of burnout can be measured as follows:

- **A high degree of burnout** is reflected in high scores on the EE and DP subscales and in low scores on the PA subscale.

- **An average degree of burnout** is reflected in average scores on the three subscales.

- **A low degree of burnout** is reflected in low scores on the EE and DP subscales and in high scores on the PA subscale.

Since the ranking scale (1 - 7) of this survey was based on intensity, (instead of frequency, 0 - 6 as on the Maslach MBI), scores were standardized by adding points to the ranges used by Maslach to designate low, moderate and high levels of burnout. Table 10 shows the distribution of low, moderate, and high scores for 81 respondents. Using this method of interpretation, 70% of the respondents are experiencing low levels of burnout, 26% moderate, and 4% high. Personal accomplishment is not included in this determination because 100% of the respondents ranked high on that subscale.

A comparison was made of data on burnout levels experienced by University and College Ombudsmen with levels reported for other occupational subgroups (Maslach & Jackson 1986). Ombudsmen were nearly identical to teachers, social service professionals, and
medical personnel in EE levels, but were higher in Emotional Exhaustion than mental health professionals and other education professionals. On the Depersonalization subscore, Ombudsmen were lower than teachers, but higher than all other subgroups. The most striking difference was seen in the Personal Accomplishment scores, which showed Ombudsmen to have 12% - 50% higher scores than any other group. This comparison suggests that while Ombudsmen experience similar or slightly higher levels of emotionally exhausting and depersonalizing burnout than members of other helping professions, they enjoy a much higher degree of personal satisfaction in their work.

Ombudsmen were asked to estimate their effectiveness on a scale of 1 (low) to 10 (high). Seventy-three percent of the respondents rated their effectiveness at eight and above, with a mean of 7.9 and a standard deviation of 1.1 (Figure 2). While Ombudsmen appear to believe they are effective in their jobs, many have considered career changes. Of 81 respondents, 31% indicated they had considered a career change due to feeling burned out. Table 11 shows career changes considered.

Research has been conducted by Golembiewski, Muzenrider, and Carter which suggests that burnout can be measured using a "Phase Model." In this model, totals for EE, DP, and PA scores are used to determine the mean, and burnout is then assessed either low or high depending on whether the total score falls below or above the mean. They propose eight possible combinations of low vs. high on each of these subscales. Their 8-phase model is described below:
<table>
<thead>
<tr>
<th>Phases of Burnout</th>
</tr>
</thead>
<tbody>
<tr>
<td>I     II    III  IV  V   VI  VII  VIII</td>
</tr>
<tr>
<td>Depersonalization</td>
</tr>
<tr>
<td>Personal Accomplishment (Rev)</td>
</tr>
<tr>
<td>Emotional Exhaustion</td>
</tr>
</tbody>
</table>

These phases are interpreted by the authors as follows:

- Phases I, II, III  
  Low Levels of Burnout
- Phases IV, V,      
  Moderate Levels of Burnout
- Phases VI, VII, VIII  
  High Levels of Burnout

Using this Phase Model, 81 survey respondents scores were ranked and are shown in Figure 3.

University and College Ombudsmen surveyed report higher levels of burnout than their Corporate counterparts. Figure 4 compares University and College Ombudsman Phase ranges to Corporate Ombudsman Phase ranges (Ziegenguss, et al, 1987). There is a statistically significant difference between these two groups in their representation in the 8 Phases of Burnout (Kolmogorov-Smirnov Test, P<.01). Table 12 presents a comparison of the proportion of respondents reporting various levels of burnout, and these are significantly different as well (Chi-square = 17.69; p<.001).

Scores for male and female respondents were further examined by analyzing their relative distribution over Phases 1-8, as shown in Figure 5. Females are disproportionately represented in the later phases, and differences in male and female distributions are statistically significant (Kolmogorov-Smirnov Test; p<.05). Using the median score as a discrimination point as in Golembiewski et al. (1983), female respondents ranked high in emotional exhaustion, low
in depersonalization, and high in personal accomplishment for a composite rank of Phase VI - high level burnout. Male respondents ranked low in emotional exhaustion, low in depersonalization, and low in personal accomplishment for a composite rank of Phase I - low level burnout. Using this method, females' mean scores on EE and PA subscales were found to be significantly higher than males (Student's t-test; p<.05), but not for the depersonalization subscale (Table 13). These results suggest that female Ombudsmen, to an unknown degree, may experience higher levels of burnout than their male counterparts.

