

THE INDEPENDENT VOICE

News from the International Ombudsman Association

Ready to Flourish & Grow

BY JAN SCHONAUER, IOA PRESIDENT



JAN SCHONAUER

As I write this note, spring is in full bloom in the northeast U.S. In New York, where I am based, there are two sure signs of the warming weather: the

sound of the "Mr. Softee" ice cream trucks on each corner and the emergence of babies' toes from the layers of blankets that were required during the cold winter months.

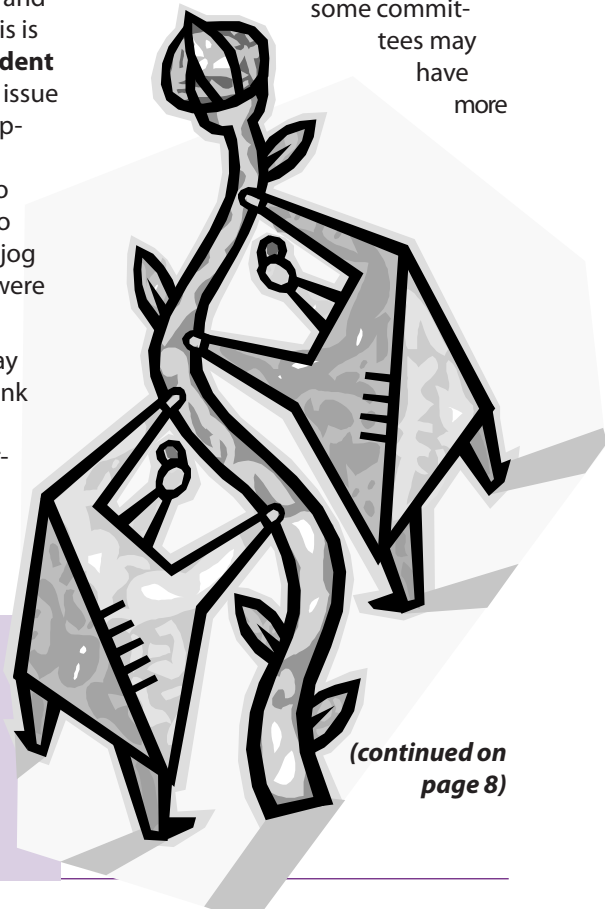
In some ways this is also a time of spring for the IOA since much of the focus of our collective efforts is on the annual conference (maybe we can consider that our holiday season!), which once again proved a great success in April. With a new year ahead of us, we are rejuvenated and ready to flourish and grow beyond our many accomplishments of last year.

Much of our collective excitement and energy comes from the success of our 2nd Annual Conference in April. I have received great feedback on the meeting both from individuals who have spoken with me and from reviewing conference evaluation forms. I am glad that so many people found the gathering directly beneficial to their respective practices. My congratulations go to the Conference Planning Committee, PMA and everyone who assisted. Since this is the first edition of **The Independent Voice** since the conference, this issue will include some session descriptions and photos from "roving reporters." This may be helpful to those of you who weren't able to attend the conference and may jog some memories for those who were present.

While the annual conference may be the highlight of the year, I think it is important to recognize that we have members working year-round to strengthen the Ombuds field. One very timely effort is the work of the Legal

and Legislative Affairs Committee which advocated tirelessly for the Texas Shield Law legislation during the past twelve months. They are outstanding among many who deserve much credit for IOA's success.

Inspired by other members who have volunteered, many conference attendees expressed an interest in serving on IOA committees. In fact, some committees may have more



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IOA CONFERENCE, APRIL 11-14, 2007

Strengthening our Foundations

In April, IOA hosted its 2nd Annual Conference, “Strengthening Our Foundations,” with more than 300 attendees. The three-day event in St Louis included a series of pre-conference courses, outstanding keynote speakers, 24 concurrent sessions covering a broad range of topics, and many opportunities for attendees to get to know each other. *The Independent Voice* called for volunteer “roving reporters” to help share information on some of the conference sessions. Many thanks are in order to **Toni Robinson, Michael Eisner, Dot Graham, Tom Sebok, and Steven Cordery** for contributing the following summaries of conference sessions they attended. Also, a special thanks goes to **Trey Reckling** for contributing the photos from the conference.



KEYNOTE PRESENTATION **Neutrality, Impartiality and More: What’s an Ombuds to Do?**

Keynote Presentation by
Gregory E. Firestone, Ph.D

Dr. Firestone posed a host of thought-provoking questions to one of the largest Saturday morning conference audiences ever! He focused his presentation on concepts and limits of specific elements of the IOA Code of Ethics and Standards of Practice, i.e., neutrality, impartiality, confidentiality, and privilege. He challenged us to consider what impartiality means and how it differs from neutrality; how our impartiality is viewed and measured; and whether neutrality is

present when we are disengaged from the outcome of a case, as opposed to the likelihood of its presence when we have a hand in shaping or possibly benefiting from that outcome. Dr. Firestone talked about limits to impartiality and neutrality in organizational policies, laws, safety regulations, and even in some of our own SOPs. He also discussed limits caused by imbalances of power and whether we, as ombuds, should be obligated to disclose any limits to those who seek our help. Speaking to the model standard adopted by the Association for Conflict Resolution, American Bar Association, and American Arbitration Association on mediator disclosure and impartiality, he recommended that neutrality be added. In his segment on confidentiality, he emphasized that confidenti-

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ality is important because, among other things, it creates a safe place for discussion where people are more likely to talk openly, and determine their own level of participation based upon informed consent. It was a most informative presentation.

BY TONI ROBINSON

Empowering the Ombuds Office and Communicating with Powerful Players: Presidents, General Counsel and Others in your Organization

Presented by **Sean Banks** and **Judy Bruner**

Sean Banks and Judy Bruner presented this important session late Friday afternoon. Many, if not most ombuds, find themselves defending the office to powerful people in their organizations. Sometimes these people did not support the creation of the office, while others are newcomers to the organization replacing supporters of the office. Sean and Judy explained that the ability to have conversations with people who do not support the office or are unfamiliar with what the office does, contributes to the effectiveness of the office.

