

# INTRODUCTION

---

---

I remember interviewing a VA psychiatrist many years ago in conjunction with an investigation in the old US Civil Service Commission concerning the suitability for federal employment of an applicant who spent many years being treated at a VA psychiatric facility. The applicant had made no secret of his history and had given us a release for the psychiatrist to talk with us, so there was no legal or ethical reason for him to have withheld anything. I worked under strict and measurable production standards, so I was in no mood to spend any significant time on the interview. I pushed the psychiatrist for a quick and firm diagnosis—an easy label that we could apply to the applicant that would enable us to make a decision. Just give me some Latin words with a bit of German sprinkled in and the word “syndrome” at the end and then tell me that he’s either fully recovered or that he cannot be trusted with a garden rake and let me get out of here. Yet, even with the release, and the doctor had no hesitation speaking with me, he avoided my pleas for a snappy diagnosis and clean prognosis.

He finally turned on me and explained why he was hesitant. When he first graduated from medical school, he explained, he would have an hour conversation, followed by an easy conclusion, some scrawls in the file denoting the treatment, and onto the next case. However, the longer he practiced medicine, the more he realized how complicated the human mind is and how hard it was to easily decode people and classify them in any simple and usable way.

Over the years, I came to agree and detest attempts to conveniently pigeonhole people. When I was with the OPM training centers, it seemed that there was hardly a class taught in which they did not administer the Myers-Briggs test (MBTI) to students, which classified them into neat personality types. I never understood its purpose. How can you possibly measure something as complex as human personality with a 15-minute quiz and a few letters—horoscopes are more reliable than Myers-Briggs.

However, even as that attitude firmed, I had been working for a long time with government agencies consulting and training on how to deal with problem employees. I also began noticing that, notwithstanding my dislike of easy categorization, I kept seeing the same patterns repeat themselves.

The serious problem employee whom we’ll later call the Employee from Hell, for example, crystallized in my mind after years of talking with supervisors who came to me with such similar stories of employees that I began wondering if it was the same person.

Similarly, the disaster we’ll call the Victim was someone I once supervised, and

thought I had seen the last of 40 years ago, yet whom I have met again dozens of times over the years with such an uncanny resemblance that I have started believing in reincarnation.

All my previous books have dealt with processes for handling workplace problems and related legal issues. This book is about the types of people who present these problems to government agencies.

This book is written specifically for federal agencies and supervisors for two reasons. First, it is my comfort level. My entire working career has been spent helping federal and to a lesser extent other government agencies—state, local, and Indian tribes—with a variety of HR management issues with an emphasis on dealing with problem employees. Second, and more important, is that the strategies and tactics for dealing with problem employees in government are radically different from those in private industry for one central reason—employment at will.

In the private industry, unless there is union representation and union contract restrictions, you can fire somebody for any reason not prohibited by law and there are precious few prohibited factors. Therefore, if you encounter a problem employee, it's easy. You just let him or her go. There is nothing illegal, for example, about firing somebody in the private industry who is always bad-mouthing supervisors.

On the other hand, in government service, forget it. Unless they have committed specific acts of defiance, you cannot take official sanctions. Same with the employee we'll call the Victim who wastes everybody's time with their endless miseries. As long as they are meeting barely minimal performance expectations, there is not much you can officially do about it.

Therefore, in government service, we need to develop an arsenal comprised of more than pink slips. We are, of course, going to look first at official sanctions, but we will also have to add to that a variety of other measures, some of which, although legal, are going to get a bit nasty.

We'll accomplish this by starting in Chapter One with the importance of dealing with problem employees. Then we'll turn to describe the most common types of problem employees you'll encounter in government service. Next, we'll examine the tools available to you and the legalities involved in using those tools. We'll then spend the most of our time on the strategies and tactics of dealing with the problems. We'll close out with non-problems and on how to try to work your system.

I want to thank the government supervisors and HR specialists who have helped me over the years with their advice, problems, and examples, but most importantly with their solutions. It was they who told me what they had done

and what worked and what did not work. I can claim little credit for most of the ideas, and most come from them.

I especially want to thank three of the best. The late Bob Kinney, our labor relations officer at OPM, taught me that you can combine a hard-nose approach to problem employees with a deep love for people and a wonderfully Irish sense for the underdog. Pat Simms, retired after a career with DoD, the Forest Service, and Fish and Wildlife Service, one of the best employee relations minds in the business, and was invaluable by giving me ideas for this book, especially in dealing with her own pet peeve, the Victim. Last, my wife, formerly a labor relations specialist and supervisor, has given me invaluable insight based on her own issues with employees and especially in setting the model for dealing with the Employee from Hell—not me, by the way, some guy who once worked for her and she fired.