A number of statistical difficulties were encountered in this study because of the design of the survey instrument. Several critical differences in both questions and response scales between the Maslach MBI instrument and modified MBI (Golembiewski, Munzenrider, and Carter, 1983) limit comparability with previous studies by Maslach and Jackson (1986). Moreover, statistical analyses of differences between these methods and subsequent assessment of their validity in measuring burnout are a matter of some debate (Maslach & Jackson 1986).

How the individual is asked to respond to the questions is a crucially important variable. A more accurate assessment of burnout may be possible if an individual responds to "how often" (frequency) as in the MBI instrument, rather "how like/unlike me" (intensity) as in the Modified MBI instrument. A subsurvey was conducted to determine if this factor does change an individual's response significantly using Maslach's frequency responses:
Correlation and regression analyses of scores for EE, DP and PA subscales measured by the two survey instruments showed significance only for the EE score (Pearson's r = .823; p<.05). This suggests that the two methods are measuring Emotional Exhaustion in a similar fashion, but that what each measures in terms of Depersonalization or Personal Accomplishment is unclear. A cursory examination of correlations between answers on questions for the 16 individuals taking both MBI and Modified MBI suggests no discernable trend in all respondents. In 6 of the survey respondents, clear concordance between the two methods was seen, but in the rest, a great deal of variation in responses prevented any useful generalization. Further statistical analyses would be necessary to understand the relationship between responses to both of these survey instruments.

The collection of data on demographic variables in this survey was intended to allow correlation of levels of burnout with factors such as age or time in the position, etc. However, with this particular group of respondents, it was determined that there is no correlation between their total scores for EE, DP, or PA and other demographic information such as age, salary, length of time in position, size of institution, annual caseload, or staff assistants. Whether the absence of any correlation between these factors and burnout is a result of statistical problems in the survey or any other
factor (such as non-inclusion of key demographic variables in the survey) is unknown.

Ombudsmen reported a significant number of methods utilized to reduce stress (Table 14). Only 4% reported that they practiced no methods of stress reduction, and 10% listed other stress relievers. Sports/exercise activity, positive thinking, and long walks are the methods most frequently used by this group of respondents to relieve stress. Many respondents offered general comments as well as comments on burnout (Appendix 2). For example, one individual differentiated personal effectiveness from the effectiveness of the office. Other comments would indicate that the respondents felt the answers to most questions could vary depending on many situations, i.e., caseload, time of year, other pressures, state of health (taking care of self), and age. However, the comments in general represent the very positive attitude which Ombudsmen need to do their work. One individual wrote, "I sometimes feel that the place is falling apart, but then remind myself that 10% of the folks are causing 90% of the crisis." Another wrote, "Some stress comes from the fact that though I am very effective in helping clients negotiate the system, the system itself resists change!" One Ombudsman sums it all up..."Making a positive difference in just a few clients' lives is in itself rewarding. Ombuds get very few strokes, so when I make a difference - even in a small way, it makes the job worth doing!"

CONCLUSIONS

As previously stated, the design of the survey instrument prevents true statistical comparability with other studies conducted
by Maslach. Moreover, given the lack of correlation of burnout level with other variables, it is not easily possible to assess why some Ombudsmen appear to experience more burnout than other Ombudsmen. Despite its shortcomings, this study has shown that University and College Ombudsmen experience a level of burnout similar to and sometimes higher than that of other care givers.

In order to more accurately assess burnout level, future surveys would have to gather other information about the individual. Outside pressures from other responsibilities would impact the overall burnout of an individual. Information is needed on number of hours per week on the job, family size, marital status, dual careers, school, church and community involvement as well as other personal data such as status of health.

Ombudsmen deal with people, problems, and politics. Respondents indicated that working with students is challenging and rewarding, but dealing with politics and bureaucracy is exhausting and depressing. Differences between this group and the Corporate Ombudsmen surveyed by Ziegenfuss et al. (1988) suggest that Ombudsmen in academic institutions experience higher levels of stress and burnout. Maslach maintains that there is a complex interaction among individual, interpersonal, and institutional factors - and all have to be taken into account. When all factors are considered, it may provide insight into why female Ombudsmen appear to be experiencing higher levels of burnout than their male colleagues.