The session began with Sean emphasizing the importance of Knowledge and Confidence: knowl-

edge of the how the office works and how it helps the organization and confidence in delivering your message. Sean then brought out a large suitcase with his "tools." His toolkit consisted of seven (7) types of "authority":

- (1) Professional (IOA),
- (2) Organizational,
- (3) Ombuds Program,
- (4) Benchmarking,
- (5) Research,
- (6) Legal, and
- (7) Experience/Example.

Judy took over for the next part of the session, "Talking the Talk." Judy stressed the importance of doing your homework before the meeting. Homework includes finding out about the person (using Judy's favorite tool, Google) and determining the purpose of the meeting. Judy emphasized that the timing of the meeting is critical. She then went through different strategies for talking to Presidents/CEOs, General Counsel, Other Leadership (Formal and Informal) and New Leadership.

The session concluded with an interactive group exercise, where attendees identified the types of authority (from Sean's toolkit) with which we needed to become more comfortable and proficient. We then identified people in our organization we needed to talk to about the office. Last we selected the types of

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IOA CONFERENCE, APRIL 11-14, 2007

Strengthening our Foundations



MORE THAN 300 ATTENDEES GATHERED IN ST. LOUIS MISSOURI TO STRENGTHEN THE FOUNDATION OF OUR PROFESSION AND THE ASSOCIATION. THREE DAYS OF EDUCATIONAL AND SOCIAL EVENTS GAVE PARTICIPANTS THE OPPORTUNITY TO SHARE, GROW AND LEARN.





(Strengthening our Foundations continued from page 3)

authority necessary to have a conversation with these individuals. At the end of the session Sean and Judy gave us a homework assignment. Our homework was to prepare for and have the conversation we identified in the interactive exercise. For those who were interested in having Sean and Judy follow up with them to make sure that they had the conversation, attendees were encouraged to give Sean and Judy their email addresses.

This important session was well received by those who attended. Hopefully the attendees left the session with a better understanding of how to have important conversations about their office with the powerful and influential members of their organization.

BY MICHAEL EISNER

Conversations with the IOA Board and IOA Committees

The conference session also entitled *"Ask Us What We Have Done for You Lately"* provided attendees an opportunity to learn what issues and projects IOA has been working on. A number of Board members and Committee representatives were present to answer questions.

International Committee representative, **Stephen Cordery** noted the international trainings held by IOA this past year. He was asked to encourage international ombuds to present at the IOA conference and write for the IOA newsletter and the

new IOA Journal. Members encouraged the organization to think deeply about what an international organization truly is and to move in that direction.

Marvin Neal, Membership Chair, discussed the relationship between Standards of Practice and membership categories. The audience urged greater emphasis on explaining the importance of those standards and best practices to IOA member applicants and ombuds in general.

Communications Committee Co-chair, **Molly McAvoy**, highlighted a list of committee accomplishments, including the sector listservs, the newsletter, and a new IOA journal. She also referenced further work to be done with information on the website, public relations initiatives, and information for new ombuds. McAvoy noted the rewards and challenges of serving on the Board and IOA committees.

Tom Sebok described how his Board service has been helpful to his university ombuds practice, the best benefit being learning and making connections. His overview of the database categories for recording visits to ombuds' offices demonstrated the usefulness of such uniform data.

Board Directors and Committee Chairs look forward to future conversations with members and welcome member input at any time.

BY DOT GRAHAM

Uniform Database Categories Task Force Presentation

The Uniform Database Categories Task Force began its work in the Fall of 2003 as a Joint Task Force of TOA and UCOA. On Friday, April 13, 2007 the Task Force presented a break-out session at the IOA Conference in St. Louis called "Comparing Apples-to-Apples." All Task Force members were present, including **Beatriz Dale** (American Express), **Joe Ganci** (US Dept. of Labor, Office of the Inspector General), **David Miller**, (World Health Organization), and **Tom Sebok** (University of Colorado at Boulder). The Mission of the Task Force was identified as: "... to develop categories and subcategories that can be used by ombudsmen across sectors to classify the kinds of issues, questions, and concerns with which they are asked to assist members of their organizations."

The evolution of the categories was described, including the five broad categories presented originally at the Joint TOA-UCOA Conference in Tucson in 2004, the eight broad categories presented at the single-day overlapping conferences involving UCOA and TOA in Atlanta in 2005, and the nine categories presented at the IOA Inaugural conference in La Jolla, CA in 2006. Task Force activities since the La Jolla conference were described, including the 2007 version of the taxonomy, including broad categories and subcategories with definitions and examples, was handed out, as well.

Included in the presentation was an overview of the findings of the first

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online survey of IOA members on the kinds of issues, questions, and concerns with which they are asked to assist members of their organizations using the Task Force's classification system. Charts comparing results across four sectors (colleges and universities, government agencies, corporations, and international agencies) and between sectors were shown. Persistent questions, the decision to count "issues, questions, and concerns about which the ombudsman discusses options with visitors," and challenges were discussed, as well.

The highlight of the session was, without a doubt, the singing of "Happy Birthday to You" to Task Force member, Beatriz Dale by everyone in attendance at the session. A good time was obviously had by all and Beatriz was appropriately embarrassed.

IOA members can view the Task Force's PowerPoint slides — including the ones that compare results across and between sectors at <http://tinyurl.com/ypqplg>. Members may also request these slides from David Miller at millerd@who.int.

Task Force members plan to write and submit a manuscript to the new *Journal of the International Ombudsman Association* about the work of the Task Force and the recent online survey results.

