

BACKGROUND

The 1987 Philippine Constitution has vested the Office of the Ombudsman with vast functions as “*protector of the people*”. It is mandated to investigate and prosecute erring public officials and employees. Such function entails great responsibility as it covers all the civil servants in the bureaucracy except those enumerated in Section 21 of the Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989. With its minute budget allocation every year, the Office is expected to still carry out its functions, particularly to look after all complaints and cases which it has jurisdiction given the limited resource and manpower, specifically investigators. This limitation, in some ways restricts the Office to perform effectively its mandate.

With the end view of being of full service to the people, the Office took a major step in strengthening its investigative and prosecutorial capabilities by forging solid partnership with the Department of Justice. In October 5, 1995, the Office of the Ombudsman and the Department of Justice jointly entered into an agreement by signing the Memorandum Circular No. 95-001. This particular circular seals the collaborative effort of the two agencies concerning the prompt handling and disposition of about 6,000 OMB docketed cases being filed before the regular courts. The disposition and resolution of these cases before the regular tribunals is pursuant to Republic Act Nos. 7975 (AN ACT TO STRENGTHEN THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREEE NO. 1606, AS AMENDED) and 8249 (AN ACT FURTHER STRENGTHENING THE JURISDICTION OF THE SANDIGANBAYAN, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 1606, AS AMENDED, PROVIDING FUNDS THEREFORE, AND FOR OTHER PURPOSES). These two laws clearly define the authority and control of the Sandiganbayan over the cases involving violation of the Republic Act No. 3019 otherwise known as Anti-Graft and Corrupt Practices Act. In addition, the said acts specifically mentioned the exclusive jurisdiction of the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be over cases that pertain to accused occupying positions lower than Salary Grade 27. Hence, the inscribing of the joint circular between OMB and DOJ resolves the issue on implications on the jurisdiction including the administrative concerns of the DOJ prosecutors.

Officially, with the signing of the Memorandum Circular, OMB and DOJ has formed a joint venture that will finally resolve the matters concerning the investigation and prosecution of OMB cases. But despite the existence of this significant undertaking, OMB is confronted with the fact that little progress has been taking place/observed in terms of speedy handling and disposition of said cases before the regular courts. This is precisely true, from the point of view of the Of-

face; there is a lack or maybe insufficient coordination between the two agencies. This deficiency is perceived further leads to lukewarm treatment of OMB cases by DOJ prosecutors.

Thus, this seminar is intentionally and specifically designed to address the said concerns and issues.

OBJECTIVES

To ensure the effective implementation of this program, three major components/objectives were defined and identified: (a) Conduct of Preparatory Command Conference; (b) Conduct of Conference-Workshop-Proper-Cum-Survey; and, (c) Preparation and Submission of Report (Batch and Integrated).

Preparatory Command Conference

The conduct of this training ensued from pre-implementation, to implementation and to post-implementation activities. With this first component, it was undertaken to determine and establish a definite instrument within the Office of the Ombudsman to assist and support the systematic and orderly conduct of the conference-workshop. Among the objectives achieved by the holding of this conference were:

◆ Creation of Pool of Speakers

Lecturers who were considered, selected and invited to deliver lectures for each module in every region possessed the necessary skills, competence and expertise in their field of work. Their position in the organization, vast experiences and exposure in their particular endeavor were carefully screened and evaluated. To guarantee the quality of their performance in imparting knowledge and skills, a briefing and orientation was conducted for every set of resource speakers prior to the conduct of the seminar. A standardized course outline with definite description of every topic to be discussed in every module was provided to them. Brainstorming session was held together with the organizers, in this particular program, the Officer-in-Charge and Team Leader to thresh out questions relative to the delivery of the lecture and activities involved in the seminar. Speakers were also advised to furnish the organizers – the Bureau with a tentative outline of their topic to check if it adheres to the prepared module content defined by the implementing bureau.

Invited resource speakers are composed of high ranking officials from the Office of the Ombudsman and the Office of the Special Prosecutor with position ranging from former Deputy Ombudsman, Overall Deputy Ombudsman, Assistant Ombudsman, Director, Resident Ombudsman, Graft Investigation Officer and Special Prosecution Officer. The culmination of the command conference produced and trained fourteen (14) resource speakers – four for module 1, six for module 2 and four for module 3 (Appendix “A”).

◆ *Formation and Training of Facilitator’s Bureau or Group*

Another important element in which this seminar was conceptualized was to make –up a pool of facilitators within the bureau who handle all the activities and requirements of the seminar. With this program, it aimed to create a group of competent and effective facilitators who possess the capabilities in conceptualizing, organizing, implementing and evaluating training programs and seminars of this kind in the future. This pool will serve as great support to the special programs the Research and Special Studies Bureau will hope to undertake in tie-up with non-government organizations like the United Nations Development Programme (UNDP) which has the same vision and thrust like the Office of the Ombudsman. With this program, a team is composed of Graft Investigation Officer, Associate Graft Investigation Officer and Administrative Support Staff. For every team, a team leader is assigned to oversee the implementation of the program in the particular region, and the remaining individuals are tasked to be the members to provide technical and administrative assistance and/or other functions as may be requested or as may be deemed necessary in the conduct of the activity. The team leader is likewise given the major responsibility in preparing and submitting the batch report for every seminar being conducted. Seven (7) graft investigation officers, four (4) associate graft investigation officers and four (4) administrative staff provided services and assistance during the conduct of the program (Appendix “B”).

◆ *Preparation of a Standard Instructional and Handout Materials for Every Module of the Conference-Workshop*

In addition to the creation and training of speakers and facilitators, another important aspect that the program achieved was the preparation, printing and distribution of a standard instructional and handout materials for every module of the conference-workshop. These materials formed the seminar kit for the participants. First on the list were the printing of 3,000 copies of the compilation of laws on graft and corruption which were distributed to the participants. The compendium

contains the following laws, acts, administrative orders, decree, memorandum circular and joint resolution:

- 1987 Constitution of the Philippines
- Article XI Accountability of Public Officers
- Republic Act No. 6770 (Ombudsman Act of 1989)
- Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act)
- Republic Act No. 1379
- Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees)
- Implementing Rules of Republic Act No. 6713
- Revised Penal Code (Title II and VII)
- Presidential Decree 749
- Republic Act No. 7080
- Republic Act No. 7975
- Revised Internal Rules of the Sandiganbayan
- Administrative Orders Nos. 7-13
- Memorandum, Circular No. 14
- Joint Resolution No. 2-97

Likewise included in the kit was Ombudsman Primer which describes briefly the creation of the Office, appointment of the Ombudsman and his deputies, Ombudsman roles and five major functions and directory of the different OMB sectoral offices and officials for reference and inquiries.

Conduct of Conference-Workshop Proper-Cum-Survey

The major element of the program was the implementation and conduct of the seminar-workshop itself which was focused on the investigation and prosecution of Ombudsman cases by deputized DOJ prosecutors. The seminar proper was given a two-day duration. Activities were spread equally to maximize the time and get the best results. There were four modules, three of which were allotted to lectures. For each lecture, the speaker is given 1½ hours to expound on the topic assigned to him/her. After each discussion, an open discussion followed. The speaker was given a free hand on how he/she would go about the discourse. An outline of the lecture module was earlier given to serve as guide. Module 1 was about the Ombudsman powers, functions and procedures. Module 2 was zeroed in on the anti-graft laws, jurisprudence and Supreme Court decisions relating to investigation of Ombudsman cases. Module 3 emphasized the methods and techniques used in the prosecution of graft and corruption cases. Module 4 was basically, a group activity involving the active interaction of the

participants in identifying common problem areas encountered in the course of handling an Ombudsman case and it also required them to formulate solutions and recommendations that would contribute in resolving the issues and concerns. During the workshop, they were also asked to comment and air their views relative to the issue on the refilling/reviving of dismissed Ombudsman cases based on the Supreme Court ruling on account of the George Uy case. A question was also tossed to the participants whether they agree or support the idea of designating and/or creating special courts to exclusively hear and decide Ombudsman cases cognizable by the regular courts. The last item included in the workshop was a query on the need to present as witness the GIO whose participation is confined to building up the case but has no personal knowledge of the facts and circumstances affecting the commission of the offense or violation. With the workshop, the participants came out with a report that helped in clarifying the roles and coordination between the two agencies. Recommendations and suggestions were elicited and identified that would eventually support the creation and establishment of a more definite and specific feedback and monitoring system relative to the speedy handling and disposition of Ombudsman cases (Appendix "C").

As built-in mechanism in every training program, an assessment of the overall conduct was done through an evaluation questionnaire. This was aimed at determining the effectiveness and the extent to which the set objectives of the training were realized.

Another instrument which was administered before the completion of the conference-workshop was the survey questionnaire on corruption and the effectiveness of existing anti-graft bodies and laws. The objective of the survey was to determine the perceptions of the DOJ prosecutors on the perceived causes of corruption, evaluation of anti-graft bodies, adequateness and effectiveness of existing anti-graft laws and other statutes and recommendations/overall improvement of the concerned agencies and laws.

Preparation and submission of report

The last major component of this undertaking involved report writing. As one of the requirements of the donor agency which is the United Nations Development Program, the Office of the Ombudsman upon completion of the seminar for each batch, a report shall be forwarded. And at the end of the conduct of the program for fifteen regions, an integrated report would be submitted to the UNDP by the Government of the Philippines through the Office. The batch report contained the highlights of the two-day conference-workshop, program evaluation,

results of the survey and outputs of the workshop. The final report on the other hand, discussed the following items:

- ◆ *Executive Summary* – this is a short description of all the elements of the project.
- ◆ *Background and Objectives* – describes the start of the project and the reasons behind the implementation of it.
- ◆ *Activities* – in this segment, it outlines the steps taken relative to the completion of the project, as well as identifying the difficulties encountered in the process of undertaking the project, if there was any.
- ◆ *Assessment and Evaluation Methodology* – this portion highlights the approach taken how the expected results / objectives were achieved / accomplished.
- ◆ *Sustainability and/or Recommendations* - this part of the integrated report describes the recommended steps to be undertaken to sustain the activities of the project after the donor agency has already given all the funding requirements of the project. In this case, this portion emphasized the suggested solution relative to the creation/establishment of a monitoring / reporting system needed by the Office of the Ombudsman and the Department of Justice relative to the handling and disposition of graft and corruption cases brought before the regular tribunals.
- ◆ *Appendices* – this last section of the integrated report contained the instruments and tools administered during the project.