Maslach offers many suggestions for preventing and dealing with burnout. The key in dealing with this problem in general appears to be one of balance - giving/getting, stress/calm, work/home. Reaching that balance and maintaining it is the challenge. A very high
percentage of Ombudsmen (94%) surveyed actively seek relief from stress, and achieve it with a variety of means. Of importance also is the perceived value of the individual in the institution. One respondent commented..."The Ombudsman role offers some sense of accomplishment!!" This comment echoes the responses of many - University and College Ombudsmen rate their own effectiveness very highly and score higher than any other occupation subgroup on the MBI Personal Accomplishment scale. Perhaps that sense of accomplishment and believing in the value of Ombudsman work can help achieve the balance necessary to avoid excessive stress and frustration associated with high levels of burnout.
### Table 1
Age Ranges

<table>
<thead>
<tr>
<th>Age</th>
<th>Total</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 25</td>
<td>6</td>
<td>7%</td>
</tr>
<tr>
<td>25-35</td>
<td>10</td>
<td>12%</td>
</tr>
<tr>
<td>35-45</td>
<td>18</td>
<td>22%</td>
</tr>
<tr>
<td>45-55</td>
<td>21</td>
<td>25%</td>
</tr>
<tr>
<td>55-65</td>
<td>21</td>
<td>25%</td>
</tr>
<tr>
<td>Over 65</td>
<td>7</td>
<td>9%</td>
</tr>
</tbody>
</table>

### Table 2
Geographic Location of Institution

<table>
<thead>
<tr>
<th>Location</th>
<th>Total</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>East</td>
<td>18</td>
<td>21%</td>
</tr>
<tr>
<td>West</td>
<td>25</td>
<td>30%</td>
</tr>
<tr>
<td>South</td>
<td>8</td>
<td>10%</td>
</tr>
<tr>
<td>Mid-West</td>
<td>27</td>
<td>32%</td>
</tr>
<tr>
<td>Other Than U.S.A.</td>
<td>6</td>
<td>7%</td>
</tr>
</tbody>
</table>

### Table 3
Institutional Titles

- University Ombudsman
- Associate Ombudsman
- Assistant Ombudsman
- College Ombudsman
- Student Ombudsman
- Campus Ombudsman
- Faculty Ombudsman
- Library Ombudsman
- Asst. to Ombudsman
- Ombudsperson
- Asst. Vice President and Campus Ombudsman
- Women's Advocate and Asst. to Provost
- Asst. to Dean of Students
- Advising Coordinator
- Director
- University Student Advocate
- Asst. to Vice President
- Patient Advocate
- Director of Counseling
- Student Personnel Administrator
- University Disciplinary Officer
- Ombudsperson for Staff Asst.
- Vice Chancellor
- Advising Coordinator
- Dean of Students and College Relations
- Special Asst. to the President
- Information Officer on Appeals Grievances

14
Table 4  
Length of Time in Ombudsman Position

<table>
<thead>
<tr>
<th>No. of Years</th>
<th>Total</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-3</td>
<td>37</td>
<td>44%</td>
</tr>
<tr>
<td>3-5</td>
<td>14</td>
<td>16.6%</td>
</tr>
<tr>
<td>5-7</td>
<td>8</td>
<td>9.5%</td>
</tr>
<tr>
<td>7-10</td>
<td>10</td>
<td>12%</td>
</tr>
<tr>
<td>10-15</td>
<td>9</td>
<td>10.7%</td>
</tr>
<tr>
<td>15-20</td>
<td>4</td>
<td>4.8%</td>
</tr>
<tr>
<td>Over 25</td>
<td>2</td>
<td>2.4%</td>
</tr>
</tbody>
</table>

Table 5  
Ombudsman Degree Status

<table>
<thead>
<tr>
<th>Degree</th>
<th>Total</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>BA/BS</td>
<td>11</td>
<td>13%</td>
</tr>
<tr>
<td>MA/MS</td>
<td>28</td>
<td>33%</td>
</tr>
<tr>
<td>JD</td>
<td>5</td>
<td>6%</td>
</tr>
<tr>
<td>PhD/EdD</td>
<td>30</td>
<td>36%</td>
</tr>
<tr>
<td>Other</td>
<td>10</td>
<td>12%</td>
</tr>
</tbody>
</table>