BY TOM SEBOK

Increasing the International Emphasis in IOA

The mission of the IOA International Committee is to support the goals and priorities of IOA by engaging ombudsman professionals throughout the world with particular emphasis on those working outside of the United States. The committee seeks to promote the establishment of the role of ombudsman in industry and organizations; provide professional development to support and advance the profession; monitor legislation, regulations, and trends which impact the profession; increase leadership participation and representation of the association via regional advisory committees; and promote partnerships that support and sustain the profession.

Nice words however, to enable the mission to be realised, there needs to be both; the support and participation of the international members, which currently account for approximately 20% of total membership, and also the Board of IOA. Before you stop reading and make a run for the hills, as you believe the writer is about to make a request for hours of your time, your participation and support can be in the form of ideas and feedback as given at the IOA conference in St. Louis in April.

There were a number of sessions at the conference which had international elements. Two sessions in particular, were the **International Forum Discussion Group** and **Conversations with the IOA board**.

International Forum Discussion Group: The aim of the group, which was jointly facilitated by **Wilbur**

Hicks and myself, was to influence the IOA board in terms of strategic priorities and innovative projects for the next 2-5 years.

The session was well attended and there was a high level of participation, although we could have done with more time! People were very positive and confirmed they wanted IOA to focus more on international activities.

Feedback from the group given to IOA board;

Strategic Priorities (*not ordered in terms of priority*):

1. Implement Regional Chapters/ Advisory Committees
2. Create alliances with other organisations & relevant committees
3. Mapping, with details entered on website, of organisations which operate within each region. This would then allow targeted communications from IOA.
4. Take Annual Conference out of North America

Innovative Projects (*not ordered in terms of priority*):

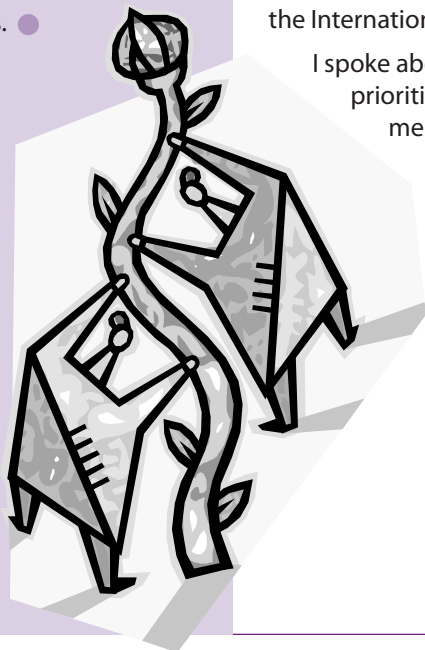
1. IOA to provide ambassador communication package (PowerPoint) for regional committees, so that IOA can reach out to the organisations and committees within the geographic area. The package would contain a consistent message and would be a proactive approach to increase the awareness of IOA, our Code of Ethics, Standards of Practice, and the benefits of Ombudsman programs.

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volunteers than they can handle, but we hope to use the talents of all our members who have an interest in supporting IOA and committee chairs will be in touch with volunteers soon. If you didn't have a chance to sign up at the conference, please do feel free to contact committee chairs (listed on the IOA web page) to express your interest.

In closing I would like to note that I am honored to serve an additional one-year term as President of the Association and I am delighted to continue to make a contribution to the Ombuds field. I know that with a Board of Directors focused on refining and working toward IOA's vision for the future and hard working committees, we will continue to make great strides. ●



(Increasing the International Emphasis continued from page 7)

2. Develop an International section on the IOA website, which will be a point of reference and a useful source of information.
3. More international articles in **The Independent Voice**.
4. Availability of translation and interpretation services (*possibly through website*).
5. International representation on all IOA committees.
6. Conference session on 'Hearing the Other Side' (International).
7. Committee on competencies to develop a common (International) language.

CONVERSATIONS WITH THE IOA BOARD:

The aim of the session, which I had the privilege of presenting on behalf of the International Committee, was to update the Board and membership on our activities and to give feedback from the International Forum.

The session was very positive and lively, and interestingly, a number of the questions and recommendations from the audience; mirrored those in the International Forum!

I spoke about our mission, priorities and accomplishments, with interest shown by both the audience and fellow panelists. There were a lot of positive questions around our priorities and accomplishments.

Key Comments received (not ordered in terms of priority) in addition to those noted above:

1. Invitation made for members of International Committee to join Conference Planning Committee.
2. Website to contain a message board to facilitate communication on International topics.
3. IOA website to have an 'International' webpage with different languages (including Code of Ethics & Standards of Practice).
4. IOA to use influence around the international arena on a proactive basis.

If you would like to influence the IOA by adding your thoughts and ideas to those listed in the Strategic Priorities, Innovative Projects or Key Comments, or maybe even contribute an article or story in **The Independent Voice**, please do not hesitate to contact one of the members of the International Committee who are; Co-Chairs: **John Barkat** and **James Lee**; Members: **Camilo Azcarate**, **Karen Campbell**, **Steven Cordery**, **Danielle Fischer-Lebailly**, **Nora Galer**, **James Nabina**, **Georgia Shaver**, and **Christine Mougne**. ●

ARTICLES BY STEVEN CORDERY, CORPORATE OMBUDSMAN, EUROPE, MIDDLE EAST AND AFRICA, UNITED TECHNOLOGIES CORPORATION

A MESSAGE FROM THE LEGAL AND LEGISLATIVE AFFAIRS COMMITTEE:

Texas Ombudsman Privilege Legislation: Update and Next Steps

BY DAVID TALBOT, MEMBER, LEGAL AND LEGISLATIVE AFFAIRS COMMITTEE

Confidentiality is the bedrock on which virtually all ombuds programs are built. It is crucial to the effectiveness of an Ombudsman and to the trust of those who utilize an ombuds office.