# CHAPTER ONE

## WHY WE MUST DEAL WITH PROBLEM EMPLOYEES

---

---

It was, as the old Dragnet TV show started off by saying, a dull smoggy Wednesday morning in Los Angeles when a call came into the LAPD Robbery Homicide Division. About 9:20 in the morning on November 6, 1997, two men walked into the Bank of America at 985 West Jefferson Boulevard, Los Angeles, California. One of them pulled a pistol and confronted Ms. Errolyn Romero, the bank's Customer Service Manager. The robber walked Romero to the vault area where two other bank employees were working, and pointed the gun at the employees demanding money that had been delivered earlier. The robber then grabbed three plastic bags containing \$722,000 and left the bank along with his accomplice. They ran to a white van driven by a third robber and escaped before the police arrived.

During its investigation, the Robbery Homicide Division's Bank Detail found out that Romero, the same Customer Service Manager above, had ordered \$722,000 transferred to the bank the day before the robbery. Her order was suspicious because it generated a large amount of unnecessary currency in the bank and her order was for unusual denominations. Romero and the other two bank employees who had been confronted by the suspects agreed to take polygraph tests. On December 9, 1997, the other two employees were examined and showed "no deception" when answering the relevant questions. However, when Romero took the polygraph examination it showed her to be "deceptive."

During subsequent interviews, Romero broke down under the thumbscrews of the Robbery Homicide Division, admitted her role in the robbery and identified her boyfriend as one of the men who robbed the bank. LAPD detectives subsequently arrested Romero and her boyfriend, David Mack, for the bank robbery. On December 17, 1997, the case against Mack and Romero was submitted to the Assistant United States Attorney who filed a federal complaint charging Mack and Romero with armed bank robbery. Mack was later convicted of bank robbery and received a 14-year federal sentence. Romero got two and a half years and had to pay back the stolen money.

So, who was Romero's boyfriend and what does he have to do with a book on problem government employees? Mack was a police officer at the LAPD's Ramparts Division who had robbed the bank during a break from his normal patrol duties. The story continues.

The LAPD followed leads and found that two days after the robbery, Officer Mack went to Las Vegas with two other police officers from Ramparts and an LA drug dealer. The investigation expanded and then exploded into one of the greatest police corruption scandals of the late twentieth century.

When the dust settled, 14 police officers from Ramparts were implicated, fired, resigned, or convicted of not only robbing banks during breaks, but stealing and selling large quantities of drugs from evidence storage, murdering people for hire, as well as the usual mundane variety of police sins like beating suspects, planting evidence, falsifying reports, and lying in court.

The LAPD was rocked and ordered an extensive no-holds-barred inquiry into not only the Ramparts Division, but into management and supervisory practices throughout the LAPD. The result was a 362 page report that examined all the personnel management and supervisory practices that were or could have been contributing factors, including: hiring steps, spans of control, management information systems, citizen complaints, supervisory oversight, work schedules, and dozens of other possibilities in extraordinary detail.

It concluded by placing the responsibility for Ramparts squarely on supervision. The report acknowledged the moral deficiencies of the officers involved, but flatly concluded that what happened at Ramparts could have been prevented had management been doing its job. Accepting his share of that responsibility, Chief Bernard Parks wrote in the introduction:

The men and women who chose to involve themselves in this disgraceful activity will be dealt with. But, we as an organization must recognize that, while they individually and collectively provided the motivation, we as an organization provided the opportunity. Our failure to carefully review reports, our failure to examine events closely to identify patterns, our failure to provide effective oversight and auditing created the opportunity for this cancer to grow.

Chief Parks' metaphor of the cancer was elaborated on in the executive summary of the report, which quotes Ross Swope, a D.C. police captain who has written extensively about police corruption, "The major cause in the lack of integrity in American police officers is mediocrity."

The report continues:

Captain Swope went on to explain that mediocrity stems from the failure to hold officers responsible and accountable. It comes from a lack of commitment, laziness, excessive tolerance and the use of kid gloves. He felt that dealing with mediocrity is perhaps the greatest contemporary challenge to American law enforcement. When asked to explain how mediocrity is dangerous, Captain Swope drew an analogy of the bell curve.

At the high end of the bell curve are those officers who practice all the core values: prudence, truth, courage, justice, honesty and responsibility. At the other end, are the officers with few of those values. In the large middle are those officers who have some or most of the core values. The extent of moral influence in a police department depends on the extent to which the lower and upper portions influence those in the middle. The men and women who control that influence are sergeants, lieutenants and captains. The irony is that everyone within a work place knows full well which of the three categories their co-workers fall into. When officers in the middle see that officers at the bottom end are not dealt with, they sometimes begin to imitate their behavior. Similarly, when those at the top end are recognized and rewarded, they become the workplace standard. The principal, though not exclusive, agents in encouraging top-end or allowing bottom-end behaviors are supervisors and middle managers. It is our sergeants, lieutenants and captains who have the daily and ongoing responsibility to ensure that the appropriate workplace standards are maintained.