ACTIVITIES

The Office of the Ombudsman has always been relentless in its pursuit to eradicate corruption and create a graft-free nation. It also recognizes the fact that there is a greater demand for a significant and immediate discharge of its mandate. To carry out its mission, the Ombudsman is envisioning a formidable team of graft-busters composed of lawyers and investigators equipped with the proper tools needed to accomplish its Herculean tasks.

In doing so, it has adopted several strategies, one of which is the intensified refinement of skills of the human resources through capability-building seminars and workshops. It has likewise solicited the cooperation of other agencies like the Department of Justice (DOJ) to develop stronger linkages relative to the disposition of Ombudsman cases filed in the regular courts. Thus, the concept of an efficient and expeditious prosecution of corruption cases gave birth to the “*Seminar-Workshop on the Investigation and Prosecution of Ombudsman Cases for Deputized DOJ Prosecutors*”.

Preparatory Command Conference.

One of the vital keys of a successful endeavor rests on the careful planning and systematic organizing of the project. The critical phase of developing the program needs thorough analysis and scrutiny. It is in this stage where goals are crafted, methods are designed and outputs are forecasted. The team held a series of meetings and consultations to tackle the various aspects of the seminar, among which were the following:

- ◆ *Establishing Goals and Objectives.* The proponent of the project initially formulated the goals and objectives of the seminar-workshop. The focus was on beefing up the prosecutorial capabilities of the deputized DOJ prosecutors for the speedy and efficient disposition of Ombudsman cases. Establishing clear and specific goals and objectives provided basis upon which the progress and success of the program was evaluated.
- ◆ *Outlining the Program Methodology and Mechanics.* Developing a logical flow of the program will avoid the waste of resources. An outline was prepared to serve as guideline in the conduct of the seminar. From there, the components and the step-by-step process were identified, from the first to the last activity. The team followed the logical flow that was presented during the orientation of the team to avoid waste of resources.
- ◆ *Identifying Appropriate Subject Matter/Topics.* Knowing what the topic is all about helped in determining subsequent topic of the seminar. The components were arranged according to the order by which there is continuity and coherence, from the basic information to the most complex subject.

To capture the interests of the participants, the proponents chose the most appropriate subject matters and lectures of the seminar. The aptness and suitability of a lecture to one's use and benefit was the prime and essential consideration in choosing the subject.

- ◆ *Setting of Time Frame/Period.* Appropriating the suitable time frame for each endeavor in the seminar is a very important matter to be taken. The scope and limitation of each activity was designed, thereby, coming up with the time frame for the whole seminar, which was initially a one-day affair.

In the first batch of the seminar participated in by the prosecutors from the National Capital Region (NCR) where the event was held for a day,

it was suggested that to be able to tackle the issues comprehensively and to cover all issues for deliberation during the open forum, a lengthier time be allocated for each lecture. Heeding the proposition, it eventually became a two-day seminar. Thus, the two-day event was adapted for the next 14 regions.

- ◆ *Determining Target Participants.* The target participants were the prosecutors of the DOJ. The seminar was conducted in all regions all over the country. Both the city and provincial prosecutors including their assistants were considered with approximately 40 participants for each region. In coordination with the DOJ, a list of participants was provided for every batch in the form of a department order (Appendix “D”).
- ◆ *Selecting Competent Lecturers.* Obtaining a wide spectrum of views from the lecturer provides for a more productive and informed group. In the selection of competent lecturers, various criteria were formulated. Essentially required is an Ombudsman official who is knowledgeable and has the expertise on the assigned topic. He/she should possess the qualities of a good speaker. His/her commitment to the mission was highly considered, likewise, his/her availability on the scheduled delivery of the lecture. The team obtained the bio-data/resume of potential speakers and conducted an assessment or profile check to come up with excellent and top-notch pool of lecturers.
- ◆ *Preparing the Seminar Materials.* After determining the topic for each module, the team gathered pertinent materials for each lecture. Various reference materials were prepared. The lecturers themselves approved the finished product in the form of handouts. The team also came up with supplemental handouts after exploring other sources to obtain added information. Appropriate revisions were made and incorporated after consultation.

Items in the seminar that were subjected to procurement system and procedures were accomplished as required. A complete set of the kit was distributed to each prosecutor before the start of the seminar proper.

- ◆ *Organizing the Venue, Accommodation and Mode of Transportation.* Choosing the right venue for the seminar was a tough job because the location is critical since it will be held in the different regions all over the country. It is important to consider the geographical proximity and travel time of the attendees.

Even the set-up of the conference room has an enormous impact on the interaction of the participants. A great detail was provided for in arranging the venue, including the accommodation of the participants,

plus the mode of transportation of the OMB officials, lecturers and the secretariat. The comfort, security, up to the choice of food was arranged with care and caution.

- ◆ *Preparing the Team.* The team was gathered and given orientation on what the activity is all about. The overall outline of the project, its background, contents, outputs, activities, etc. were presented to show the overall picture of the whole program. The mechanics of the seminar was studied and scrutinized by the team members. A number of suggestions were made to improve the set-up of the activities.

A pool of facilitators was trained to handle the seminar-workshop. They learned that in the event that unexpected incidents occur, they need to be flexible to meet the demands of the situation. To further enhance the working relations of all the members of the team, roles were defined to clarify the responsibilities of each. The team was motivated to perform excellently.

Conference-Workshop Proper

Preparatory to the seminar proper, the assigned facilitators held a brief orientation for the participants. They gave a clear idea of what will transpire during the 2-day event, informing them what the aims is, and generally how the workshop will run. The main segments of the seminar were as follows:

- ◆ *Modules I, II and III.* The master of ceremonies and the facilitators primarily controlled the flow of the program from segment to segment. They monitored the continuous and orderly delivery of the topic. Each speaker was given sufficient time for his lecture. The facilitators saw to it that their needs were met such as assistance to visual presentations, maintenance of good sound system, etc. Since each lecturer was given a considerable time for an extensive discussion of their assigned topic, there was a conscious effort on the part of the facilitators on the time limit given to each speaker. To break the monotony in between lectures, an energizer perked up the atmosphere.

At the end of each lecture, an open forum followed. Here, the facilitators, made sure that things were under control. They made sure that that there were equal opportunities for the participants to present their viewpoints, that no one monopolized the discussion and heated argu-

ments were avoided. Certainly, the lectures were handled very well in a systematic manner.

- ◆ *Workshop.* The facilitators during the whole time of the seminar, made sure that the group assigned to each was under control. After forming four (4) groups, the participants were assigned to work together with their respective group mates. A worksheet was distributed which was initially filled-up individually. After a given time, the sharing of their experiences proceeded regarding the problems often encountered in the handling of Ombudsman cases. An appointed moderator from the group controlled the discussions, giving each participant ample time to share their ideas about the topic. They collectively consolidated their output.

The groups later on appointed their respective rapporteur who presented their constructive criticisms as well as their valid suggestions and recommendations. All valuable comments pointed out by each group were taken into account by the facilitators. The insights and concerns shared by the participants, which were addressed to the top management, helped in removing the blocks to an effective prosecution and improving the current system in the handling of the said cases. After the presentation of the workshop outputs in each regional seminar, the respective regional state prosecutor gave positive response especially on the Ombudsman's call to help curb graft and corruption.

The outputs collated from the workshop were discussed in the batch report, which eventually became part of the consolidated report.

- ◆ *Survey Questionnaire.* Aside from the lectures, a Survey Questionnaire on Corruption and the Effectiveness of Existing Anti-Graft Bodies and Laws was formulated. The appropriate items and topics to be covered were selected including the structure of questioning. The questionnaire was reviewed a number of times before it was approved. After determining the number of respondents, the team reproduced enough copies for the participants (Appendix "E").

During the seminar, a brief background was discussed of what the survey is all about. These were distributed and were later on retrieved for tabulation. After having collected from the source, the processing of data followed. The data were categorized according to variables and appropriate statistical tools were applied. The tabulation was done manually which was reduced into a form, which facilitated data analysis and interpretation. The statistical information gathered from the data served as the basis for the respective regional reports. Later on,

said reports became the foundation for the formulation of the nationwide consolidated statistical report.

- ◆ *Program Evaluation.* The conduct of an evaluation at the end of every undertaking is a useful tool to determine its success or failure. The evaluation was designed in such a way that the lectures, the lecturers and the totality of the program were rationally and impartially assessed to assist the proponents in improving the seminar for future similar undertakings.

The evaluation survey helped in determining how informative was the seminar and its usefulness to the participants in relation to their job as prosecutors. The assessment showed the degree to which the objectives created was fulfilled. It was able to examine what were achieved vis-à-vis the goals, what did not go according to the program and the reasons why. It has likewise addressed concerns or issues that were raised but not sufficiently covered by the group.

Moreover, the evaluation has recognized the work that has been done and acknowledged those who were involved in the project. In the end, a follow-through plan was suggested to ensure sustainability of informed and updated deputized prosecutors.

Report Writing

The last phase of the program is the preparation of written reports. The project required for a batch report submitted at the end of each regional seminar and a consolidated report after the conduct of the seminar for the 14 regions.

In the said report, a detailed account of the proceedings of the two-day seminar was discussed and illustrated. Also included in the report was the processing of the information derived from the undertaking. In this stage, various data gathered from the workshop and survey were analyzed and interpreted to arrive at conclusive findings. The report likewise embodied the suggestions and recommendations elicited from the participants.

Apart from the submission of the batch and the consolidated reports, an editorial team was formed for the production and publication of an information manual about the project. The staff, under the supervision of the project director and in consultation with some of the lecturers, had a series of meetings to define and identify the substance of the manual. The team wrote, compiled, processed

and arranged the contents of the manual and later on reviewed, edited and proofread the finished product. The advisers, to improve the essence of the whole program, provided valuable insights, feedbacks and comments. The team also assumed the responsibility of the printing and publication of the information manual.

ASSESSMENT AND EVALUATION METHODOLOGY

Evaluation is an integral part of every training cycle, concerned with the appraisal and improvements of all elements of a program. It is a systematic attempt at ascertaining the extent to which the set objectives of the program are realized. It also determines the effectiveness as well as the inadequacies of the program an agency has endeavored to establish. The process of evaluation includes the appraisal of all elements of the total training program that contribute to the effective and economical training with a view to innovate. This embraces the organization/agency concerned, the participant's experiences/knowledge/skills, the instructional materials/modules, resource speakers, facilitators, training organizers and the whole system – the bureaucracy as a whole. The administration of an evaluation mechanism can be done either internally or by an independent evaluator. With this particular program, the Office of the Ombudsman opted to conduct the evaluation by itself.