An Ombudsman's promise to maintain confidentiality, however, is only as good as the legal recognition given to such a promise.

A great deal of effort has been made over the years to create legal protections for the confidential communications of Organizational Ombudsmen. Success has largely come through the courts granting protection on a case by case basis utilizing such varied means as the recognition of a federal common law privilege, a bar to disclosure based on an implied contract theory, and even the recognition of a constitutional right of privacy. But courts have not always ruled in favor of the Ombudsman. We have had mixed success in protecting the identity of parties, and confidential information, when subpoenaed to testify in a formal proceeding.

This creates a tremendous need for statutory protection. Many states have enacted statutes to protect confidentiality in the mediation or alternative dispute resolution context or specific to other types of Ombudsmen. But legislation does not exist that specifically precludes Organizational Ombudsmen from testifying, nor is there a legislatively enacted privilege for our profession to protect the confidentiality of communications made by visitors to the ombuds.

TEXAS LEGISLATION

Most of our members are probably aware of the important work that has taken place in Texas and how IOA has actively engaged in addressing the need to develop legislation creating an Ombudsman privilege. Unfortunately, we were not successful in our efforts to pass this legislation during the current session. The

a privilege for BOTH private and public sector Organizational Ombudsmen throughout the state of Texas. IOA, through the Legal and Legislative Affairs Committee, fully endorsed and vigorously supported this bill throughout the legislative process.

HB 3578 received remarkable support in the House of Representa-

While disappointed that HB 3578 did not become law during this session, we believe that we left an excellent record in Texas intact — an extraordinary 140-0 House vote...

bill was ultimately left pending in the Senate Jurisprudence Committee and was not voted on by the full Senate in this session.

As a brief history, the first Ombudsman Privilege bill in Texas was introduced by **Senator Jeff Wentworth** (SB 160) on December 27, 2006. SB 160 was not endorsed by IOA because, while IOA overall supported the concept of the privilege as drafted in SB160, SB160 explicitly excluded public sector Organizational Ombudsman programs from the bill.

In response to these concerns, **Representative Patrick Rose** introduced HB 3578 which included

tives as reflected by a 140-0 House vote. In preparation for a vote on the Senate floor, HB 3578 moved to the Senate Jurisprudence Committee and was heard in committee on the last day for committee hearings. We were able to provide some very brief testimony before the Chair closed the hearing and adjourned the committee as the Senators were called back to the Senate floor to finish voting on the last round of bills this session. Although we were able to educate the committee members about our profession and need for confidentiality, ultimately we ran out

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of time to answer and manage last minute questions and concerns raised by some of the Senators.

While disappointed that HB 3578 did not become law during this session, we believe that we left an **excellent** record in Texas intact — an extraordinary 140-0 House vote and a hearing in the Senate Jurisprudence Committee. This was an excellent and exciting beginning to what will be an ongoing effort to create statutory protections for Organizational Ombudsmen.

We want to express our deep appreciation to the individuals listed below for their excellent work throughout this process: **Sean Banks, Judy Bruner, Kevin Jessar,** and the full Legal and Legislative Affairs Committee; **Bill Bedman, Ralph Hasson,** and **Chuck Howard;** **Joe Bill Watkins** and a number of professional lobbyists; and Texas IOA members **Lauren Bloom, Clifton Griffin, Nathanael Haddox, Amos Morale, Kathryn Quilliam, Anu Rao** and **Gene Wright.**

NEXT STEPS

Debrief Sessions will take place over the coming weeks to capture our learning from this remarkable experience. Discussions will take place with the many individuals and organizations who contributed so much time, energy and brainpower to this effort. The Legal and Legislative Affairs Committee will then make recommendations to the IOA Board regarding how to proceed both as a committee and an organization.

We encourage each of you to remain aware of opportunities within your state that, like Texas, may result in efforts to provide statutory protection for Organizational Ombudsman confidentiality. We ask as well that all members remember that the way in which we each practice can have a significant impact on continued efforts to create and strengthen legal protections for the confidential communications of all Organizational Ombudsmen. ●

(Some information for this article was drawn from the IOA handbook "The Ombuds Confidentiality Privilege – Theory and Mechanics" by **Charles L. Howard** and **Maria A. Gulluni**)

IOA COURSE OFFERINGS

JULY 2007

The Red Lion Hotel on Fifth Avenue, Seattle, Washington, USA

1. **Ombudsman 101,** July 16-18, 2007
2. **Ombudsman 101 PLUS,** July 18, 2007
3. **Specialized Course: Legal Issues in an Everyday Ombudsman Practice — Answers to the Questions You Have Always Wanted to Ask,** July 19, 2007
4. **Specialized Course: Defining Effectiveness for the Ombudsman Office,** July 20, 2007

Register today at:
<http://tinyurl.com/2bg5gx>

OCTOBER 2007

The Hilton Philadelphia City Avenue, Philadelphia, Pennsylvania, USA

1. **Ombudsman 101,** October 15-17, 2007
2. **Ombudsman 101 PLUS,** October 17, 2007
3. **Intermediate Workshop: Skills for the Experienced Ombudsman,** October 16-17, 2007
4. **Specialized Course: Drawing from Psychology: Theories of Solution Focused/Problem Solving Therapies,** October 18, 2007

What Are You Going to Do?

