

**DAILY JOURNAL**  
**AMERICAN BAR ASSOCIATION**  
**HOUSE OF DELEGATES**  
**2004 MIDYEAR MEETING**  
**FEBRUARY 9, 2004**  
**SAN ANTONIO, TEXAS**

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
8A	NEW YORK COUNTY LAWYERS' ASSOCIATION CRIMINAL JUSTICE SECTION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN	Urges law enforcement agencies to videotape the entirety of custodial interrogations of crime suspects at police precincts, courthouses, detention centers and other places where suspects are held for questioning, or where videotaping is impractical, to audiotape the entirety of such interrogations and urges legislatures and/or courts to enact laws or rules of procedure for this requirement.	Approved as Revised*
8B	BAR ASSOCIATION OF SAN FRANCISCO HISPANIC NATIONAL BAR ASSOCIATION	Recommends that the United States Congress adopt and the President sign, legislation that affords the four million U.S. citizens residing in Puerto Rico a process that defines the non-territorial options that are available to the people of Puerto Rico and that authorizes a federal referendum on the Island that enables them to make an informed decision on a	Postponed Indefinitely

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
		permanent legal status for Puerto Rico.	
8C	OHIO STATE BAR ASSOCIATION ATLANTA BAR ASSOCIATION COLUMBUS BAR ASSOCIATION INDIANA STATE BAR ASSOCIATION NEW YORK STATE BAR ASSOCIATION STANDING COMMITTEE ON JUDICIAL INDEPENDENCE JUDICIAL DIVISION	Encourages state and territorial legislatures to enact laws requiring timely public disclosure of all contributions and expenditures by so-called "independent campaign committees" that in any way seek to influence voters and the public with regard to any candidate for judicial office.	Approved as Revised*
100	SECTION OF TAXATION SECTION OF REAL PROPERTY, PROBATE AND TRUST LAW	Recommends that Section 1361(e)(2) of the Internal Revenue Code of 1986, which defines the term "potential current beneficiary" be amended.	Approved
101A	STANDING COMMITTEE ON PARALEGALS	Grants approval, reapproval and extension of the term of approval to several legal assistant education programs, and withdraws the approval of several programs.	Approved
101B	STANDING COMMITTEE ON PARALEGALS	Adopts amendments to the <i>ABA Model Guidelines for the Utilization of Paralegal Services</i> , dated February 2004.	Approved
102	STANDING COMMITTEE ON SPECIALIZATION	Grants accreditation, reaccreditation and extension of accreditation to several specialty certification programs for lawyers.	Approved

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
103A	SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES STANDING COMMITTEE ON LAW AND NATIONAL SECURITY SECTION OF INTERNATIONAL LAW AND PRACTICE CENTER FOR HUMAN RIGHTS CRIMINAL JUSTICE SECTION BAR ASSOCIATION OF METROPOLITAN ST. LOUIS STANDING COMMITTEE ON ARMED FORCES LAW GOVERNMENT AND PUBLIC SECTOR LAWYERS DIVISION JUDGE ADVOCATES ASSOCIATION	Enunciates policies that should govern the proper exercise of universal criminal jurisdiction and clarifies the right of a nation to preempt the exercise of such jurisdiction over one or more of its citizens or lawful residents accused of committing an international crime upon declaring its willingness to investigate the allegations and prosecute the accused in accordance with international human rights norms and standards.	Approved
103B	SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES AIDS COORDINATING COMMITTEE SECTION OF INTERNATIONAL LAW AND PRACTICE STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN YOUNG LAWYERS DIVISION	Urges the federal government to implement HIV/AIDS-related initiatives in a manner consistent with international human rights law and science-based prevention, care, support and treatment objectives and endorses the United Nations Declaration of Commitment on HIV/AIDS, dated June 2001.	Approved
103C	SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN	Supports efforts of the National Tribal Steering Committee to address the inadequacy of health care for American Indians and Alaska Natives through the reauthorization of the Indian Health Care Improvement Act and urges Congress and the Executive Branch to address the various areas where health care for American Indians and Alaska Natives is deficient.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
103D	SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION OF FAMILY LAW STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN NATIONAL LESBIAN AND GAY LAW ASSOCIATION SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE YOUNG LAWYERS DIVISION	Opposes any federal enactment that would restrict the ability of a state or territory to: a) prescribe the qualifications for civil marriage between two persons within its jurisdiction; and b) determine when effect should be given to a civil marriage validly contracted between two persons under the laws of another jurisdiction.	Approved as Revised*
104	ROBERT L. WEINBERG, DISTRICT OF COLUMBIA BAR DELEGATE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA	Urges courts of the United States to exercise jurisdiction over petitions for habeas corpus filed by foreign nationals challenging the legality of their detention at the U.S. Naval Base leased from Cuba at Guantanamo Bay.	Postponed Indefinitely
105	SECTION OF LITIGATION BAR ASSOCIATION OF SAN FRANCISCO AMERICAN IMMIGRATION LAWYERS ASSOCIATION COMMISSION ON IMMIGRATION POLICY, PRACTICE & PRO BONO CRIMINAL JUSTICE SECTION SECTION OF INTERNATIONAL LAW AND PRACTICE NEW YORK COUNTY LAWYERS' ASSOCIATION BEVERLY HILLS BAR ASSOCIATION SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE YOUNG LAWYERS DIVISION TORT TRIAL AND INSURANCE PRACTICE SECTION	Urges the federal government to retain exclusive jurisdiction over civil immigration matters, opposes delegation of legal authority to state, territorial and local police to enforce federal civil immigration laws and opposes criminalization of civil violations of immigration law.	Approved as Amended*