The Capability-Building Seminar on the Investigation and Prosecution of Ombudsman Cases for Deputized DOJ Prosecutors for fifteen batches (15) made use of an assessment instrument – a questionnaire consisting of seven test items. The questionnaire was distributed and administered to all participants just before the completion of the two-day conference-workshop. In the evaluation and assessment of this program, a paper-and-pencil evaluative approach was used. It was a combination of the use of rating scales (with adjectival equivalent) and essay. In the essay, participants were asked to cite points that would contribute to the improvement of the seminar. In addition, two question items were formulated for the participants to enumerate specific facts (i.e. best and least useful part of the seminar). In items 1, 2, 3, 6 and 7, the trainees were directed to give their overall rating pertaining to the following: the degree of how informative the seminar was with regard to the four (4) modules discussed, the level of effectiveness of the resource speakers; the extent to which the seminar was helpful to their job/work; the appropriateness of the sessions to their level of knowledge and interest; and the degree of the trainees' satisfaction with the sessions (Appendix "F").

The following were the highlights of the overall results of the evaluation:

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- ◆ Question number 1 surveyed the participants' view on how the informative the seminar was in terms its content – specifically the modules discussed during the conference-workshop. In Module 1, which was about the powers, functions and procedures of the Office of the Ombudsman, 13 out of 15 regions considered the subject as very informative. (Regions VIII, IX, X, XI and XII). While four regions perceived it as somewhat informative and another four regions (NCR, IV, VI and VII) saw it as extremely informative. Module 2 was a discourse on the different anti-graft-laws, jurisprudence and Supreme Court decisions. Fourteen batches rated this particular item as very informative. Module 3 emphasized the importance of methods and techniques in the prosecution/handling of Ombudsman cases. Fourteen batches described it as very informative. The last part of the session was the workshop, in which participants regarded the group activity/interaction as very informative.
 - ◆ In query no. 2, respondents were asked to give their overall impressions on the performance and effectiveness of the lecturers who were assigned to each module. Most of the respondents gave their approval on the expertise and skills of the resource speakers.
 - ◆ The participants were asked to rate the helpfulness of the seminar in their line of work. A great majority from the most number of regions considered it very helpful.
 - ◆ In identifying the best part of the seminar, quite a number enumerated all parts and activities incorporated in the seminar were important and relevant. In determining the least useful part, an overwhelming majority answered in the negative.
 - ◆ Asked about the level of appropriateness of the conference-workshop in their level of knowledge and interest, respondents from a large number of batches (14) cited very well as their response.
 - ◆ In determining the participants' level of satisfaction in terms of the sessions and activities undertaken during the seminar, they came up with a common conclusion – they were very satisfied.
 - ◆ The last item was devoted to eliciting the participants' views and opinions relative to the improvements/innovations that can be done in the conduct of the seminar, the following were the significant and common responses:
 - ◆ Invitation of resource speakers from other government entities;
 - ◆ Provision of additional handout materials – case readings and additional topics;
 - ◆ Conduct of follow-through seminars – should be done in a regular/periodical basis;
 - ◆ Selection of participants must include all prosecutors;
 - ◆ Inclusion of socialization and fellowship in the activities; and,
 - ◆ Allotment of additional time for each module.

The results of the appraisal reflected the realization of most of the objectives set, though not all. Overall outcomes showed that the program reaped success. Some of the objectives achieved were the creation of a facilitators' and resource speakers' pool, the distribution and printing of compilation of laws, the holding of the conference-workshop, administration of program evaluation and survey questionnaire and the submission of report. These important points were carried out in the program. Not to mention the significant fact that with this program, DOJ investigators/prosecutors were able to gain knowledge and skills prerequisite to a better appreciation and treatment of Ombudsman cases that find their way to regular courts. Likewise, the holding of this kind of undertaking cleared the picture of creating a demarcation line concerning the coordination and partnership of the two agencies involved, thus creating a clear picture of working together as allies.

However, it can be concluded that the program on the whole was a success; there were some details in the course of conducting the seminar that hindered/hampered its effective and efficient implementation. These hitches/constraints however served as guiding elements in introducing changes and improvements. One of which, was the scheduling/interval between the dates in which the seminars were held. Due to the urgency in holding the conference-workshop, the organizers were left with no choice but to conduct the activity simultaneously. Since it was the first time that the Office was given the rare chance to have this program, an overlapping of schedules occurred which eventually resulted in the difficulty of inviting resource speakers considering that there were very few of them. To correct the situation, before assigning a timetable for the next batch, resource speakers were informed and invited two weeks prior to the actual date to give them time to arrange their engagements and organize their tasks. Another setback suffered was the period of coordination between the Department of Justice and the Office of the Ombudsman relative to the dates of seminar. The actual date of the activity and the period to which the dissemination of the department order authorizing the prosecutors to participate were always too close, thus the participants were not completely informed of the details. Usually, they were informed by DOJ only by telephone. As a result, some of the participants not fully aware of the details did not make it to the seminar proper. To remedy the situation, the Office of the Ombudsman opted to directly communicate with the Regional State Prosecutor and explained the particulars to avoid misinformation and confusion.

The restraints encountered during the program did not stop the Office from undertaking such a relevant and timely endeavor. These difficulties provided room for more innovations and insights that can be used in the near future in implementing a more effective program in which the whole bureaucracy could benefit specifically in extending better service to our people and the society as well.

SURVEY ON CORRUPTION

The Office of the Ombudsman conducted a nationwide perception survey on corruption with a sample of 448 Department of Justice prosecutors during a series of consultative and capability-building seminar workshops for said participants on the investigation and prosecution of Ombudsman cases.

The survey explored into the DOJ prosecutors' views and opinions on the issue of corruption. The respondents were asked into their perceptions on the causes, its prevalence and evaluation about anti-graft bodies and laws. Awareness and recommended measures for such anti-graft laws and agencies were also delved into the survey.

A great majority of the total number of registered participants in the fifteen (15) regional seminar-workshops totaling 474 people got involved in the survey. Therefore, the mortality rate was considerably small at 5.49%. Many of the DOJ prosecutors were old timers in the government. Three hundred seventy-nine (379) or almost 80% of the total number of registrants have been with government for at least ten years.

Overall, the responses to the survey provided invaluable insights into the prosecutors' perceptions about corruption. This information will be very useful in future collaborative endeavors with the Department of Justice and in improving the Office of the Ombudsman's own corruption prevention, investigation and prosecution efforts (Appendix "G").

Perceived causes of corruption.

The vast majority of the DOJ prosecutors (70.98 %) considered "low pay" to be the primary reason for corruption in the country (see Table 1, Appendix "G"). The incumbency of corrupt leaders in government placed a very close second (69.64 %) most cited reason for corruption's existence. Lack of moral values ranked third (67.86 %) most cited reason.

Perceived reasons for continued prevalence of corruption.

Responses to the question "What were the perceived reasons for corruption's continued prevalence in the country?" remained consistent with their overall responses to the earlier question regarding its major origins (see Table 2, Appendix). Another clear majority (69.64 %) named the country's lack of political will to really fight corruption as the most commonly mentioned reason for corruption's continued pervasiveness. More than half of the respondents named eco-

conomic conditions (55.8 %) as another major reason for corruption's persistent occurrence. Roughly one (1) out of two (2) of the respondents also cited public apathy and the systemic nature of corruption as other major reasons, 50.8% and 48.44% respectively.

Evaluation of anti-graft bodies (agencies).

The respondents were asked to rate the existing anti-graft agencies in terms of their substantial contribution to the fight against graft and corruption on a scale of 0 to 10 (0 being the lowest and 10 being the highest rating one can give). Overall, the highest rating was given to the Office of the Ombudsman at 7.22, followed by the Department of Justice at 6.94. The respondents rated the Supreme Court and the Sandiganbayan almost identically at 6.44 and 6.41, respectively. The lower courts placed fifth with 5.76. The Civil Service Commission placed sixth with 5.12. The Commission on Audit (4.85) and the Presidential Anti-graft Commission (4.36) received the lowest ratings.

In terms of their efficiency (doing things right), the Office of the Ombudsman (OMB) again received the highest rating at 1.93, (see Table 4, Appendix) followed again by the Department of Justice (DOJ) with 2.02 and the Supreme Court (SC) that virtually received the same rating at 2.04. The Sandiganbayan (SB) received a close rating of 2.14. The Commission on Audit (COA) and Presidential Anti-graft Commission (PAGC) again received the lowest ratings at 2.61 and 2.8, respectively.

In terms of effectiveness (doing the right things), the OMB consistently garnered the highest rating at 1.89. This time, the SC placed second with 2.02 while the DOJ obtained an overall rating of 2.04. The Sandiganbayan remained at fourth with an effectiveness rating of 2.13. Again, COA and PAGC stayed behind with the lowest ratings at 2.61 and 2.66, respectively.

Familiarity with anti-graft laws.

It was gathered from the survey that the DOJ prosecutors were most familiar with anti-graft laws such as Title VII of the Revised Penal Code, Republic Act Nos. 3019 (Anti-graft and Corrupt Practices Act) and 6981 (Witness Protection Act).

On the other hand, many respondents are only somewhat familiar or least familiar with Republic Act Nos. 7975 (Sandiganbayan Law) and 9160 (Anti-Money Laundering Law).

Adequacy of anti-graft laws.

The lawyer respondents believed that our anti-graft laws are sufficiently adequate to respond against the menace of corruption. The most adequate laws

according to their responses were Title VII of the RPC, R. A. Nos. 3019 and 6770 (Ombudsman Act of 1989). The least adequate for the respondents based on the survey results appeared to be R.A. No. 9160.

Enforcement of anti-graft laws.

Respondents perceived that the provisions of Title VII of the Revised Penal Code are the most effectively enforced among the various anti-graft statutes (see Table 8, Appendix "G"). The Ombudsman Act of 1989 ranked second most effectively enforced anti-graft law. Presidential Decree No. 46 (Solicitation of Gifts) was perceived by the respondents to be the least enforced.

Recommended measures to curb corruption.

Consistent with the respondents' earlier views, majority of the prosecutors recommended an increase in the salaries of government officials and employees (71.88 %), a strict implementation of the existing anti-graft laws (69.2 %) and a more transparency in government transactions (67.63 %). A little over half (53.57 %) of the respondents suggested the strict monitoring of the various government agencies.

Roughly a third (30.8 %) of the prosecutors supported the creation or designation of special anti-graft courts to hear Ombudsman cases involving low ranking cases. Merely a fourth (25.89 %) of them supported the move to impose heavier penalties on violations of anti-graft laws. Only eight percent favored the enactment of new anti-graft.

Recommended measures to enhance the efficiency and effectiveness of the Office of the Ombudsman in fighting graft and corruption.