BY TOM BARNETTE, REGIONAL OMBUDSPERSON, AMERICAN EXPRESS AND NICK DIEHL, ASSOCIATE OMBUDS, PRINCETON UNIVERSITY WITH COMMENTS FROM DAVID TALBOT, OMBUDSMAN, COCA-COLA ENTERPRISES AND MEMBER OF THE IOA STANDING COMMITTEE ON PROFESSIONAL ETHICS, STANDARDS OF PRACTICE AND BEST PRACTICES

In March, we asked readers to consider and respond to a hypothetical scenario that involved a visitor to the Ombuds Office sharing their intention to lodge a spurious harassment claim as leverage to bring attention to their actual concerns. Following is a recap of the scenario and how our readers responded:

THE SCENARIO

A visitor complains about “disrespectful” treatment in the workplace by their boss. The individual has complained about the supervisor in the past, but has not felt heard and is frustrated and angry. The person seems to have an abrasive communication style, so it is easy to imagine friction with the supervisor. During the meeting, the person says that he/she might raise an allegation of sexual harassment against the supervisor since that seems like the only thing that will “get people’s attention.” When asked why he/she thinks that sexual harassment has occurred, the response is that it really hasn’t, but it is one way to be heard.

DO YOU?

1. Acknowledge that the visitor has a right to raise an allegation and say no more about that option?

2 responses, or 8%

2. Point out that it seems like a bad strategy to launch a complaint with no basis for the complaint?

14 responses or 56%

3. Encourage the visitor to follow that path as one of the remaining ways to prompt action?

0 responses or 0%

4. Tell the visitor that it is unethical to make an accusation they know to be untrue?

6 responses or 24%

5. Not comment on the statement at all and focus on other options.

3 responses or 12%

Several readers also shared comments, some of which appear below:

- I was really torn on this one — I think in the course of brainstorming about all the options, it is reasonable to inquire as to how making a false allegation fits with the visitor’s moral code. Also, I think you can point out that making false allegations is in violation of university policy. You can do all of this without placing your own value / moral judgments on the situation.

- More accurately, I would work with the visitor to explore the possible outcomes of making such an accusation under those circumstances.
- I would not comment about what looks like a desperate and emotional reaction; I would remain neutral but I would show empathy by inviting the person to tell me more about the situation, what was said exactly, in which context, what his/her reaction was, what he/she was expecting to see happening, who was involved, etc., and did not happen, etc., and offer a series of options that will make the person to self conclude that there are more effective ways to resolve the issue than raising sexual harassment when there is no base for it.
- As ombuds, we don’t check our ethics at the door. If a visitor proposes a blatantly irresponsible, unethical or illegal resolution, we should not hesitate to explain the pitfalls of such an approach and to withdraw our assistance. In the long run, this will only preserve our individual and professional integrity.
- Empathize, but then explain the reasons why this is a bad strategy and suggest a meeting of the two with you, the Ombuds facilitating the discussion.

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(What Are You Going To Do continued from page 11)

- I would stay neutral when pointing out, I would try to educate the visitor about existing harassment complaint processes and work with him/her to find other options.
- I would advise the visitor about my feelings about the ethics of that action and let them know of the personal pain that I've seen in my former HR practices caused by sexual harassment complaints — innocent spouses and children become unintended collateral victims of pain, embarrassment, and loss of trust.
- I would follow up by helping the visitor identify other strategies that might be more successful.

We requested some additional comments about this scenario from the IOA Standing Committee on Professional Ethics, Standards of Practice and Best Practices. **David Talbot**, Ombuds at Coca-Cola Enterprises, in consultation with his committee members, shared these thoughts:

The first step is to listen. The use of skilled listening (reflective listening, reframing and paraphrasing) is important to identify and understand the visitor's interests — i.e., why they feel the need to make a false sexual harassment allegation. [SOP 4.1] It is important to remain neutral and to recognize that this may be a challenge in light of the visitor's stated intentions and "abrasive communication style". [SOP 2.1, 2.2]

Constructive feedback and coaching may help the visitor understand how their communication style is coming across to you and explore whether they may also come across the same way to others. You may want to help

the visitor reframe their concerns in a more constructive way so as to have a greater likelihood of being heard — for example, using "I" message requests rather than "You" message accusations. This may help the visitor recognize that their behavior could be making it harder to achieve their goals (e.g., people may not want to listen — which is probably why the visitor feels a need to file a false claim in order to be heard).

Role playing is a tool that may help the visitor understand the impact of

while fully participating in brainstorming and discussing options with the visitor. Your participation may help the visitor understand the potential ramifications of each option including the negative impacts of making a false allegation. [SOP 2.5]

Skillful questioning alone may help the visitor recognize the potential ramifications of their various options. However, it may be irresponsible for the Ombudsman — both to the visitor, the organization, and the

Neutrality and impartiality means not having a stake in the outcome — it does NOT mean having "no opinion" or "values" based on the information given.

and improve their communication. For example, the Ombudsman could play the role of the visitor, allowing the visitor to gain a sense of what it feels like to be on the other end of an abrasive message. You may also need to help the visitor understand and deal with their emotions (which may entail a referral to EAP). [SOP 4.1]

It is important to explore all options with the visitor discussing the pros, cons, and overall ramifications of each. Both formal and informal options should be explored. Having options may help the visitor feel empowered and confident that they can find resolution through more appropriate options. [SOP 2.6] Maintain neutrality and impartiality

Ombuds Office — to let the visitor move forward without you having clearly communicated the potential harm of making a false sexual harassment allegation. This can be done with neutrality, empathy, and clarity. We should not be frozen in our neutrality particularly when the potential ramifications are clear. Neutrality and impartiality means not having a stake in the outcome — it does NOT mean having "no opinion" or "values" based on the information given. [SOP 2.5]

Once this initial process is complete — unsettling facts of the scenario and the visitor's abrasive style, notwithstanding — we must respect the decisions of the visitor and maintain confidentiality. [SOP 3.1]

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(What Are You Going To Do continued from page 12)

OUR NEW SCENARIO FOR THIS EDITION

Following is another hypothetical scenario that an Ombuds might face. We invite you to weigh-in with what you would do next by “voting.” We will publish the cumulative results of the response in our next issue. We recognize that limiting Ombuds to one, exclusive option is a bit artificial and not what you typically do in your Ombuds practice. But to keep this manageable, please select one option that you would choose among those listed.