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\* See Attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
106	SECTION OF INTERNATIONAL LAW AND PRACTICE SECTION OF BUSINESS LAW SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION OF SCIENCE AND TECHNOLOGY LAW	Supports the creation of a United Nations Democracy Caucus within the United Nations (UN) framework to work towards the strengthening of democracy, human rights and the rule of law throughout the UN system.	Approved
107	SECTION OF BUSINESS LAW SECTION OF DISPUTE RESOLUTION SECTION OF INTERNATIONAL LAW AND PRACTICE SECTION OF LABOR AND EMPLOYMENT LAW SECTION OF LITIGATION SECTION OF TORT TRIAL AND INSURANCE PRACTICE SENIOR LAWYERS DIVISION YOUNG LAWYERS DIVISION	Adopts the revised <i>Code of Ethics for Arbitrators in Commercial Disputes</i> , dated February 2004.	Approved
108	SECTION OF INTELLECTUAL PROPERTY LAW	Supports the enactment of federal legislation to protect an individual's right of publicity to the extent the individual's identity is used for a commercial purpose in "commerce", as defined in Section 45 of the Lanham Act, 15 U.S.C. §1127, and to prospectively preempt inconsistent state and territorial laws.	Withdrawn

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
109	YOUNG LAWYERS DIVISION SECTION OF DISPUTE RESOLUTION SECTION OF FAMILY LAW SECTION OF GENERAL PRACTICE, SOLO AND SMALL FIRMS STANDING COMMITTEE ON PUBLIC EDUCATION SECTION OF STATE AND LOCAL GOVERNMENT LAW COMMISSION ON DOMESTIC VIOLENCE SECTION OF TORT TRIAL AND INSURANCE PRACTICE SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN	Encourages federal, state, territorial and local governments to adopt legislation that promotes school violence prevention education, instruction, awareness training and programs for children, parents, teachers and school administrators and encourages lawyers to support school violence prevention education in schools and community settings.	Approved
110	STANDING COMMITTEE ON CONTINUING LEGAL EDUCATION COMMISSION ON RACIAL AND ETHNIC DIVERSITY IN THE PROFESSION NATIONAL NATIVE AMERICAN BAR ASSOCIATION NATIONAL ASIAN PACIFIC AMERICAN BAR ASSOCIATION NATIONAL BAR ASSOCIATION SECTION OF FAMILY LAW SECTION OF LABOR AND EMPLOYMENT LAW CRIMINAL JUSTICE SECTION NEW JERSEY STATE BAR ASSOCIATION COMMISSION ON WOMEN IN THE PROFESSION SECTION OF LITIGATION SECTION OF BUSINESS LAW YOUNG LAWYERS DIVISION HISPANIC NATIONAL BAR ASSOCIATION	Amends the Comment to Section 2 of the Model Rule of Minimum Continuing Legal Education to require lawyers, as part of their mandatory continuing legal education either through a separate credit or through existing ethics and professionalism credits, to complete programs related to the promotion of racial and ethnic diversity in the profession, the promotion of full and equal participation in the profession of women and persons with disabilities, and the elimination of all forms of bias in the profession.	Approved as Revised*