Majority of the respondents (71.65%) recommended that the OMB further strengthen its investigation and prosecution efforts. More than half (52.68 %) suggested that it conduct more information dissemination to the public. Nearly the same number of respondents recommended that the Office of the Ombudsman conduct more coordination with the private sector (46.88 %) that is, with the NGOs and other civil society groups and increase its visibility or presence in government agencies (43.3%).

CONSOLIDATED WORKSHOP OUTPUTS

Uniformly in each regional seminar conducted, participants were grouped into four (4) and were asked to identify 1) Obstacles/Restraining Factors that contribute to each problem area and 2) the agency / personnel responsible, and to (3) recommend solutions for each factors identified. In so doing, the partici-

pants were guided by a worksheet classifying problem areas into the following categories:

- ◆ Handling of cases
 - Information
 - Evidence
 - Witnesses
 - Other factors
- ◆ Monitoring of Cases – Existence of monitoring system in
 - Department of Justice
 - Office of the Ombudsman
- ◆ Re-filing/revival of cases dismissed on account of the Supreme Court ruling in the George Uy case

A survey question was asked on whether or not the participants (1) support the idea of designating Special Courts to exclusively hear and decide Ombudsman cases (cognizable by the regular courts) and (2) find it indispensable to present as witness the fact-finding Graft Investigation Officer whose participation is limited to case build-up but has no personal knowledge of the facts and circumstances surrounding the commission of the offense or violation.

Identified obstacles/restraining Factors and the solutions recommended

◆ HANDLING OF OMBUDSMAN CASES

As to **INFORMATON**, the most frequently cited factors were:

1. Jurisdictional, formal and substantial defects - such defects which as stated by the participants include, but are not limited to, the following:
 - a. incomplete or insufficient elements of the offense;
 - b. incorrect or omitted names of one or more accused, wrong addresses, error in designating the offense, wrong bail bond recommended;
 - c. Inconsistency between the allegation in the information and the available evidence;
 - d. Typographical or clerical errors; and,
 - e. Duplicity of offense charged.
2. Delay caused by the need to amend the information prepared by the Ombudsman owing to some defects or as a result of the reinvestigation, and the need for the approval of the Ombudsman in appropriate cases of such amendment and the accompanying delay brought about by such needed approval;
3. Delay in filing of the information owing to the required approval of the Ombudsman in cases originally filed with the City Prosecutor's Office, particularly involving inquest cases;

4. The delay resulting from amendment by the Ombudsman of information of cases originally filed before the City Prosecutor's Office;
5. Mis-filing or wrong venue;
6. Insufficient number of copies of information and attachment;
7. Only photocopies of information are sent;
8. Direct filing by the ombudsman without coursing through the CPO or PPO; and,
9. Same information filed in different courts.

Less frequently cited factors include:

10. Lack of defined rules on which are Ombudsman cases and which are not;
11. Distance of (lack of) communication which results to delay;
12. In case of formal/substantial amendments of information, provisional dismissal;
13. Court orders the reinvestigation;
14. Lack of draft information to be forwarded to the Ombudsman;
15. Approved information is returned without the other records of the case;
16. Delegation of preparation of information to stenographers/clerks; and,
17. Motions for bill of particulars, to quash, reconsideration and reinvestigation.

Factors (1), (3), (4), (6), and (7) are the most common factors identified in almost all regions. Factor (1), which refers to the defect of the information itself, was cited by all regions save for Region VII. Some of the factors identified are mostly part of the trial proper or prosecution. Some are merely procedural lapses during and after the preliminary investigation, rather than formal or substantial defects of the information.

The most frequently recommended solutions were:

1. Authorize/give blanket/plenary authority to prosecutors to amend defective information, either substantive or formal, without need for the approval of the Ombudsman ;
2. The information should be reviewed/double-checked before transmittal; (variably stated using words as cautious, careful, meticulous, thorough);
3. Delegate to Chief Prosecutors the authority to approve information to get rid of the delay arising from the need to course the case to the OMB for approval (in inquest cases); and,
4. If amendment is substantial, return entire records to the original Ombudsman office (as proposed by Region 3, 10 and 11).

Some of the other recommended solutions are substantially the same as those above-enumerated though differently worded. They include:

5. Request the OMB to send original or certified true copies of documents;
6. Instill dedication and commitment to work;
7. Return back to the Ombudsman with recommendation for preparation and signing of the Amended information or authorize the provincial or city prosecutor to approve the corrected information;
8. Adopt a time frame to avoid delay in the filing of information;
9. With regard to the bill of particular (A.1.17), this should be opposed by the prosecutor handling the case and same holds true with the motion to quash;
10. Once received, absolute control over the case, except dismissal, should be vested with prosecutors;
11. Prior referral of the information to the CPO/PPO before filing with the courts;
12. Issuance of specific guidelines;
13. In case of defective information, appropriate information must be drafted and submitted to the Ombudsman for approval;
14. GIOs must familiarize themselves with the territorial jurisdictions of courts;
15. Holding of a conference between the GIO and the prosecutor to correct mistakes or errors on information prepared by either of them;
16. Modernization, update of fax or e-mail scanner to foster communication between DOJ and OMB;
17. Office of the Ombudsman should provide sufficient copies thereof;
18. Information should be filed by the DOJ, and not by the Ombudsman directly filing before the courts to avoid confusion;
19. state complete list of witnesses;
20. Trial prosecutor will draft amended information for the signature of the GIO (Reg. 9);
21. Delay should not be counted for purpose of speedy trial;
22. Withdraw the information and refer the case to OMB with comments and recommendation;
23. Adopt rules or guidelines on the amendment of information prepared by OMB and the extent of authority of the deputized prosecutor;
24. Prosecutors should withhold filing the case until sufficient number of copies are received;
25. Ombudsman should prosecute case where it reverses, modifies or amends info on cases originally filed with CPO/PPO;
26. Harmonize positions on matters of law, jurisprudence; and,
27. Amend the law to distinguish cases approvable by the Ombudsman and prosecutors/DOJ.

As to **EVIDENCE**, the most frequently cited factors were:

1. Original or certified true copy of documents as evidence are not attached to the records filed in court (cited by all regions);
2. Lack of, unavailability or incompleteness of, material pieces of real or documentary evidence;
3. Constraints in the safekeeping of records/custody; and,

4. Insufficient copies of documentary evidence.

Other restraining factors cited include:

5. Lack of coordination between OMB and DOJ;
6. Lack of expert examination;
7. Voluminous documents;
8. In Malversation cases, the amount embezzled has been restituted;
9. Failure of government witness to provide the prosecutor's office with the evidence;
10. The Ombudsman does not retain copy of the evidence to become basis for reconstitution of records in case of loss or deterioration;
11. Improper compiling of records of case/lack of inventory/index;
12. Prosecutor assigned has no copy of the case records;
13. Inadequate time to evaluate necessary evidence as basis of the findings rendered by the OMB;
14. Risk of loss or tampering of records during transmittal from office to office;
15. Illegible copies of documents; unfamiliar form /documents;
16. Indifference of witness to bring voluminous documents;
17. Lack of material time to go over voluminous documents;
18. Difficulty of appreciation; Technical Interpretation of evidence;
19. No proper markings done beforehand by the Ombudsman;
20. Purposes of evidence not specified;
21. Voluminous documentary evidence not arranged according to the theory of the case;
22. Inadmissible under the rules i.e. evidence pointing to another person;
23. Evidence is subject of ongoing investigation;
24. Discrepancy in documents of the Ombudsman and that of the witnesses;
25. Insufficient to support findings of probable cause; and,
26. Bank secrecy law and other related laws protecting confidentiality of official transaction.

The following solutions were recommended for the most frequently cited factors:

1. The Ombudsman should see to it that the original or certified true copy of documents as evidence are attached to the records and are properly transmitted;
2. Demand for the original document should be made during the preliminary investigation;
3. Concerned agencies must see to it that all information/documents are available during trial/on call;
4. Provision of a safekeeping facility by the Office of the Ombudsman/protective custody;
5. Concerned GIO should see to it that the required number of copies of documents are attached and properly indexed; and,

6. Transmit the original and copies thereof to the CPO/PPO in sufficient number.

The recommended solutions for the other restraining factors are:

7. Close coordination, communication and continuing cooperation of OMB and DOJ;
8. Send subpoena early to the witnesses to bring the documents for examination;
9. Adopt the sanctions provided in RA. 9165 prohibiting transfer without notice to court or prosecution office;
10. Gather evidence before the start of the trial;
11. Request examination of documents;
12. Coordinate with offices or agencies concerned to preserve original documents;
13. Presentation of secondary evidence;
14. Give extra copies to assigned prosecutors;
15. Hold conference between prosecutor and GIO;
16. Provide trial prosecutors with trial briefs and suggestions;
17. Evidence should remain in the place where the court is located;
18. Evidence filed/deposited in court at the time of filing the information;
19. Evidence gathering should be completed at the level of the Ombudsman before forwarding to the prosecution office;
20. Filing of case should be coursed through DOJ, or if filed directly, extra copies should be furnished the prosecutor;
21. Special seminar or trainings for prosecutors;
22. markings should be made already as guide for handling prosecutor;
23. GIO must actively participate in the prosecution of case (not physically but in terms of monitoring);
24. After proper identification and admission, return original to the Ombudsman; and,
25. Officer investigating the case should know what is needed.

As to **WITNESSES**, the identified restraining factors include:

1. Uncooperativeness, reluctance, apathy, hostility, and other behaviors showing loss of interest;
2. Unavailability due to fear, intimidation, harassment, threats, pressure, or influence or other involuntary reasons;
3. Unavailability due to death, retirement, or permanent disability;
4. Unavailability due to transfer of, removal from, reassignment to another office or change of address, or whereabouts is unknown;
5. Wrong or vague address resulting to lack or poor service of subpoena;
6. Witnesses have been bribed;
7. Educational background/training;
8. Lack of provision for transportation expense;
9. Witness not listed in the information and not allowed by the court to testify;
10. No first-hand information to interview witness;
11. Loss of interest when the civil aspect is already satisfied;

12. The listed witness has no knowledge of what to testify on;
13. Witness affidavit does not state all facts, e.g. COA exit conference;
14. Prefers to settle rather than testify;
15. Retraction/desistance; and,
16. Witness not well rehearsed.

