



COALITION OF FEDERAL OMBUDSMAN

Scott M. Deyo
Chair

William Maurer
Vice Chair

Noreen Kinnavy
Co-Secretary

Andrea Brown
Co-Secretary

Guy Weber
Coordinator

MEETING MINUTES

Meeting Date/Time: June 11, 2014, 1:30pm – 3:00pm

Location: Environmental Protection Agency (EPA), William Jefferson Clinton Building
North, Conference Room 6013

Agenda/Topics at a Glance:

1. Ombuds Value Project
2. Outreach with Ombuds Committee, ABA Section of Dispute Resolution
3. Whistleblower Ombudsman
4. OMB MAX as a CoFO Collaboration Tool
5. Responding to Requests for Testimony
6. Other Announcements/Requests

Discussion Topics:

1. Ombuds Value Project

Mr. Scott Deyo highlighted a recent request inviting CoFO members to participate in the Ombuds Value Project by submitting one example (or more) of a success story demonstrating the value of the ombudsman role by Friday, July 18, 2014. The narratives, written in a way that protects the identity of the agency and individuals involved, will be compiled into a reference tool available to the ombudsman and conflict resolution community. This project follows a suggestion raised at the 2013 CoFO conference.

2. Outreach. Scott Deyo shared a request from the ABA's Section of Dispute Resolution, where Mr. Charles "Chuck" Howard, Chair, Ombuds Committee, reached out to CoFO:

"The Committee welcomes participation from professionals in the ombudsman and legal communities. We are mindful that there are numerous types of ombuds, using various versions of the original "ombudsman" term. We want to extend an invitation for ombudsman practitioners of all types to join the Committee. Committee membership is open to anyone, the only requirement being that committee members belong to the ABA Dispute Resolution Section. Visit the ABA website (http://www.americanbar.org/membership/join_and_renew.html) for information on joining the ABA DRS. (Membership is not limited to lawyers). To join the Ombuds Committee itself visit: https://apps.americanbar.org/committee_join/ocj_join.cfm?comm=DR. One of the goals of the Ombuds Committee is to inform and educate lawyers and the public about ombuds programs, functions, and the benefits they provide to organizations and society."

3. The role of the Whistleblower Ombudsman

Mr. Robert Storch and Ms. Judy Kleiman of the DOJ Office of the Inspector General gave a presentation on the new Whistleblower Ombudsperson Program, implemented as a result of the Whistleblower Protection Enhancement Act of 2012. The Whistleblower Ombuds understands the role of the OIG from the inside and will serve as an educational resource about the OIG's role and the nature of protected disclosures. Agencies that have more than one type of ombudsman need to ensure that staff understands the different and unique role of each.

The entire presentation with relevant links is available in *Attachment A*.

4. OMB MAX as a collaboration tool for CoFO. You can learn more about OMB MAX at: <https://max.omb.gov/maxportal/home.do>

Members at the meeting agreed to pursue OMB MAX as a readily accessible repository for CoFO members to share resource material. While this option is being explored, if you have material that should be included, such as policies, SOP's, ombudsman position descriptions, etc., please email them to Mr. Deyo or other members of the Executive Committee. In particular, please consider forwarding any charters, sample statutes and policies that could be made readily available for new or soon-to-be-established ombuds offices.

5. Have you ever received a request to testify in a formal proceeding? Do you have a plan in place if you are called to testify in a formal proceeding?

Most ombuds resist formal testimony. Sources of support to justify this position can include Administrative Dispute Resolution Act (ADRA) and an agency's General Counsel, if the latter supports the principle of ombuds confidentiality. If an agency itself (whether through GC or other formal entity) attempts to compel an Ombudsman to testify, CoFO members can provide additional information to assist.

Perhaps the ABA's Section of Dispute Resolution, Ombuds Committee could provide support in this regard.

6. Other Announcements/Requests:

- a. Mr. Victor Voloshin announced that the Equal Employment Opportunity Commission is looking for unpaid interns. They need to write well and preferably know about labor law. Please send any resumés to Victor.Voloshin@EEOC.gov.
- b. Ms. Davida McCray, a Pathways intern at FDIC, is interested in meeting other interns working in the conflict resolution field. She can be contacted at dmccray@fdic.gov.
- c. There were two recent job announcement:
 - Federal Bureau of Prisons (closed June 27, 2014)
 - Federal Deposit Insurance Corporation (closes July 7, 2014)
<https://www.usajobs.gov/GetJob/ViewDetails/373499500>

- d. Several ombudsmen retired over the past year; CoFO would like to acknowledge them at our next annual conference. Please email Mr. Deyo or another member of the Executive Committee if you are interested in volunteering to organize the annual conference.