Table 6  
Ombudsman Salary Ranges

<table>
<thead>
<tr>
<th>Range</th>
<th>Total</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $10,000</td>
<td>5</td>
<td>6%</td>
</tr>
<tr>
<td>$10,000-$20,000</td>
<td>3</td>
<td>4%</td>
</tr>
<tr>
<td>$20,000-$30,000</td>
<td>15</td>
<td>19%</td>
</tr>
<tr>
<td>$30,000-$40,000</td>
<td>16</td>
<td>20%</td>
</tr>
<tr>
<td>$40,000-$50,000</td>
<td>16</td>
<td>20%</td>
</tr>
<tr>
<td>More than $50,000</td>
<td>25</td>
<td>31%</td>
</tr>
</tbody>
</table>

Table 7  
Types of Staff Assistance  
(Both Full and Part-Time)

Other Professionals: Assistant and Associate Ombudsmen
Administrative Assistant
Secretary
Graduate Assistants and Associates
Undergraduate Student Assistants
Work Study Students
### Table 8
Size of Institution

<table>
<thead>
<tr>
<th>Students Enrolled</th>
<th>Total</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1,000</td>
<td>2</td>
<td>2%</td>
</tr>
<tr>
<td>1,000-5,000</td>
<td>6</td>
<td>8%</td>
</tr>
<tr>
<td>5,000-10,000</td>
<td>12</td>
<td>15%</td>
</tr>
<tr>
<td>10,000-15,000</td>
<td>6</td>
<td>8%</td>
</tr>
<tr>
<td>15,000-20,000</td>
<td>16</td>
<td>20%</td>
</tr>
<tr>
<td>20,000-25,000</td>
<td>11</td>
<td>14%</td>
</tr>
<tr>
<td>25,000-30,000</td>
<td>8</td>
<td>10%</td>
</tr>
<tr>
<td>30,000-35,000</td>
<td>9</td>
<td>11%</td>
</tr>
<tr>
<td>35,000-40,000</td>
<td>6</td>
<td>8%</td>
</tr>
<tr>
<td>More than 40,000</td>
<td>3</td>
<td>4%</td>
</tr>
</tbody>
</table>

### Table 9
Annual Cases

<table>
<thead>
<tr>
<th>No. of Cases</th>
<th>Total</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 100</td>
<td>15</td>
<td>19%</td>
</tr>
<tr>
<td>100-300</td>
<td>20</td>
<td>25%</td>
</tr>
<tr>
<td>300-500</td>
<td>19</td>
<td>25%</td>
</tr>
<tr>
<td>500-1000</td>
<td>13</td>
<td>17%</td>
</tr>
<tr>
<td>1000-1500</td>
<td>8</td>
<td>10%</td>
</tr>
<tr>
<td>More than 1500</td>
<td>2</td>
<td>3%</td>
</tr>
</tbody>
</table>

### Table 10
MBI Score Frequency

<table>
<thead>
<tr>
<th>Ranges</th>
<th>EE (%)</th>
<th>DP (%)</th>
<th>PA (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>0 - 26</td>
<td>0 - 10</td>
<td>&gt;48</td>
</tr>
<tr>
<td>Moderate</td>
<td>27 - 38</td>
<td>11 - 16</td>
<td>42 - 47</td>
</tr>
<tr>
<td>High</td>
<td>&gt;39</td>
<td>&gt;17</td>
<td>0 - 41</td>
</tr>
</tbody>
</table>

**Results:**

- Mean: 22
- Standard Deviation: 10.28

**Frequency of Respondents**

<table>
<thead>
<tr>
<th>Score</th>
<th>EE</th>
<th>DP</th>
<th>PA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Score</td>
<td>61</td>
<td>75%</td>
<td>52</td>
</tr>
<tr>
<td>Moderate Score</td>
<td>16</td>
<td>20%</td>
<td>26</td>
</tr>
<tr>
<td>High Score</td>
<td>4</td>
<td>5%</td>
<td>3</td>
</tr>
</tbody>
</table>
Table 11
Career Changes Considered

<table>
<thead>
<tr>
<th>Profession</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professor</td>
</tr>
<tr>
<td>Private Enterprise</td>
</tr>
<tr>
<td>Teaching</td>
</tr>
<tr>
<td>Grants Administrator</td>
</tr>
<tr>
<td>Retirement</td>
</tr>
<tr>
<td>Higher Ed Administration</td>
</tr>
<tr>
<td>Another Graduate Degree</td>
</tr>
<tr>
<td>Career in Public Policy</td>
</tr>
<tr>
<td>Rehabilitation Field</td>
</tr>
<tr>
<td>Sexual Harassment Adviser</td>
</tr>
<tr>
<td>Student Information Services</td>
</tr>
<tr>
<td>Labor Arbitrator</td>
</tr>
<tr>
<td>Ministry</td>
</tr>
<tr>
<td>Consultant</td>
</tr>
<tr>
<td>Marketing</td>
</tr>
<tr>
<td>Artist/Art Business</td>
</tr>
<tr>
<td>Academic Administration</td>
</tr>
<tr>
<td>Peace Corp</td>
</tr>
<tr>
<td>Running an Inn in New Hampshire</td>
</tr>
<tr>
<td>Employee Assistance Program in Corporate World</td>
</tr>
<tr>
<td>Law School</td>
</tr>
</tbody>
</table>