The following solutions were recommended:

17. Defray travel and lodging expenses, provide incentives and other financial assistance/support to witnesses; enact a law providing for incentives;
18. Protection of witness and coverage under the Witness Protection Program;
19. Impress on the mind of the witnesses their duty to cooperate with agencies; information campaign with the help of media and church should be tapped;
20. Request DOJ to help locate witness or direct police officers in locating witnesses who are transferred, promoted or resigned;
21. Enlist the head of agency concerned to which the witness belongs to summon said witness. There should be a MOA between the Ombudsman and the agency concerned in this regard;
22. Witness must execute a sworn statement under oath - to notify the Ombudsman in case of change of address;
23. Government witness should not be allowed to retire or be transferred while case is pending, without clearance from Ombudsman;
24. Conduct a pre-trial conference and/or briefing;
25. Securing detailed statement or deposition of witness;
26. Move for the issuance of a warrant of arrest
27. Compulsory processes such as motions for the issuance of warrant of Arrest, to cite in contempt, or filing a case for obstruction of justice;
28. Give the prosecutors the coercive power to ensure attendance of witnesses;
29. Substitute equally competent witnesses;
30. Disclosure/listing of all the witnesses in the information;
31. More in-depth investigations/sanctions on judges;
32. Prompt service of processes;
33. Speedy disposition of case with Ombudsman;
34. Impose administrative/criminal sanctions;
35. About to retire auditors should not be assigned to audit;
36. Complaining agency should be treated as nominal complainant so authorized representative can appear;
37. Amend witness protection program to include witnesses in OMB cases not considered heinous;
38. Have the case provisionally dismissed without prejudice to its re-filing;
39. Lead agency in the case build up should be identified and shall ensure availability of witnesses;
40. Notify the witness before trial date and make a system of monitoring their whereabouts;

41. Witnesses' superiors be directed to make witnesses available for pre-trial and briefing;
42. Resort to plea bargaining to a lesser offense;
43. Move for provisional dismissal;
44. Tap the services of other law enforcement agencies;
45. file motion in court for witnesses to post bail to guarantee appearance;
46. Allow the prosecutor to subscribe affidavit of desistance and move to dismiss the case; and,
47. Establishment by OMB of a Witness Coordination Center.

For **OTHER FACTORS** not falling under the preceding categories, the participants cited factors such as:

1. Lack of coordination between the DOJ and the Office of the Ombudsman;
2. Political intervention/interference of influential people and those with vested interest in the case;
3. Appeals in cases where Motion to Quash are granted and Motion for reconsideration thereto are denied by the court;
4. Question as to who should bear the expenses of witnesses and reproduction of documentary exhibits;
5. Lack of prosecutors;
6. Lack of support staff and logistics due to heavy workload;
7. Ineffectual monitoring or lack of monitoring mechanism;
8. Cases archived by the court;
9. Accused cannot be arrested;
10. Dilatory tactics;
11. Independence, probity and competence of the judge (*see related: 34 and 39*);
12. Overload of prosecutors in the trial of cases;
13. Peace and order situation;
14. Ineffective service of subpoena and other processes;
15. Absence or lack of defense counsel/shortage of PAO lawyers;
16. Local politics,
17. "Pakikisama" and "padrino" systems; and
18. "Filipino cultures";
19. Passive attitude of prosecutors handling the case;
20. Regular court duty being an additional burden to prosecutors;
21. Threats to life/security of prosecutors and witnesses;
22. Lack of mobility (not all offices of the prosecution arm are given service vehicles);
23. No incentives for deputized prosecutors;
24. OMB doesn't favor amicable settlement;
25. Delay in the transmittal of records;
26. Delayed action on matters submitted for approval;
27. City prosecutor being deputized in offenses committed beyond their jurisdiction;
28. Poor complainants, no money nor fares;
29. Complainants being sued by the parties they first sued before the Ombudsman (reprisal);

30. Prosecutor handling a case against a public official he previously defended in another case closely related to the case handled;
31. Trial prosecutor has no opportunity to oversee case build up by the GIO;
32. Prosecutors lack of familiarity with accounting/auditing rules and regulations;
33. Half-hearted prosecution, i.e. underpaid, no case briefing from the Ombudsman;
34. Court clogging of cases;
35. Court leniency on postponements filed by the defense counsel;
36. No prosecutor exclusively handling Ombudsman cases;
37. Lack of means of communication/no contact at OMB;
38. Intimidated and influenced prosecutors;
39. Limited discretion given to prosecutors, i.e. provisional dismissal of cases, etc.;
40. If amount is already restituted in malversation cases, judges tend to be lenient with accused and sometimes suggest the dismissal of the case;
41. Lack of updated jurisprudence;
42. Priority of regular cases over Ombudsman cases;
43. Question as to who should conduct reinvestigation;
44. Lack of proper or clear policy on inquest; in inquest cases, prosecutor prepares the information filed in the regular court without approval of the Ombudsman (susceptible to Motion to Quash);
45. Non-circuitous procedure;
46. Fill up vacant positions;
47. Increase salary/provide honorarium to investigating/trial prosecutors;
48. Special court;
49. Lack of immediate response;
50. Humanitarian considerations;
51. Inconsistent findings of GIOs on administrative and criminal aspects of the case; and,
52. NGO issuing subpoena to LGU/other government offices.

The following solutions were suggested:

1. Frequent seminar of this nature should be conducted by both the OMB and DOJ; information dissemination is needed;
2. Budget should be allocated against which these expenses (for witnesses) shall be charged from time to time;
3. Call the attention of the Supreme Court or OCA (*for factors 11, 34 and 39*)
4. Fill up vacancies, create positions and increase salaries of prosecutors;
5. Terminate case as soon as possible;
6. Make salaries of PAO lawyers attractive;
7. Sufficient/decisive political will; sanctions against erring politicians;
8. OMB to actually handle some cases, specially the difficult ones or OMB to constitute panels for these cases (where there are political pressures);

9. Regular/quarterly dialogue with Ombudsman and prosecutors; OMB should visit the prosecutors regularly and not just concentrate in Manila area; they should also appear in our courts;
10. Appoint additional prosecutors;
11. Provide prosecutors with incentives, hazard pay, honoraria or any other financial assistance;
12. OMB allowance/incentives to deputized prosecutors;
13. Allow amicable settlement if prejudiced party is private and not the state;
14. There should be liaison officer/sub-office in every province;
15. Observe jurisdictional limit;
16. Close coordination between OMB and handling prosecutor;
17. Trial prosecutors be given time to confer with GIOs to prepare for trial;
18. Prosecutors should undergo seminar or other crash programs on accounting/auditing rules and regulations;
19. Appointment of resident ombudsmen to handle Ombudsman cases;
20. Case briefing by OMB GIOs;
21. Create new courts exclusively for Ombudsman cases;
22. Office of the Ombudsman should see to it that prosecutors will be furnished with as many copies of docs as there are number of respondents;
23. In case of political pressures, DOJ prosecutor to inhibit and seek OMB prosecutor to handle case;
24. Assignment of contact person per case;
25. Installation of hotline numbers toll free, e-mail, fax and phones;
26. Request special prosecutor from the OMB;
27. Grant discretion as long as interest of the government is not prejudiced;
28. Guidelines should be crafted addressing the matter (referring to 40); certiorari or other proper remedies should be initiated by the OMB;
29. OMB should furnish, from time to time, updated jurisprudence to CPO/PPO;
30. Relax COA regulations (audit; processing);
31. Seminars/trainings needed to strengthen moral values and ethics;
32. Withdraw authority to deputized prosecutor and OMB handle the case (38);
33. Adopt new policy in deputation of prosecutor based on case volume;
34. Designation of prosecutors should be coursed and channeled through the DOJ;
35. Ombudsman should send special prosecutor to handle directly the case;
36. Send manpower/supplies;
37. Priority in giving attention to OMB cases;
38. Special courts to hear Ombudsman cases;
39. Ombudsman exercises coercive powers;
40. Prosecutors should not succumb to such pressures;
41. Dismiss case where affidavit of desistance is filed;
- 42.

43. Deputized prosecutors be given authority to file information;
44. Appointment of additional prosecutors and increase of salary;
45. OMB cases should be handled by OMB prosecutors;
46. There must be jurisprudence for all Ombudsman administrative orders/memos granting authority to the prosecutor to prepare the information;
47. OMB must assign single investigator on both administrative/criminal aspects of the case;
48. Support the peace process;
49. Provide guns;
50. Terminate authority of those NGOs issuing subpoena;
51. Dismiss case where affidavit of desistance is filed ;
52. Deputized prosecutors be given authority to file information;
53. There should be an attached trial brief;
54. Assignment of special prosecutors;
55. Close coordination bet. OMB and DOJ; and,
56. Logistic support by OMB to DOJ deputized prosecutors.

◆ MONITORING OF CASES

The following restraining factors were cited:

1. Lack of communication/coordination between the Office of the Ombudsman and the DOJ;
2. Absence of a systematic monitoring system to validate reports submitted by CPO/PPO. No reporting is enforced or required by the Ombudsman;
3. Inadequate personnel; equipment; heavy workload of DOJ staff and prosecutors;
4. case identification, integration in the performance reports submitted to ORSP on a semestral basis;
5. No particular form/guidelines/methodology issued by the Office of the Ombudsman;
6. Too frequent reporting;
7. Lack of material time;
8. Irregular reporting;
9. No specific portion in the monthly report with respect to OMB cases;
10. No separate docket for OMB cases;
11. Period of submitting reports - timetable;
12. Delay in submission of reports;
13. Inefficiency;
14. Communication and logistic support;
15. Delay in the disposition of resolution, information and pleadings requiring the approval of the Ombudsman;
16. No reports received from the OMB;
17. Insufficient number of prosecutors at OMB office;
18. No particular person assigned to monitor Ombudsman cases;
19. Lack of proper recording of cases received by the DOJ from the Office of the Ombudsman;
20. No regular reporting of OMB cases;

21. Lack of communication facilities like fax machines, direct monitoring line;
22. Monitoring of cases is not institutionalized;
23. Cases of inhibition;
24. Designation of handling prosecutor directly done by the Ombudsman thru the Provincial/City prosecutors;
25. Not enforced in the provinces;
26. Heavy workload of DOJ staff;
27. Non-segregation of OMB cases from DOJ cases;
28. Reg. XII lack of modern and effective monitoring/ communication equipment system;
29. Added burden to prosecutors;
30. No specific division/office in charge;
31. Only reporting is required;
32. Direct filing of cases before the regular courts by the Ombudsman without proper coordination with OCP; and,
33. The intermittent or sudden issuance of order for reporting of cases often giving inadequate period to comply.