Attendees:

In Person

Emily Albertson, Federal Reserve Board
Riley Barrar, Department of Defense
Rolando Bonachea, Student
Andrea Brown, Department of State
Sheryl Brown-Norman, Office of the Director of National Intelligence
Scott Deyo, Defense/National Geospatial-Intelligence Agency
Noreen Kinnavy, International Broadcasting Bureau
William Maurer, Department of Energy
Julie Smith, Department of State
Robert Storch, Department of Justice
Judy Kleiman, Department of Justice

By Phone:

Karen Asaro, Department of Homeland Security
Bedlivi Dawn, National Security Agency
Virginia Behr, Department of Health and Human Services
Claire Fheffernan, Department of Homeland Security
Wendy Kamenshine, Consumer Financial Protection Bureau
Marcia Larkins, Department of Health and Human Services
Mona Lease, Student
Laurie Lenkel, Department of Health and Human Services
Matt Magee, Department of the Interior
Katie Manderson, Department of State
David McCray, Federal Deposit Insurance Corporation
Celeste Merrix, Department of Homeland Security
Kirsten Mitchell, Office of Government Information Services
Eric Raines, Federal Deposit Insurance Corporation
Margie Shanks, Federal Reserve Board
King Stablein, U.S. Nuclear Regulatory Commission
Paul Tsotoudeh, Consumer Financial Protection Bureau
Jeri Walker, National Credit Union Administration
Guy Weber, Defense/National Geospatial-Intelligence Agency
Rea Winder, Department of Homeland Security

Minutes prepared by: Noreen Kinnavy / Andrea Brown

DOJ OIG Whistleblower Ombudsperson Program

Prepared for Coalition of Federal Ombudsmen
Washington, D.C.
June 11, 2014

Robert P. Storch
Senior Counsel to the Inspector General
DOJ Office of the Inspector General

Who Are Whistleblowers?

- They are us (or we are they)
 - “Blow the whistle” on wrongdoing
 - Similar to OIGs in that within agencies, and well-situated to learn about and report what’s going on
- Perform an important service by passing along information so it can be explored and, if appropriate, corrective action taken
 - Should never suffer adverse personnel action in retaliation or reprisal for coming forward

Protected Disclosures

- What are reasonably believed to be:
 - Violations of law, rule, or regulations
 - Gross mismanagement
 - Gross waste of funds
 - Abuse of authority
 - Substantial and specific danger to public health or safety
- 5 USC 2302(a)(2)(D)

Whistleblower Protection Enhancement Act of 2012

- Signed into law November 27, 2012
- Expanded WPA in various ways, and amended Section 3 of the Inspector General Act to require that each Presidentially-appointed IG:
 - “[D]esignate a Whistleblower Protection Ombudsman who
 - shall educate agency employees—
 - (i) about prohibitions on retaliation for protected disclosures; and
 - (ii) who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures.



DOJ OIG Whistleblower Ombudsperson

- Created by IG Horowitz in August 2012
- Three essential purposes:
 - Educate/train DOJ employees and managers about whistleblower rights and protections;
 - Ensure that OIG is promptly and thoroughly reviewing WB complaints, and getting back to WBs in a timely fashion; and
 - Act as liaison with OSC, other agencies, and the non-governmental organizations active on WB issues
- Cannot act as advocate or representative for a WB



Education and Training

- Video – “Reporting Wrongdoing: Whistleblowers and their Rights and Protections”
 - Discusses rights and protections, with clips from actual WB
 - Available on our public website at <http://www.justice.gov/oig/videos/whistleblower.htm>
- Website “Whistleblower Protection” page at <http://www.justice.gov/oig/hotline/whistleblower-protection.htm>, with information and links for WBs
- Program email address = oig.whistleblower.ombudperson.program@usdoj.gov
- Certified by OSC under 5 USC 2302(c)



Ensuring an Appropriate Response

- Want to encourage WBs to come forward
 - Literature shows timely response important, regardless of result
- Set up automated mechanism to track key dates
 - Using broad definition to ensure response to all WBs, not just those who believe they have been subject to reprisal
- At DOJ OIG, WBO does not typically gather information or conduct investigation directly



Liaison with OSC and Others

- Helped to establish and host periodic meetings of CIGIE WBO working group
 - Membership includes representatives from Presidentially-appointed and other IGs
 - Discuss emerging issues
 - Share best practices
 - Presentations from COFO and others
- Ongoing contacts with NGO community



Limitations on Role

- Under the WPEA: “The Whistleblower Protection Ombudsman shall not act as a legal representative, agent, or advocate of the employee or former employee.”
- DOJ OIG WB Ombuds also differs from many traditional ombuds in that:
 - (a) Not independent of the OIG – independence is really that of the OIG (derived from dual reporting, appointment, budget, and other protections);
 - (b) Not actively engaged as impartial mediator to resolve employee reprisal claims



Other Contact Information

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