Table 12
Corporate/University & College Ombudsman
Comparison of Burnout Levels

<table>
<thead>
<tr>
<th>Level</th>
<th>Corporate</th>
<th>Univ. &amp; Col.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Job Stress/Burnout (Phases I, I, and III)</td>
<td>88%</td>
<td>43%</td>
</tr>
<tr>
<td>Moderate Job Stress/Burnout (Phases IV &amp; V)</td>
<td>8%</td>
<td>23%</td>
</tr>
<tr>
<td>High Job Stress/Burnout (Phases VI, VII, VII)</td>
<td>4%</td>
<td>34%</td>
</tr>
</tbody>
</table>

Table 13
University & College Ombudsmen
Comparison of Male and Female Burnout Level

<table>
<thead>
<tr>
<th></th>
<th>Phase-EE AVE</th>
<th>Phase-EE STD</th>
<th>Phase-DP AVE</th>
<th>Phase-DP STD</th>
<th>Phase-PA AVE</th>
<th>Phase-PA STD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>15.73</td>
<td>5.60</td>
<td>15.31</td>
<td>5.41</td>
<td>17.91</td>
<td>5.06</td>
</tr>
<tr>
<td>Female</td>
<td>21.08</td>
<td>9.30</td>
<td>15.14</td>
<td>5.13</td>
<td>20.58</td>
<td>4.90</td>
</tr>
</tbody>
</table>
Table 14
Methods Utilized to Reduce Stress

<table>
<thead>
<tr>
<th>Activity</th>
<th>Total</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sports/Exercise</td>
<td>48</td>
<td>21%</td>
</tr>
<tr>
<td>Smoke</td>
<td>11</td>
<td>5%</td>
</tr>
<tr>
<td>Prescribed Medication</td>
<td>3</td>
<td>1%</td>
</tr>
<tr>
<td>Meditation/Yoga</td>
<td>7</td>
<td>3%</td>
</tr>
<tr>
<td>Long Walks</td>
<td>26</td>
<td>12%</td>
</tr>
<tr>
<td>Counseling/Therapy</td>
<td>5</td>
<td>2%</td>
</tr>
<tr>
<td>Coffee</td>
<td>22</td>
<td>10%</td>
</tr>
<tr>
<td>Alcohol</td>
<td>9</td>
<td>4%</td>
</tr>
<tr>
<td>Positive Thinking</td>
<td>28</td>
<td>13%</td>
</tr>
<tr>
<td>Prayer</td>
<td>15</td>
<td>7%</td>
</tr>
<tr>
<td>Support Group/Network</td>
<td>18</td>
<td>8%</td>
</tr>
<tr>
<td>None of These</td>
<td>9</td>
<td>4%</td>
</tr>
</tbody>
</table>

Other Stress Relievers

- Hobbies
  - Playing Musical Instruments
  - Humor
  - Dance
  - Developing Computer Programs
  - Record and Watch Movies of the 1930s and 40s
  - Reading
  - Self-directed Reflection
  - Cultural and Artistic Activities
  - Photography
  - Therapeutic Massage
  - Writing Poetry
  - Overeating of Sweets
  - Quiet Time
  - Understanding Spouse
  - Other Professional Activities
  - Research
  - Supportive Staff
  - Relaxation Techniques
  - "Tuning Out" Pressures of World
  - Travel
  - Volunteer/Community Activities
  - Family Involvement
  - Partying
  - Try Not to Work on Weekends
  - Jacuzzi
  - R.C. Cola
  - Take Time Off

18
MALE/FEMALE BURNOUT PHASES

PERCENTAGE OF RESPONDENTS

BURNOUT PHASE

MALE

FEMALE

FIGURE 5
Purpose of Survey

The purpose of this survey is to measure levels of burn-out associated with stress from career responsibilities of Ombudsmen at institutions of higher education.