Virtually every ombuds eventually faces a situation where a statement or action is attributed to them by a visitor. Please consider this scenario and tell us.....What are you going to do?



SCENARIO

Stanley, the Vice President of a large department, calls you to advise that he has a serious concern about what you are doing in the Ombuds Office. He says that one of his employees, Sara recently visited your office regarding a progressive disciplinary process. In the typical process, employees receive a “letter of concern,” then a “warning letter” and finally an employee may be dismissed. You did meet with Sara who told you that she received a warning letter without ever receiving a letter of concern. One option that you suggested was that she inquire as to why she never received a letter of concern. Stanley says that Sara said “The Ombuds Office wants there to be a formal investigation into why I never received a letter of concern.” Sara did not expressly give you permission to let anyone know that she had spoken with you. Stanley is very upset and says that he knew the Ombuds office would eventually muck things up.

WHAT DO YOU DO?

1. Since Sara has apparently revealed that she visited your office, you advise Stanley that you will speak to Sara to clear up the misunderstanding.
2. Ask Stanley why Sara didn't receive a letter of concern.
3. Advise Stanley that you cannot confirm or deny that you have spoken with an individual. Do nothing further unless Sara contacts you again.
4. Advise Stanley that you cannot confirm or deny that you have spoken with an individual. Then you offer to work with Stanley to help him find options for addressing the situation.
5. Advise Stanley that you cannot confirm or deny that you have spoken with an individual. After the call you contact Sara to discuss the matter without disclosing that you have spoken with Stanley.
6. Advise Stanley that you cannot confirm or deny that you have spoken with an individual. After the call you contact Sara to explicitly discuss Stanley's call to you.

INSTRUCTIONS

To record your response, click on the Zoomerang Weblink below or copy and paste this link into your web browser. You can also visit the Member's Only section of the IOA website www.ombudsassociation.org for the survey link. Please choose only one of the options listed. Comments are welcome, but keep in mind that we may publish some of the comments in the newsletter at our discretion. Let us hear from you.

ZOOMERANG WEB LINK:

<http://www.zoomerang.com/survey.zgi?p=WEB226K9SYEMF9>

EFFECTIVENESS CORNER

What is an Effectiveness Stakeholder; Why Do They Matter?

BY JOHN ZINSSER

Have you thought carefully about who the few people are in your organization that matter most to the “well being” of the ombuds program? Do you know the *raison-d’etre* for your program, from *their* perspective? Or what is the institution’s intended gain — the impact desired — from having an ombuds? From having YOU, as ombuds?

Surveys and anecdotal evidence collected by the Effectiveness Subcommittee suggest that if you haven’t thought of these things, you are not alone.

For the well being of your program and the field we encourage you to discover these answers. Without them, it is virtually impossible to assure you are effective. Following are some thoughts to assist you in determining who are your Effectiveness Stakeholders.

Organizational ombuds have long talked about (generic) stakeholders. In this context every person in the organization is in fact an ombuds stakeholder — those who avail themselves of the ombuds’ services (users — both initiators and respondents); those who might someday access the program (potential users); and those whose function and work is impacted by our activities (HR, Legal, Ethics, etc.). Of course all these matter. However, the Effectiveness Stakeholders — those who decide about the existence, purpose and achievements of the ombuds program, both in and out of organizational leadership — are vitally important. It is essential to work together with Effectiveness Stake-

holders to define what success looks like and how they will know the program is creating the desired effect. As a specialized subset of all stakeholders, Effectiveness Stakeholders deserve and require particular consideration and action from the ombuds.

First of course, you must determine not only who they are but where they are in your organization. Do they sit on an Ombuds Committee?

program resources (budget, access, image, political support, etc.). Of course, everyone who advocates for the ombuds program is not necessarily an Effectiveness Stakeholder. Perhaps though, the advocate is communicating with someone who IS an Effectiveness Stakeholder.

Reversing this perspective may also pinpoint other, very different Effectiveness Stakeholders. Who is it that — if they do not know or

If they believe the program is “delivering” they can increase program resources (budget, access, image, political support, etc.).

Are they more broadly based than that? Are they at the top of the organization chart? Or are they the people who occupy critical junctions throughout your institution’s management and administrative structure?

Effectiveness Stakeholders, who constitute the ombuds’ “authorizing environment,” usually occupy positions and functions from where they can define and determine — likely with some ombuds assistance — what the organization’s highest and best aspirations for the program are, and if these are being realized.

If they believe the program is “delivering” they can increase

believe the program is providing effect — can remove support and resources? This might even include terminating the program. Someone with that capacity is likely an Effectiveness Stakeholder.

Given this capacity to judge the impact of the ombuds program, have sway on resources, or support or not the program, this essential, powerful group likely numbers fewer than a dozen. Certainly it is in the best interest of the ombuds and the program to know of all of these Effectiveness Stakeholders and communicate with them regularly at appropriate intervals.

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A few more questions to help determine who might be Effectiveness Stakeholders: Who interviewed the candidates for the position, not because of function (i.e. HR) but because of authority or collateral responsibility? Who last authorized space and funds to the program? Who has the most to lose (in terms of increased work load, functional complexity, organizational image, or financial costs) if the program did not exist?

So now, who are your Effectiveness Stakeholders? How do you know? Take a first step and identify the five Effectiveness Stakeholders who matter most for your program accepting that there may well be more. Take your time. Re-examine your hypothesis. Share it with another ombuds, or someone from the Effectiveness Subcommittee and



tell them why you think each person you picked is one of your Effectiveness Stakeholders.