While the bell curve of problem, average, and top employees may be symmetrical, the influence is not. The influence of problem employees is asymmetrical and even seriously disproportionate. Researchers studying problem employees and group behavior have found a phenomenon they describe as “bad outweighs good.” Bad behaviors by one or just a few employees will begin to predominate a much larger number of good employees. However, the opposite is not true.

Tests have been conducted, for example, in which a group of nice, congenial people performing tasks were exposed to a new employee with an angry temperament. Rather than the angry person imitating the good behaviors of the others, the affable people themselves began to act angrily, imitating the small minority.

In an article in the journal *Research in Organizational Behavior*, William Felts discussed how problem employees, what they call “bad apples,” destroy offices and teams. Felts described his wife’s experience working in an office with a bad employee and how the atmosphere changed palpably when the person was away. “When he was gone my wife said the atmosphere of the office changed dramatically. People started helping each other, playing classical music on their radios, and going out for drinks after work. But when he returned to the office, things returned to the unpleasant way they were.”

So there you have it. Re-read and remember those two phrases from police officials, “while they individually and collectively provided the motivation, we as an organization provided the opportunity” and “[w]hen officers in the middle see that officers at the bottom end are not dealt with, they sometimes begin to imitate their behavior.” Both combine to give an eloquent summary of the role of management in dealing with problem employees—while employees

may provide the motivation, management provides the opportunity, and when that opportunity is provided and bad elements lead the way, even otherwise good government employees will fall into temptation and become workplace problems.

## **THE ROLE OF THE SUPERVISOR**

As the Ramparts report indicates, this bell curve of employees has all different types of people who either already are or can become problem employees. However, as we discussed in the Introduction, our entire approach in government service is significantly different from that in private industry because in federal service we are dealing for the most part with employees who have rights and protections. In private industry, non-unionized or non-contractual employees, over 90% of the private sector workforce, serve at will and can be summarily removed for any reason not prohibited by law. In all government service, not merely federal, it's the exact opposite: Only about 10% serve at will, and the other 90% have rights, a crucial one of which is the right to due process over removals and even some less serious disciplinary actions. That's a game-changer. Therefore, federal agencies and supervisors must have a multi-faceted strategy in dealing with these employees.

First, you must distinguish between the different types of problem employees. The type of person you're dealing with makes a huge difference in how you act and react. This does not mean that you have different rules for different people or that you act based on preconceived notions. Everybody must play by the same rules and you must be assiduously careful not to prejudge people.

However, once an employee, through his or her own behaviors has demonstrated certain patterns of conduct or performance, you must recognize the differences between those patterns. The analogy of triage is not inappropriate. You must recognize which are beyond hope and cannot be saved (what French triage cleverly calls "beyond urgency"), which need immediate attention in the hope of changing the behaviors, and which are annoying, but in little danger of doing lasting harm.

Second, you must recognize what supervisors can and cannot do. You must recognize, for example, that you cannot change people's basic emotional makeup, temperament, or work values. Among other overwhelming empirical data supporting the point, I just heard about a study that found that personality traits demonstrated by adults were established as early as in the first grade. And you just cannot change the way people are wired. You cannot, for example, motivate employees who have no desire to be there in the first place. You can, at best, manage their performance and their behaviors. Or, when dealing with the several controlling employees we'll meet in this book, you cannot change their psychological make-up and reduce them to passivity. You can only hope to

identify and even magnify those manifestations that are legally actionable, and begin disciplinary sanctions.

Third, you must then adopt specific strategies and tactics to each different problem. I have learned over the years that it is not enough to understand the legalities and procedures of dealing with workplace problems, you must have a strategic view. You cannot just sit back and wait, you must game-plan your approaches to such a point that with many of our problems, it does indeed start to resemble a big board game or chess match. With some, like the Bullies, for example, you'll need to move with lightning speed. With others, like the Sane Incompetent, you can afford to be gradual and restrained. However, you must have a plan and not simply let the events move you.

Adding to the complexity of dealing with problem employees in government service are the legal issues, chief among them is that problem employees can only be formally sanctioned or removed for certain behaviors that must be proven under certain standards. Therefore, we will be confronted with many situations where traditional disciplinary actions will not be available, and we shall be forced to use measures that, while legal, are not discussed in agency policy manuals.

So we'll start by looking at the types of problem employees you'll encounter in federal service and then turn to the tools, legalities, and strategies for dealing with them.