1. Institutional Title: __________________________
2. Gender: ( ) Male ( ) Female
3. Ethnic Background: ( ) Caucasian ( ) Black ( ) American Indian
   ( ) Asian ( ) Hispanic ( ) Other __________________________
4. Age: ( ) Under 25 ( ) 25-35 ( ) 35-45 ( ) 45-55 ( ) 55-65 ( ) Over 65
5. Length of time in position: ________ years
6. Highest degree: ( ) BA/BS ( ) MA/MS ( ) JD ( ) PhD/EdD ( ) Other
7. Geographic location of institution: ( ) East ( ) West ( ) North
   ( ) South ( ) Mid-West ( ) Other than U.S.A. __________________________
8. Immediate past position: __________________________
9. Current Salary (full-time basis): ( ) Less than $10,000
   ( ) $10,000-$20,000 ( ) $20,000-$30,000 ( ) $30,000-$40,000
   ( ) $40,000-$50,000 ( ) More than $50,000
10. Population served: ( ) Students ( ) Faculty ( ) Staff
11. What type of staff assistance (other professional and support staff) do you have?

12. Does your office use volunteers? ( ) Yes ( ) No
13. How many students are enrolled on your campus? __________________________
14. To whom do you report? __________________________
15. Which of the following best describes your role? ( ) Neutral
   Mediator ( ) Client Advocate ( ) Combination of These Two
   ( ) Other __________________________
16. How many cases does your office handle annually? __________________________
17. What is your estimate of your effectiveness as Ombudsman? ________
   (Rate 1 (low) through 10 (high).
18. Do you now use any of the following regularly to reduce your stress?
   Check those which apply:
   ______ Sports/Exercise Activity ______ Coffee
   ______ Smoke ______ Alcohol
   ______ Prescribed Medication ______ Positive Thinking
   ______ Meditation/Yoga ______ Prayer
   ______ Long Walks ______ Support Group/Network
   ______ Counseling/Therapy ______ None of These
   ______ Other (please describe) __________________________
19. Have you ever considered a career change due to feeling burn-out?
   ( ) Yes ( ) No If yes, where do you go after being an Ombudsman?
Instructions: To what extent do you share the feelings expressed in the statements below? Please indicate based on this scale:

To what DEGREE is each of the statements LIKE or UNLIKE you?

Very much UNLIKE me 1 2 3 4 5 6 7 Very much LIKE me

Enter one number in the blank to the LEFT of each statement. Make certain you use LOW numbers to describe statements which are unlike you, and HIGH numbers to describe statements like you.

20. I feel emotionally drained from my work.
21. I feel used up at the end of the workday.
22. I feel similar to my clients in many ways.
23. I feel personally involved with my clients' problems.
24. I feel fatigued when I get up in the morning and have to face another day on the job.
25. I feel uncomfortable about the way I have treated some clients.
26. I can easily understand how my clients feel about things.
27. I feel I treat some clients as if they were impersonal "objects."
28. Working with people all day is really a strain for me.
29. I deal very effectively with the problems of my clients.
30. I feel burned out from my work.
31. I feel I'm positively influencing my clients' lives through my work.
32. I've become more callous toward clients' lives through my work.
33. I worry that this job is hardening me emotionally.
34. I feel very energetic.
35. I feel frustrated by my job.
36. I feel I'm working too hard on my job.
37. I don't really care what happens to some clients.
38. Working directly with people puts too much stress on me.
39. I can easily create a relaxed atmosphere with my clients.
40. I have accomplished many worthwhile things in this job.
41. I feel like I'm at the end of my rope.
42. In my work, I deal with emotional problems very calmly.
43. I feel my clients blame me for some of their problems.
44. I feel exhilarated after working closely with my clients.

Other Comments: ____________________________

Thanks for participating in this survey.

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APPENDIX 2
1988 Ombudsman Survey Comments

General Comments:

* Effective as Ombudsman, as differentiated from effectiveness of the office.

* The position at this University is for 1 year only, so Ombudsman can't get co-opted by Administration - Low Burnout, High Energy.

* The skills learned by being an Ombudsman are transferable to the Public or Private Sector. This job makes you a great generalist, but does not provide a stepping stone to any one direct career. Once an Ombud...always an Ombud...the skills are personally and professionally beneficial.

* Faculty members are rotated through the position so they will maintain an awareness of the faculty role. The previous Ombudsman returned to academic department and co-worker may seek an administrative position.

* The Ombudsman role offers some sense of accomplishment!!