Identifying the “who” will lead to the “what.” Planning an “effectiveness dialogue” with your Effectiveness Stakeholders — how to discuss desired impacts and determining how it will be known that these are achieved, while defending and exemplifying appropriate standards of practice — will be the next topic of the “Effectiveness Corner.” ●

*One of the goals of the Effectiveness Committee, (a standing subcommittee of the Ethics and Standards of Practice Committee), is to increase awareness of the importance of the Organizational Ombudsman measuring their “effectiveness”. The “Effectiveness Corner” will be a regular feature of **The Independent Voice**, written by members of the committee.*

Watch for information on gathering data, tracking trends, and making that information relevant to your organization. Learn from top leadership in member organizations what “effectiveness” means to them in terms of the role of their ombudsman.

*Readers may submit ideas or questions for the “Effectiveness Corner.” If you wish to become a member of the Effectiveness Committee please contact **Carolyn Noorbakhsh**, 303-275-3221 or email Carolyn_noorbakhsh@nrel.gov.*

What’s Your Motivation?

Recently I was trying to explain to a new acquaintance what it is that I do for a living. After going through the typical verbal tap dance that incorporated an entirely inaccurate analogy, I got the usual blank stare response. Then my new friend suddenly blurted out “Why would you want to do that?”. Why indeed! Which got me to thinking about why we are involved in this profession. And that folks, is my simultaneous question to you and call for input for an article in a future newsletter.

Please consider taking a few moments to capture as succinctly as possible, why you are an Ombuds and sending it to me via e mail. What is your motivation? What is it that keeps you in this field? Your response can be serious or not so serious and even anonymous if you wish (provided it passes the “community standards” test of my co-editors). I’ll aggregate and organize the responses and share some or possibly all of them in a future newsletter. Just keep in mind that when you submit a response, I will assume that you will not mind seeing it in print!

Please send responses to Tom Barnette at tom.barnette@aexp.com by July 15.

Understanding the Work of the Ombudsman's Office

BY LINDA WILCOX, OMBUDSPERSON, HARVARD MEDICAL SCHOOL

Questions are sometimes raised as to why specific information discussed at an Ombudsman's office may not be provided to the organizations in which we work or why violations of institutional policies may be settled quietly without benefit of formal procedures. To better understand this, it may be helpful to review the facts of life in an Ombudsman's work.

The most important thing an Ombudsman can offer a visitor is confidentiality. It is the one assurance that virtually every visitor requests at the onset of a meeting. Without confidentiality, many conflicts and abusive practices would never come to light. However, to account for the competing interests of the other parties and the institution, an Ombudsman must devise ways to alert others to serious problems while not breaking the confidentiality promised or risking that it could be inadvertently breached. This can be a complex and delicate task.

Adherence to the *International Ombudsman Association Code of Ethics and Standards of Practice* is critical to the careful balancing of competing interests and needs of individuals and institutions. We help individuals make informed choices while honoring their request for confidentiality unless there is an imminent risk of serious harm. At the same time, we bring serious issues to the attention of the people in the institution who have a need to know about them and may wish to respond. This requires an Ombuds-

man to establish enough credibility with administrators and decision-makers so that they can be counted on both to focus on the problem rather than on the source of the information and to try to respond effectively to the broader issues that the problem suggests. Another salient concern, in addition to the actual problem being brought to their attention, is to ponder why someone would come to an Ombudsman's Office to bring up a matter, rather than go to the people who are in charge of that area of concern. What is preventing the "organizationally-expected" flow of communication within the appropriate channels?

Achieving a productive balance between the needs of both the individual and the organization affects the way an Ombudsman approaches a problem, the questions an Ombudsman will choose to ask about a situation, and then, how to help a visitor generate options to address the problem. The Ombudsman can alert the organization without using specific examples and names, sometimes very indirectly through providing materials and programs to educate people about problem areas. Other means include direct, private conversations with appropriate parties, and writing an annual report.

The organization grants an Ombuds-

man great independence and the responsibility of making sound judgments and choices. Sometimes there are, actually, no good choices but only some marginally better than others. Our practical task is often just to do the most good with the least amount of additional harm for the parties involved.

Is all this balancing and ambiguity in the Ombudsman's practice truly helpful? Perhaps this will be clearer with three examples where common, more clear-cut policies designed to help people come forward have unanticipated side-effects.

EXAMPLE ONE

In the first example, **organizations establish zero tolerance policies** to eliminate behaviors that are experienced as harassment or discrimination. The policy is created so that no one will feel unwelcome in the workplace or academic setting.

There are unforeseen and unanticipated results, however. On the one hand, people fear that the sanctions will be so severe that they will hesitate to report the smaller transgressions even



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though these are by far the most common cause of complaints of this nature. On the other hand, with a zero-tolerance policy in place, a complaint of harassment or discrimination will require indisputable facts and clear evidence to prove an allegation, thus stopping people from expressing their feelings of discomfort because doing so may result in negative consequences to themselves if they are unable to “prove” the concern. Consequently, without a place such as an Ombudsman’s Office for someone to talk about their experience, there is a tendency to remain silent despite the good intentions of this kind of policy.

EXAMPLE TWO

In the second example, **organizations promise that there will be no retaliation** for bringing up a concern for wrong-doing or unacceptable behavior. The promise is made to encourage people to feel comfortable coming forward without fearing retaliation. However, in reality, it is extremely difficult to actually prevent retaliation. For example, in the academic setting, “retaliation” can even occur years later when the complaining person’s manuscript or grant application is being reviewed by the person who had been complained about. The unintended consequence of this kind of policy is the reverse of what was intended by the promise. After a few cases, word gets around. One knows that the organization can’t really protect people except in the most obvious

and extreme examples of retaliation, so why risk coming forward publicly? Better to say that the administrators are aware and will do their best to prevent further problems. Sometimes a visit to the Ombudsman can result in creating ways of discussing a concern that will avoid alienating further someone with whom one is having a problem, perhaps minimizing the chances for future retaliation.