For this cited restraining factors, the following solutions were recommended:

34. Proper/continuing coordination in the inventory/reporting and monitoring between the Ombudsman and DOJ;
35. Request regular reporting with a form coming from the Office of the Ombudsman; active participation/monitoring from the Office of the Ombudsman;
36. Appoint additional staff and prosecutors to handle Ombudsman related cases and purchase of needed equipment;
37. MOA bet DOJ and OMB to create one clerical position and provide adequate equipment particularly computers;
38. Institutionalize or create an effective monitoring system;
39. A need for a separate reporting system to be adopted by the office deputized by OMB for both cases pending investigation (CPO/PPO) and trial (in court);
40. Issuance of clear guidelines for reporting and monitoring to avoid duplication of work;
41. Designation of OMB personnel to handle monitoring of cases with different OPPs/CPOs;
42. Separate docket for OMB and DOJ cases;
43. OMB should provide the DOJ the necessary forms to be accomplished;
44. A specific designation of OMB cases;
45. Budget proposal should be done ASAP;
46. Provide mobile or cell numbers of the officers concerned;
47. Information dissemination;
48. Create additional positions for prosecutors in OMB;
49. Court orders disposing OMB cases should always be furnished by the trial courts to the office of the Ombudsman;
50. Prosecutors should prepare a detailed inventory of cases indicating therein the corresponding status of said cases;

51. Quarterly report;
52. Periodic or regular assessment by OMB, by visiting different OPP/OCP to validate reports;
53. provide every OCP/OPP with the needed facilities;
54. OMB should have its own list of cases sent for filing;
55. The chief prosecutor should submit request for inhibition with RSP for designation of city/provincial prosecutor to handle the case - RSP will designate - inform the OMB of such designation;
56. Designation of the handling prosecutor should be done by the ORSP;
57. Constant dialogue on progress of cases endorsed or referred to DOJ;
58. OMB should detail staff for OMB cases;
59. Modernization of monitoring and communication equipment/system e.g. "on line" communication and computerization;
60. Give incentives; and,
61. Minimize submission of reports by prosecutors.

◆ REFILING/REVIVAL OF CASES DISMISSED ON ACCOUNT OF THE RULING IN GEORGE UY CASE

The following restraining factors were commonly cited:

1. When double jeopardy sets in;
2. Lack of awareness on the part of the DOJ prosecutors as to cases dismissed by the courts;
3. Lack of interest on the part of complainants and witnesses after dismissal of the case; and,
4. Prescription.

Other restraining factors cited include:

5. Lack of witnesses and inefficient monitoring of witness addresses;
6. Review of OMB-DOJ joint circular No. 95-001 to conform to the Supreme Court decision in Uy case;
7. "Hastily filed cases";
8. Delay in re-filing;
9. Time and distance constraints;
10. Question as to who will initiate the motion for the revival of cases;
11. Rendered information invalid by saying OMB has no authority to file cases;
12. DOJ cannot file without approval of OMB;
13. Availability of witnesses and inefficient monitoring of witnesses' address;
14. Misunderstanding, seeming bias and non-cooperation of judges, i.e. refusal to grant the revival of cases;
15. Technicality;
16. Constitutional infirmity;
17. Delaying tactics employed; and,
18. Duplicity of information.

The following remedies or courses of action were recommended:

1. Conduct proper inventory of all cases dismissed and assign personnel solely for purpose of taking such inventory;
2. Close/proper coordination of OMB with DOJ;
3. Examine/study comprehensively the records of such cases if re-filing or revival is still legally feasible;
4. Effective monitoring of witnesses' address;
5. Enactment of law amending the Judiciary Act of the Supreme Court;
6. private complainants and witnesses be contacted to ensure their cooperation in pursuing the case;
7. delegation of authority
8. Filing of new cases/information by OMB;
9. SC circular particularly exempting these cases from the coverage of double jeopardy;
10. OMB should initiate proper procedural remedies in case the court would refuse re-filing the case;
11. Prosecutor should oppose the accused motion to quash which, if granted, prosecutor should file petition for certiorari;
12. Charged to experience;
13. Cooperation of courts, cooperation of the Supreme Court to direct judges to resolve cases without delay;
14. filing of an opposition or petition for certiorari; and,
15. Immediate filing of the proper pleadings.

Survey Question 1: Designating Special Courts

In each region, there was always diversity in opinions contributed by each of the four groups. In this survey question, there are three possible answers, namely 1) yes or affirmative, 2) no or negative, and 3) it depends or qualified. The following presentation will reflect the mixed responses of each region, be it affirmative, negative or qualified. The analysis follows the presentation by region.

Regional Responses

- | | | |
|-----------|-----|--|
| Region I | Yes | <ul style="list-style-type: none"> ◆ as long as special prosecutors from the Office of the Ombudsman attend to and prosecute these cases; and, ◆ one in each province to facilitate the disposition of Ombudsman cases; |
| | No | <ul style="list-style-type: none"> ◆ it will entail more expenses; and, ◆ there are only few Ombudsman cases. |
| Region II | Yes | <ul style="list-style-type: none"> ◆ to decongest regular courts; ◆ expedite proceedings of Ombudsman cases; ◆ to show that the government is serious and sincere in its efforts to punish graft and corruption and deter its prevalence; |

		<ul style="list-style-type: none"> ◆ to promote specialization, efficiency of decision-makers, provide better training for prosecutors; and, ◆ complement the special courts with specialized prosecutors.
	No	◆ negative nor qualified response.
Region III	Yes	<ul style="list-style-type: none"> ◆ Foster specialization on the part of the judge and of the prosecutors; and, ◆ Facilitate or expedite the disposition of OMB cases;.
	No	<ul style="list-style-type: none"> ◆ the number of filed cases is not that much; and, ◆ if exclusive and newly created. Yes if merged with special courts to have focus (qualified).
Region IV	Yes	◆ but existing special courts could handle those cases (qualified).
	No	<ul style="list-style-type: none"> ◆ impractical, very few cases; and, ◆ no need, Ombudsman cases are few.
Region V	Yes	<ul style="list-style-type: none"> ◆ to prioritize/emphasize gravity of offense; field of specialization on the part of the judges' prosecutors; ◆ appearance of the seriousness of the cases; ◆ to facilitate the resolution and/or termination of criminal cases involving public officers; and, ◆ in order to have properly trained courts to handle graft cases, akin to family courts and special courts.
	No	<ul style="list-style-type: none"> ◆ our courts are competent enough; and, ◆ we lack judges and courts so why do we have to move for the designation of other courts.
Region VI	Yes	◆ to expedite disposition of Ombudsman cases provided that a special prosecutor be designated to handle these cases and also a public attorney.
Region VII	Yes	<ul style="list-style-type: none"> ◆ to declog the courts docket; ◆ judges and prosecutors will develop expertise; ◆ provided there is also a special prosecutor specifically assigned to handle OMB cases with corresponding remuneration; ◆ to ascertain swift turn-out of OMB cases; and, ◆ OMB cases need to be isolated from the regular ones.
	No	<ul style="list-style-type: none"> ◆ the decisions of these cases will be confined in the mindset of the judge; and, ◆ expensive;

Region VIII	Yes	<ul style="list-style-type: none"> ◆ for expediency and speedy disposition of cases; ◆ mastery of laws involving OMB cases; and, ◆ to declog dockets of the regular courts.
	No	<ul style="list-style-type: none"> ◆ special prosecutors of the Ombudsman should instead be detailed/assigned in the trial courts to prosecute Ombudsman cases; and, ◆ deputize instead the legal officers of the complaining agency as Ombudsman prosecutors.
Region IX	Yes	<ul style="list-style-type: none"> ◆ there will be close monitoring of cases; ◆ for better coordination; and, ◆ to expedite disposition of OMB cases.
	No	<ul style="list-style-type: none"> ◆ a lower court will be concentrating all its time in hearing and deciding OMB cases; ◆ monitoring would be easier and less tedious; ◆ importance or priority will be given to OMB cases; and, ◆ expertise of judges and prosecutors;
Region X	Yes	<ul style="list-style-type: none"> ◆ to foster specialization; ◆ more conducive to effective handling of cases; ◆ proximity - lesser expenses for litigants; decongest regular courts; and, ◆ prioritization of OMB case.
	No	<ul style="list-style-type: none"> ◆ it is not necessary;
Region XI	Yes	<ul style="list-style-type: none"> ◆ for assured continuous hearing; judges better prepared; ◆ prosecutors specialized; for efficient disposition of cases and mastery of laws and jurisprudence concerning OMB cases; ◆ to partially address the manpower problem of the DOJ and OMB; and, ◆ for expediency, facility, speedy disposition and handling of case, once a system is established.
Region XII	Yes	<ul style="list-style-type: none"> ◆ to enhance the speedy disposition of cases; ◆ to unclog RTC cases; ◆ with specialization; and, ◆ should only be assigned to one sala.
	No	<ul style="list-style-type: none"> ◆ it is not necessary; ◆ OMB cases constitute a small percentage of the cases in court; and, ◆ would result to more corruption;

Region XIII	Yes	<ul style="list-style-type: none"> ◆ to expedite disposition of case; ◆ facilitate and improve the prosecution for GIOs and deputized OMB prosecutors; ◆ to give importance to graft cases and trial of these cases will be facilitated; ◆ handling prosecutor will focus on graft cases and specialization of the same; and, ◆ it will send a message to all would-be grafters that the government is serious in going after them.
Region IV	Yes	<ul style="list-style-type: none"> ◆ for specialization on the part of judges and prosecutors; ◆ to expedite disposition of cases; and, ◆ to declog the dockets of the regular courts and for its speedy disposition.
	No	<ul style="list-style-type: none"> ◆ this would create biases of judges.
NCR	Yes	<ul style="list-style-type: none"> ◆ for expeditious disposition of case; ◆ the elimination of jurisdictional questions; ◆ easier or simplified monitoring; court's specialization; and, ◆ declogging of courts dockets.
	No	<ul style="list-style-type: none"> ◆ P.D. 1606 should be resurrected; and, ◆ creation of a special court is not practical.

Survey Question 2: The indispensability of presenting a fact-finding Graft Investigation Officer as witness.

The idea of raising this survey question was conceived after the Pilot Seminar-workshop held for NCR DOJ Prosecutors. Thus, it was first floated in Region III, where the second batch of a series was held.

In the workshop of said batch, a concern as to the impropriety of the survey question being floated was raised by the Provincial Prosecutor of Bulacan. The Provincial Prosecutor intimated that an analogous case decided by the Supreme Court has already ruled on the question.

Cautioned by such comment, the floating of the question was held in the meantime and was not included in the Region IV seminar. After ascertaining, however, that the issue in the decision mentioned is distinct and irrelevant, the survey question was resumed starting the 4th batch.

Herein below, the responses which are affirmative, negative or qualified were presented by region to reflect the regional impression of the participants.