* I don't know where to go after being an Ombudsman - that's why I haven't gone anywhere yet! I enjoy the job, but not the employment conditions.

* If anything is missing from this survey, it is a measure of job responsibilities, e.g., teaching, committees, other than complaint handling. Alternatively, and more succinctly, hours per week on the job.

Comments on Burnout Section:

* The answers to most of these questions could easily vary according to individual cases, caseload, time of year, etc. I've found it difficult to generalize.

* Emotionally drained - depends on whether or not I'm taking care of myself. Job frustration depends on time of year. There have been times when I have been "burned out" where I didn't want to hear another problem. However, right now the position is manageable, and I've changed some of my habits (i.e., no smoking, no caffeine, no sugar).

* Other variables like age are crucial on energy levels.

* I had to average things here. There are some notable exceptions to each of these statements.

* I enjoy student contacts - student work has always been a challenge, and continues to be rewarding!
Office has a great deal of independence on campus (work directly under President = infinite ability to go over people's heads and get heard.)

I feel our office is very unique. I'm a student where we help 1,000s each year with housing, legal, tax, and consumer problems. This office has had so many great things happen where we have made a difference in someone's life. I am very pleased with what we have been able to do. Many times we just try to get people into the right area or see the right person, but we handle lots of important cases. We have had over a hundred volunteers this past year, and it was a great experience for all of them.

Dealing with politics and the bureaucracy is the most exhausting and depressing. Helping people is positive and making a difference in their lives. However, Ombudsman work is most undervalued and very stressful due to no institutional support.

Making a positive difference in just a few client's lives is in itself rewarding. Ombuds get very few strokes, so when I make a difference - even in a small way, it makes the job work doing!

Working with clients from all over campus in all areas - faculty, staff, students - makes an interesting work load and variety of activities.

Home and parenting responsibilities are far more fatiguing than work responsibilities, in general, but my attitude shifts from day to day.

The best thing about being an Ombudsman is the people you work with. There is no better feeling than when a wrong is made right or an understanding through clarity is reached.

Being half-time is both an advantage and a disadvantage. I'm not sure, but I suspect I would feel more drained if I didn't have other sources of work satisfaction (teaching, working with graduate students, writing). Of course, some of the stress I experience is due to trying to juggle two jobs. My future at the university is not tied to everybody liking the way I work as Ombuds, so there are distinct advantages to being a tenured faculty member. I find my background in social psychology useful in this job.

Burnout is a "cop-out"! Too often used as a license to reduce energy productivity.

Like all people, days vary. Some are especially tiring. I find dealing with emotional disorders or mental health problems especially difficult. Other work assignments balance the negative aspects of Ombuds job.

I sometimes feel that the place is falling apart, but then remind myself that 10% of the folks are causing 90% of the crisis.
- Some stress comes from fact that though I am very effective in helping clients negotiate the system, the system itself resists change!

- Apparent contradictions are not necessarily the case. I can feel drained at one moment and have plenty of energy at another. I don't often get emotionally involved with a client necessarily, but get involved with a problem. Working too hard in relation to what I see others do.

- Clients are not the source of most feeling of frustration related to the job. Much more of my burnout comes from a knowledge that the position is so poorly compensated in comparison with other U. Admin/Prof Staff positions - and has historically been undervalued vis-a-vis the expertise/effort required to be successful as an Ombudsman. Entry-level assistants and coordinators with BS degrees are starting at a higher salary! The excuse has always been that the job has nothing to compare itself to at this institution.

- One-half time student position; much of the stress I experience is a result of combining my work with a full-time graduate load.

- Other stresses besides work-related ones may enter into one's feeling about the job.

- One year ago I was at a very stressed out point in job - it affected my health and job performance - this year I have greater personal control and have greater balance in my approach.

- Do people become "burned out" from doing something they enjoy and think is valuable to others?

- Ethics and pragmatism should be the primary attributes of an ombudsman, above sympathy, empathy and an ability to "relate" to people. I believe these to be my qualifications and insofar as I stick to the, I don't get bad feelings about either problems or my success with them. I work reasonably and industriously with a problem until it is solved or beyond my aid. Then I unanxiously wash my hands of it. I call this the higher shallowness.

- Note I work a flexibly scheduled 3 day week with other part-time employment. I think I have more "recovery" time than full-time ombudsmen. You may find the full-time/part-time issue important for long time office holders. Also, there has been a decline in the overall intensity-level over the years, with little difference in the outcome of cases. One develops an emotional "economy".