EXAMPLE THREE

A third example relates to when the norms, expectations, and culture that develop within work units conflict with the norms, expectations, and culture of the larger institutional and societal values. An extreme example of this was South Korean researcher **Dr. Hwang Woosuk’s** submission to **Science** in 2004: Dr. Woosuk’s data proving successful cloning were discovered to be fabricated. In academia, for instance, we encourage teamwork within laboratories and departments. However, this sometimes gets translated into the group being expected to stick together and support the authority of its leader even if the leader has developed expectations that are not consistent with the values of the larger institution.

Institutional policies, though written to protect people, too often don’t account for the power exerted by the working group and by the leader running the unit.

Most people want to adhere to institutional philosophies and the formal guidelines written to channel expected behavior — whether interpersonal or research-related. But sometimes policies are set aside in preference of the power exerted by smaller group culture or a leader’s authority. Most people choose to

swallow a perceived injustice rather than risk bringing it up more formally. Those who behave badly know this, and use it, to get what they want. Since the policies written to protect individuals from egregious, unacceptable behavior — whether discrimination, harassment, or research-related — do not monitor small group behavior, urges to behave inappropriately sometimes can outweigh institutional expectation.

What happens in an Ombudsman’s Office? In these three examples, an Ombudsman’s Office, by offering confidentiality and a neutral ear, provides an informal way to bring more problems to the surface while minimizing problem escalation. For individuals, this is helpful in that people who have these kinds of problems but are unable to talk about them, or do anything to resolve them, tend to be less productive. With an Ombudsman, options to address the problems are generated from which the visitor is free to choose. More such problems can be fixed, prevented or managed in a way that may not have been thought of on one’s own.

An Ombudsman’s Office can also informally provide generic upward feedback to an institution about how a formal system is actually working without identifying any individual, or groups of individuals who have chosen not to be identified. This upward feedback may be useful for an organization when comparing its intentions and the reality people are experiencing. It can include devising ways to monitor behavior, evaluating whether existing policies are actually achieving their desired purposes, and continually educating people on what is expected. ●

The Quickly Learned Lessons of a New Ombuds Office

BY NEAL MILNER

Last year, before I had even set up the new University of Hawaii Ombuds Office, I treated you to a prediction about what the job would be like (*The Independent Voice*, June 2006). What the heck did I know?

We opened nine months ago. I have a diverse, extremely competent staff. Our space is terrific—really. We have handled about 300 cases. We have dealt with the very powerful as well as the very powerless.

Good, no? And yet our official office sign is still a cheesy piece of typing paper pasted on a door that remains cat-puke brown. Leading to the first of my learned lessons:

LESSON 1: It's easier to help others than to help yourself: Like with us and Chuckie the Sign Guy. Early on, we approached Chuckie about our signage needs. He said he would get back to us. Time passes, much time. *Nada*. I think about putting pressure on Chuckie by calling his boss in Facilities, but I am cautious because I know that facilities is a big issue here. So I decide to be strategic and save my chits to use on behalf of our visitors' buildings and grounds issues. More time, more *nada*. I finally do call the Facilities Top Boss who says he will talk to Chuckie. He does. It makes no difference. Meanwhile, after also waiting for many months trying to get our door painted, we find out that Chuckie the Sign Guy is also Chuckie the Paint Guy.

LESSON 2: There are few surprises: What? Ombuds work changes from one moment to the next in ways impossible to predict. But overall,

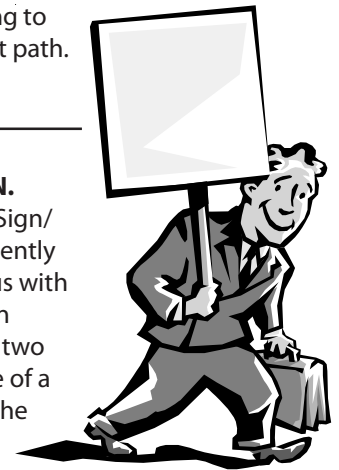
what I have seen has reinforced what both people within as well as outside the University already knew. For instance, Chuckie's behavior is consistent with stories that people both at the University and in the broader community commonly tell to illustrate what UH is really like. (State legislators here recently held a public hearing on the University's excess of mold and lack of soap.) These dominant, entrenched, accurate narratives define the University of Hawaii. Our first annual report needs to discuss the influence of these narratives.

LESSON 3: Ombuds work is about conflict resolution on the fly: When ADR practitioners describe their work as informal, their frame of reference is litigation. Compared to ombuds work, though, ADR is like the Eighteenth Century British Law Lords complete with wigs. Recently a student came to me complaining that another student had humiliated him. During our first conversation he decided that he and the other student should meet with a third party. A perfect arrangement for mediation—two students sitting down and getting to yes with me in a quiet office. Except that the complaining student was leaving for the summer in a couple of days, the other student had not been contacted yet, and the aggrieved student really wanted this issue to be dealt with by a particular faculty member who, as it turns out, was not reachable and was leaving in a few hours for the rest of the summer. Our Plan B involved improvisation and rapid education.

LESSON 4: All disputes are organizational: The difference between organizational and individual is a social construction, and, properly, ombuds work lets our visitors do this constructing, which they typically do by emphasizing individual problems and solutions. But typically, as my staff and I listen to these individual stories, we see root organizational causes. Howard Gadlin's recent work is a very promising approach to moving from individual to organizational. UH Ombuds is just beginning to go down that path.

THIS JUST IN.

Chuckie the Sign/Paint guy recently got back to us with an actual sign diagram. For two signs the size of a Cadbury Bar he wants six hundred bucks! Then he gets back to us again saying that the color we wanted our door painted might have to be approved by the Board of Regents because—and this was news to us—our building is on the State Historical Register. Do we cut through the red tape and do our own damn signs and door ourselves? That would be good ombudsing and consistent with the ways that people around here, well schooled in the narratives about Facilities, would do it. Or do we follow channels and keep good relations with Facilities? That would be good ombudsing, too. ●



The International Ombudsman Association Welcomes Its Newest Members

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