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|-------------|---|
| Region I | ◆ Not indispensable - it will be an exercise in futility. |
| Region II | ◆ It is not indispensable. |
| Region III | ◆ It is not indispensable. |
| Region IV | ◆ No answer. |
| Region V | ◆ No need; dispensable unless he has personal knowledge of the case or his/her testimony is material to any evidence obtained or gathered during the conduct of the investigation.
◆ Yes on a case to case basis. Coordination of the GIO with the deputized prosecutors by all expedient means at the expense of the OMB if necessary. |
| Region VI | ◆ It is not indispensable, hearsay evidence. |
| Region VII | ◆ It is not indispensable. Hearsay, he has no knowledge anyway.
◆ Yes. GIO needs to be presented so he can show how he came about his resolution; personal knowledge may be gained through inspection of documents and/or public records; generally not indispensable, but he can assist, guide, coordinate and monitor the development or status for the successful prosecution of the case.
◆ Yes, if matter in issue is relevant, material and admissible, e.g., admission of the parties during investigation by the GIO. |
| Region VIII | ◆ No, his testimony is inadmissible, hence hearsay;
◆ Yes but only as an amicus curiae. |
| Region IX | ◆ It is not indispensable.
◆ It depends. If his testimony is it necessary and if there is no other witness.
◆ |
| Region X | ◆ No, his testimony is merely hearsay.
◆ It depends on the strength/weakness of evidence.
◆ The GIO should be tasked with the coordination of case build up and case management. |

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| Region XI | <ul style="list-style-type: none">◆ It is not necessary. GIOs can assist.◆ It depends. Only if warranted.◆ Only needed for conference and coordination.◆ Not indispensable as a witness but may help in the prosecution of the case by coordinating with the handling prosecutor. |
| Region XII | <ul style="list-style-type: none">◆ Not indispensable but may be necessary. |
| Region XIII | <ul style="list-style-type: none">◆ Not indispensable but may be necessary.◆ Yes, if testimony is material and relevant, otherwise not. |
| Region IV | <ul style="list-style-type: none">◆ Not indispensable; hearsay evidence. |
| NCR | <ul style="list-style-type: none">◆ Not indispensable; his testimony is hearsay.◆ No need, to enable him to attend to other OMB cases.◆ Not necessary. |

Analyses and Findings

◆ HANDLING OF CASES

As to **INFORMATION**

For this problem area, the obstacles/restraining factors commonly identified by the participants may be classified into substantive and procedural - substantive obstacles in the sense that they relate to the very substance or ingredients/elements of the information which are essential to its validity; or procedural obstacles in the sense that they relate to the process/es done or steps taken subsequent to the preparation of the information up to its filing in court. Good examples of the latter classification include the transmittal of the information from the Office of the Ombudsman to the Prosecutors Office or vice versa, the requirements as to the number of copies, and the timeliness of, or the propriety of impropriety, its filing in court (as when it is wrongly filed, or twice filed in different court).

The identified obstacles/restraining factors may also be classified according to the agency responsible - for which the Ombudsman is responsible, those for which the DOJ is responsible, or those for which the court is responsible.

Some factors can be attributed to either or both the Ombudsman and the DOJ, although, in most cases the participants pointed to the Ombudsman as the responsible agency. This can be expected as the participants are under the DOJ. Except in some regions in Mindanao where GIOs joined in as participants, all regional participants come from DOJ.

The most commonly recommended solution for this category is the giving of blanket authority to the City and Provincial Prosecutors to amend defective information and approve the same without coursing through the Office of the Ombudsman. At first glance, this proposition seems to address many of the restraining factors identified. But on a cursory analysis, this recommendation should be completely rejected. Because, granting the prosecutors such authority will not only result to the surrender by the Ombudsman of its constitutionally and statutorily conferred powers, but will likewise entail a tedious task of revising almost all administrative orders/circulars relating to handling and prosecution of Ombudsman cases like Adm. Order No 13, DOJ-OMB Joint Circular No 95-001, and other Ombudsman issuances relating to rules and procedures.

The recommendation to delegate to Chief Prosecutors the authority to approve information in inquest cases appears to be a workable proposition. Based on the output of some regions, particularly the NCR, there seems a need to clarify inquest procedures by the issuance of new guidelines if only to avoid delay that results from lack of clear guidelines on the matter. Presently, Administrative Order (AO) No. 11 , series of 1994 (in relation to Supreme Court Circular 11-94), authorizes city and provincial prosecutors, except in the NCR, to approve information in inquest cases that can be tried by the Sandiganbayan. However, when R.A. 7975 was enacted, several amendments have been introduced. Said law transferred certain Ombudsman cases to the jurisdiction of the regular courts. As an offshoot, confusion arose as to whether or not inquest cases still need the approval of the Ombudsman. While Administrative Order No. 11 authorizes City or Provincial Prosecutors to approve information with respect to inquest cases cognizable by the Sandiganbayan, it remains unclear whether they are likewise so authorized to approve information with respect to cases cognizable by the regular courts.

For clarity and uniformity, the issuance of an administrative order authorizing all city and provincial prosecutors to approve information in all inquest cases, except for cases cognizable by the Sandiganbayan in the National Capital Region, which should still be finally approved by the Ombudsman as per AO 11, is highly recommended.

As to concerns involving transmittal and management of records, i.e. required number of copies of documents, required forms, proper attachment, manner of transmittal, tracing and inventory of records, etc, the solutions recommended varied. For instance, the number of copies of information recommended to be transmitted in one region varies in another. Thus, adaptation of the recommendations in this particular concern is not practicable because of their diversity. Collating all the cited problems vis-à-vis the given recommendations, a better alternative would be the formulation of a system or rules of procedure in the transmittal of OMB Cases for prosecution before the lower courts after conducting a thorough study on the existing procedures being implemented by the OMB central office and area/sectoral offices. As this appears to be immediately doable, it is recommended that it be carried out immediately.

On concerns relating to substantive defects of information, most of the recommendations are solutions which are incumbent upon the Ombudsman to act on. It was commonly recommended that "information should be reviewed/double-checked before transmittal" (variably using the words cautious, meticulous, careful, and thorough). The recommendation is suggestive that the information is being prepared carelessly or without due diligence, or that it does not pass proper review by the reviewing officials. Other recommendations - such as "instill dedication and commitment to work"; "GIOs must familiarize themselves with the territorial jurisdictions of courts" - suggest a perceived deficiency and not necessarily incompetence of the Ombudsman investigators, which should be immediately addressed.

On this concern, it is suggested that a seminar on Information Writing, with a module focused on the discussion of (1) the essential elements of all crimes/felonies/ offenses/violations which are graft-related or committed by public officers, and (2) various factors affecting the validity of the information, be conducted for all investigators and reviewing officials of the Office of the Ombudsman.

As to **EVIDENCE**

Basically, the commonly cited obstacles /restraining factors may be grouped into (1) records management and transmittal; (2) appreciation of evidence by the preliminary investigator/ handling prosecutor; and, (3) lack of coordination/linkage between the Office of the Ombudsman and DOJ. Some other factors cited relate to the trial proper for which the court is responsible, while the rest are of minor significance.

The suggested solutions for the factors relating to records management and transmittal (such as lack of original, insufficient copies, retention of copy of evidence and risk of loss or deterioration during transmittal, lack of proper markings done beforehand by the Ombudsman) are factors which can be addressed by the same study/task proposed to be undertaken under par. 7 of the preceding category. Such recommendation is reiterated herein.

For obstacles/restraining factors relating to appreciation of evidence by the preliminary investigator, such as: (1) "lack, unavailability or incompleteness of material pieces of real or documentary evidence"; (2) "Insufficient to support findings of probable cause"; (3) "inadmissible under the rules"; (4) "purpose of evidence not specified" - various solutions were recommended. Taken individually, however, no recommendation suggested a concrete and workable solution. But analyzing the obstacles/restraining factors and recommendations altogether, they suggest the need of the OMB investigators to gain expertise or enhance their know-how on matters of evidence, particularly in the appreciation of weight and sufficiency, and the relevancy, materiality and competency thereof to be admissible. It has been mentioned in some of the group presentation (in some regions) that information of OMB cases reach the prosecutor's office without passing the required "quantum" or sufficiency of evidence that often results to the dismissal of the case by the court. Although such comment may just be an isolated one, such will reflect on the entire institution and will create a negative impression.

For this concern, it is suggested that a seminar be conducted with a module particularly on "Weight and Sufficiency of Evidence" and "Admissibility of Evidence". A sub-topic on preservation of evidence should likewise be included in the module to address the concern on "constraints in the safekeeping/custody of" evidence. This module will not only hone their investigatory skills, but will enhance as well their appreciation of evidence in a prosecutor's perspective.

For the cited difficulty in the technical interpretation of evidence, which particularly refers to audit findings and reports, the prosecutors suggested the holding of seminars on accounting and auditing rules and procedure.

Once a DOJ Task Force is created as recommended herein (Please see Summary of Recommendations below), then such seminar can be properly conducted with the members of the task force as participants.

As to **WITNESSES**

Most of the obstacles/restraining factors identified for this concern are factors which involve the personal decision or will of the witness. Loss of interest, apathy, hostility, bribed witness, witness prefers to settle than testify - are the typical examples given. Other factors such as unavailability due to pressure, threats, intimidation or harassment, or lack of transportation allowance may also involve the witness' personal decision. But in all the latter cases, he acts involuntarily. Factors such as "witness not listed in the information and not allowed by the court to testify" and "lack or poor service of subpoena" are factors which are beyond his control and of which he has no participation.

For the foregoing obstacles/restraining factors, various solutions were suggested. Except for a few, the solutions suggested by the prosecutors merely echoed those benefits and privileges presently provided under the Witness Protection Program (R.A. 6981). The program already extends benefits such as travelling expenses and subsistence allowance to an admitted witness for his attendance in court, body or authority, and even for conferences with prosecutors, in particular.

For this concern, the Office of the Ombudsman should closely and properly coordinate with the DOJ for purpose of extending the benefits of the Program to witnesses of Ombudsman cases.

Proper representation with DOJ should also be made for the inclusion of a "Witness Orientation Session/Seminar" in the rules and regulations implementing the Witness Protection Program. Such session shall be aimed at inculcating in the mind of the witness not only his moral and legal obligation, but also the benefits and privileges offered by the program and such other insights which a witness ought to learn.

As to **Other Factors**

Factors mentioned in this category are mostly reiterations of the first three categories. A few of the newly cited factors relate to lack of proper attitude of the part of the prosecutors as well as of judges. Others relate to the need to strengthen the workforce of the office. Others are external factor whose effects is either merely indirect, incidental or contributory and is minimal or negligible. The same holds true with the solutions recommended. Mostly is mere reiteration of the first three categories.