- I wish I had the authority my clients think I have. Too many people refer students to me as a way of getting rid of the student when the student is at fault and, therefore, I can do nothing for them.
References


THE CONTRIBUTORS

Howard Gadlin

Dr. Gadlin is the present Ombudsman and a Professor of Psychology at the University of Massachusetts, Amherst. As the University Ombudsman, Dr. Gadlin serves on the following committees: Chair of the "University Sexual Harassment Educational Committee"; "Human Relations Council"; and "University Mediation Project." Dr. Gadlin is the President-Elect for UCOA.

Dalene Hoppe

Dalene celebrated her 10th year as the Assistant Ombudsman at The Ohio State University. She is also the current Treasurer of UCOA. In addition, as a singer "extraordinaire," Dalene has promised to display her unique vocal talents at a concert for UCOA and CCCUO.

Christine McKee

Christine has been the Ombudsman at the University of Manitoba since 1981 when she was asked to set up the Office of the Ombudsman as an independent unit. Affectionately called "Mum" by Ron Wilson, Ombudsman, UCI, Christine received her education at the University of Birmingham, England. Her activities outside the University have included Board membership on government agencies and community organizations such as Canada Mortgage and Housing Corporation; North Portage Development Corporation; Winnipeg Art Gallery; and, the Winnipeg Home Improvement Project. Christine also served as a Senior Policy Adviser to the Minister of Employment and Immigration Canada.

Susan Hobson-Panico

Susan is the Director of the Ombudsman Office at the University of Colorado, Boulder and served as the Co-Convener of our 15th Annual CCCUO conference.
Gary Pavela, J.D.

An attorney, Gary is the Director of Judicial Programs and a Lecturer in General Honors at the University of Maryland. The author of the article, "Responding to Students with Mental Disorders" which was published in the Journal of College and University Law, Gary presented a workshop on this topic for the participants at the ACCUO conference held in Edmonton, Canada during June '88.

Mary P. Rowe, Ph.D.

Dr. Rowe is the Special Assistant to the President of MIT and Adjunct Professor of Management at the Sloan School of Management. Dr. Rowe has been zealously involved in utilizing the ombudsman concept in her job, as well as working directly with such organizations as SPIDR and the American Association of Arbitrators. An economist, Dr. Rowe was the founder of the Corporate Ombudsman Association and sustains a close affiliation with the corporate ombudsman structure. Dr. Rowe's most recent article, "Dealing with the Fear of AIDS," appeared in the Harvard Business Review.

Joaquin J. Sanchez, Ph.D.

Dr. Sanchez is the Director and Counseling Ombudsman for the Advising and Counseling Center at Sonoma State University in Rohnert Park, California.

Maury Stephensen

Presently an attorney with the firm Fillmore & Riley, Barristers, Mr. Stephensen worked as a Summer School student in the Ombudsman Office while studying law at the University of Manitoba.

Carolyn Stieber

The President of UCOA, Carolyn began in the 50's as a part-time temporary instructor in the Political Science Department at Michigan State University, East Lansing. In 1974 she was chosen to succeed Michigan State University's first ombudsman and has successfully completed her 14th year in the position. (According to Carolyn, she enjoys the challenge of "being persuasive without power" and "blending a judge's neutrality with a prosecutor's zeal.")
M. Katherine Uetz

Kitty has been the Ombudsman at the University of Cincinnati for almost eight years. In 1987, under Kitty's direction, UC hosted the Second UCOA Conference. In addition, Kitty has devoted a great deal of her time and talents to addressing the national needs of ombudsmen apropos of gaining increased support and opportunities for skill development. An accomplished fiber artist, Kitty has expertise in weaving, batik, and hand made paper.

Geoffrey Wallace

The co-founder of CCCUO, Geoffrey has been an Ombudsman at the University of California, Santa Barbara for 19 years. In addition to being a "national treasure" in the "Ombudsman Community," Geoffrey is an established cyclist and on four occasions has placed in the "top three" in the California State Cycling Championship.

Merle Waxman

Merle is the Director of the Office for Women in Medicine at the Yale University School of Medicine. When her two boys were "of age," Merle reentered the work force as the editor of a consumer newsletter. Later, at Stanford University, Merle worked with Allen Barbour before entering "the fray" to become an ombudsman. According to Merle, two additional mentors -- Leah Kaplan and Mary Rowe -- made significant contributions to her development of the requisite mediator skills.