Many of the obstacles cited for this area of concern can be partly addressed by the recommendations already made for the other problem

areas. But in a deeper analysis, a better suggestion would be the creation of a task force that will take charge of the prosecution of all Ombudsman cases before the regular courts and the regular reporting of the status thereof to the Ombudsman for purpose of monitoring. Designation of its members shall be the task of the Regional State Prosecutors. Such creation will serve as a one-stop shop solution for many of the obstacles cited.

◆ MONITORING OF CASES

The major factors identified for this area of concern can be classified into (1) absence or lack of a system, (2) lack of personnel, (3) lack of communication/coordination, (4) lack of equipment and supplies, and (5) lack of incentives.

The first type should be addressed directly by devising a monitoring system in both offices especially for purpose of monitoring Ombudsman cases. Based on the results/findings of the study recommended to be conducted under Paragraph (7), 1.A, on the rules and procedures being implemented by the different sectoral/area offices, the Office of the Ombudsman will be able to formulate the guidelines of a simple but systematic monitoring device. Thus, the recommendation for the conduct of such study, with focus on devising a monitoring system, is hereby reiterated.

◆ RE-FILING OF CASES DISMISSED ON THE ACCOUNT OF THE SUPREME COURT RULING IN UY VS. SANDIGANBAYAN

The most commonly identified obstacle for this area of concern is "when double jeopardy sets in". As to this constitutional injunction, no remedy is available so long as all the elements of double jeopardy are present.

As to the recommendation to conduct an inventory of cases dismissed on account of the ruling, which shall thereafter be evaluated if proper for re-filing, the task force recommended to be created under A.4, par. 2 may well carry out the task.

◆ SURVEY QUESTION ON DESIGNATION OF A SPECIAL COURT TO EXCLUSIVELY HEAR AND DECIDE OMBUDSMAN CASES

Other than affirmative and negative responses, the participants also gave qualified responses. Affirmative portions of qualified responses were grouped with affirmatives, and so with the negatives.

The Affirmatives

- Expedite proceedings/disposition of Ombudsman cases;
- To promote specialization, efficiency of decision-makers;
- Yes, to decongest regular courts;
- In order to have properly trained courts to handle graft cases, akin to family courts and special courts;
- To show that the government is serious and sincere in its efforts to punish graft and corruption and deter its prevalence;
- Provide better training for prosecutors;
- Yes, as long as special prosecutors from the Office of the Ombudsman attend to and prosecute these cases;
- Complement the special courts with specialized prosecutors;
- To prioritize OMB cases;
- Yes, to ascertain swift turn-out of OMB cases; OMB cases need to be isolated from the regular ones;
- Yes. There will be close monitoring of cases; For better coordination;
- A lower court will be concentrating all its time in hearing and deciding OMB cases;
- Monitoring would be easier and less tedious; importance or priority will be given to OMB cases;
- Yes, for proximity - lesser expenses for litigants;
- To partially address the manpower problem of the DOJ and OMB;
- Facilitate and improve the prosecution for GIOs and deputized OMB prosecutors;
- For the elimination of jurisdictional questions;
- Yes if merged with special courts to have focus; and,
- Yes but existing special courts could handle those cases.

The Negatives

- No, it will entail more expenses; there are only few Ombudsman cases;
- No, the number of filed cases is not that much;
- No if exclusive and newly created
- No. Impractical. Very few cases;
- No need. OM cases are few;
- No, our courts are competent enough;
- No. We lack judges and courts so why do we have to move for the designation of other courts;
- No. The decisions of these cases will be confined in the mindset of the judge;
- No. Expensive;
- No. Special prosecutors of the Ombudsman should instead be detailed/assigned in the trial courts to prosecute Ombudsman cases;
- No. Deputize instead the legal officers of the complaining agency as Ombudsman prosecutors;
- No, it is not necessary;
- It is not necessary. OMB cases constitute a small percentage of the cases in court;

- No, would result to more corruption;
- No, it would create biases of judges;
- Easier or simplified monitoring; and,
- No. P.D. 1606 should be resurrected; creation of a special court is not practical.

As demonstrated by the tabulations, the *pros* outweighs the *cons* both in terms of the quality of the responses and their being realistic. Moreover, it would seem that the participants who gave support to the idea saw the obstacles/problems in the same perspective the Ombudsman saw them. Thus, there is a need to designate a special court to exclusively hear and decide Ombudsman cases.

Based on this observation, it is recommended that proper representations be made before the Office of the Court Administrator, Supreme Court for the possible designation of at least one special court for each region. A written proposal should embody the results of the survey.

◆ SURVEY QUESTION ON THE INDISPENSABILITY OF PRESENTING A FACT-FINDING GIO AS WITNESS

The summary shows a majority "no" answer. The most common or major reason given in support of this answer is the "hearsay character of the testimony of the fact-finding GIO". For the "yes" answer, only a few appeared to be sensible, like "Yes, in case there is no other witness". Many also suggested that the GIO can assist, guide, coordinate and monitor the development or status for the successful prosecution of the case.

◆ SUMMARY OF RECOMMENDATIONS BASED ON THE WORKSHOP OUTPUTS

Following is the summary of the actions recommended to be undertaken:

- Issuance of an Administrative Order authorizing all provincial and city prosecutors to finally approve information of inquest cases:
 - In the National Capital Region - only those cognizable by the regular courts; and.
 - Outside the National Capital Region - those both cognizable by the Sandiganbayan and the regular courts.
- A study of the existing procedures of the Ombudsman Central Office and Sectoral/Area offices with respect to transmittal of Ombudsman cases (records) for prosecution before the regular courts, with the end in view to formulating:
 - A revised rules of procedure in the transmittal of Ombudsman cases/case records for prosecution by the regular courts; and,

- A monitoring system that will facilitate the tracing of cases already filed as well as those yet to be filed before the regular courts.
- A seminar-workshop on Appreciation of Evidence; Resolution and Information Writing, with modules focused on:
 - Graft related crimes/offenses/felonies/ violations and their essential elements; with related discussion on factors affecting the validity of the information;
 - Evidence and appreciation of; weight and sufficiency of relevance, materiality and competence of; preservation of;
 - Update on current jurisprudence; and,
 - Workshop.
- Creation of a DOJ Task Force which shall be tasked to:
 - Take charge of the prosecution of all Ombudsman cases referred on a per region basis upon instruction of the Regional State Prosecutor, including the conduct of reinvestigation thereof;
 - Report on a monthly basis the status of said cases for purpose of monitoring;
 - Coordinate with DOJ Witness Protection Program Director for the admission of witnesses of Ombudsman cases under the program; and,
 - Conduct an inventory of all cases dismissed on account of the George Uy case ruling, for purpose of evaluation and possible re-filing.
- Submission of a Proposal with the Supreme Court for the creation of a Special Court to exclusively hear and decide Ombudsman cases.
- Seminar on Accounting and Auditing Rules and Procedures for Deputized Prosecutors (once a DOJ Task Force is created).

OVERALL RECOMMENDATION

The culmination of the Seminar-Workshop on the Investigation and Prosecution of Ombudsman Cases for DOJ Prosecutors resulted in the arrival at and formulation of some relevant and needed recommendations. Participants in the training program were able to propose noteworthy concerns, which both the Office of the Ombudsman and the Department of Justice have to deal with in order to establish an effective and efficient working relations that will eventually lead to the improvement of the monitoring and reporting system concerning the handling and disposition of graft cases filed in the regular courts.

The following are some of the significant propositions/recommendations:

◆ ***Designation of a Special Court to Hear Ombudsman Cases***

One of the questions asked during the seminar-workshop was the idea of designating a special court that will specifically hear Ombudsman cases. Majority of the participants considered the idea of such. The designation of a special court for every region is intended to prioritize and speed up the disposition of Ombudsman cases.

◆ ***Conduct of Trial Advocacy Skills Development Program***

The conduct of the seminar attracted the attention of those in authority that there is indeed a need to hold an intensive training development among the members of the prosecution service. This program is designed to familiarize and enhance the participants' knowledge and capabilities in exploring the areas within the Philippine Criminal Justice System where they can extemporize and channel their trial advocacy skills.

Originally, this training was intended for OMB prosecutors and investigators, but it was realized that selected DOJ prosecutors deputized by the Ombudsman should also undergo the same training program based on the precept that they handle Ombudsman cases. The idea is to strengthen and increase their knowledge and hone their skills on the intricacies of investigating and prosecuting graft cases in the lower courts.

◆ ***Establishment of a Reporting and Monitoring System***

Upon evaluation and assessment of the existing working relations and linkages between OMB and DOJ, one major point that was highlighted was, admittedly there is a deficiency in the reporting and monitoring system as far as tracking the flow of cases being forwarded to the lower courts is concerned. To remedy such situation, it was recommended that there has to be a common reporting and monitoring system that will serve as a feedback mechanism in determining the status of the Ombudsman cases. Certain components under this program are being considered, to wit:

○ ***Court Watch***

Under this component, the Office of the Ombudsman will tap the students in the collegiate level, particularly those who are studying law. The Office will convince and solicit the support of the law students to keep an eye on the flow of cases in the lower courts. Nev-

ertheless, this activity will be done on a voluntary basis. To get the commitment of the students and solidify their efforts, the Office will coordinate and make a tie-up with the law schools and explain to their students the urgency and importance of keeping a watch over the flow and pace in the investigation and prosecution of cases in the regular courts. Aware of the existence of the studentry and knowing that the prosecutors are being watched, these students serve as deterrence in any attempt to delay or commit negligence in disposing such cases lodged before the prosecutor's office.

- *Creation of a Task Force*

Another major proposal that was being taken into consideration is the creation of a task force. This task force shall be installed in every region specifically to handle and prosecute Ombudsman cases filed in every court within its area of jurisdiction. It is also designed to facilitate/speed up the disposition of graft cases lodged before the lower courts.

- *Procedure in the Transmittal of Records*

In the study report conducted by the RSSB, some of the significant findings were: to include the requirement of unnecessary number of copies of case folders by some prosecutor's office which resulted in waste of time, effort and supplies and materials, and existence of an inefficient monitoring system of Ombudsman cases which results in the difficulty of keeping track the status of said cases. These concerns were also cited as one of the many issues raised during the conduct of the seminar-workshop.

To confront the problem, one of the measures being considered is to set a standardized number of reproduced copies of documents in the case folders including the original copies. Likewise, there is a suggestion to identify what documents/attachments should include in the case folder that will ensure a uniform and expeditious transmittal of Ombudsman cases.

With regard to the inefficient or ineffective monitoring system of Ombudsman cases, it is recommended that the Office of the Ombudsman should institutionalize the use of monitoring forms designed for the purpose. In this way, it is easy to keep track of the records being transmitted and forwarded to concerned offices and it will be easy to monitor and or check the flow of the said records or case folders/documents.