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\* See Attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
111A	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS SECTION OF BUSINESS LAW	Approves the Revised Uniform Commercial Code, Article 7, Documents of Title, promulgated by the American Law Institute and the National Conference of Commissioners on Uniform State Laws in 2003 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.	Approved
111B	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS SECTION OF BUSINESS LAW	Approves the 2003 Amendments to the Uniform Commercial Code, Article 2A, Leases, promulgated by the American Law Institute and the National Conference of Commissioners on Uniform State Laws in 2003 as appropriate Amendments for those States desiring to adopt the specific substantive law suggested therein.	Approved
111C	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS SECTION OF BUSINESS LAW	Approves the 2003 Amendments to the Uniform Commercial Code, Article 2, Sales, promulgated by the American Law Institute and the National Conference of Commissioners on Uniform State Laws in 2003 as appropriate Amendments for those States desiring to adopt the specific substantive law suggested therein.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
111D	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS SECTION OF TORT TRIAL AND INSURANCE PRACTICE	Approves the Uniform Apportionment of Tort Responsibility Act, promulgated by the National Conference of Commissioners on Uniform State Laws in 2002 and amended in 2003 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.	Approved
111E	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the 2003 revision of the Uniform Estate Tax Apportionment Act and new Article 3, part 9A of the Uniform Probate Code, promulgated by the National Conference of Commissioners on Uniform State Laws in 2003 as appropriate Acts for those States desiring to adopt the specific substantive law suggested therein.	Approved
111F	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Environmental Covenants Act, promulgated by the National Conference of Commissioners on Uniform State Laws in 2003 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.	Approved
112	DARRELL J. STUTES, SR., ABA MEMBER	Supports the enactment and implementation of just laws by government to secure to each and every child growing in the womb of the mother, the unalienable life and liberty right to live until natural death.	No action taken because there was no presenter

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
113A	JUDICIAL DIVISION SECTION OF LITIGATION SECTION OF SCIENCE AND TECHNOLOGY LAW SECTION OF TORT TRIAL AND INSURANCE PRACTICE YOUNG LAWYERS DIVISION	Adopts the black letter <i>Standard 1.65, Court Use of Electronic Filing Processes</i> , as an amendment to the <i>Standards Relating to Court Organization</i> , dated February 2004.	Approved as Revised*
113B	JUDICIAL DIVISION NATIONAL CONFERENCE OF THE ADMINISTRATIVE LAW JUDICIARY SENIOR LAWYERS DIVISION STANDING COMMITTEE ON JUDICIAL INDEPENDENCE SECTION OF TORT TRIAL AND INSURANCE PRACTICE SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE YOUNG LAWYERS DIVISION	Encourages Congress to establish a retirement plan for federal administrative law judges that is appropriate to their judicial status and functions and that is separate from retirement plans of other career civil servants.	Approved
114	COMMISSION ON LAWYER ASSISTANCE PROGRAMS COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW STANDING COMMITTEE ON SUBSTANCE ABUSE YOUNG LAWYERS DIVISION	Adopts the revised black letter <i>Model Lawyer Assistance Programs</i> , dated February 2004, to assist state and local bar associations in the development and maintenance of effective programs to identify and help those lawyers, judges and law students impaired by alcoholism, other forms of chemical dependency or mental health problems.	Approved

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
115	SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION OF BUSINESS LAW SECTION OF DISPUTE RESOLUTION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION OF LABOR AND EMPLOYMENT LAW SECTION OF STATE AND LOCAL GOVERNMENT LAW COMMISSION ON LAW AND AGING	Endorses the revised <i>Standards for the Establishment and Operation of Ombuds Offices</i> , dated February 2004.	Approved as Revised*
116	CRIMINAL JUSTICE SECTION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES YOUNG LAWYERS DIVISION STANDING COMMITTEE ON SUBSTANCE ABUSE STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN	Urges adoption of laws and policies to address the complex problem presented by the large number of adults with mental illness and juveniles with mental or emotional illness or disorders who come into contact with the criminal and juvenile justice systems, and supports increased funding and financing for public mental health systems.	Approved as Revised*
177B	BOARD OF GOVERNORS	Adopts revisions to the blanket authority procedure, dated February 2004.	Postponed Indefinitely (181;177)

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\* See attached

## ATTACHMENT

(Note: Deletions are struck through; Additions are underlined)

### Report No. 8A

**The recommendation was revised to read as follows:**

RESOLVED, That the American Bar Association urges all law enforcement agencies to videotape the entirety of custodial interrogations of crime suspects at police precincts, courthouses, detention centers, or other places where suspects are held for questioning, or, where videotaping is impractical, to audiotape the entirety of such custodial interrogations.

FURTHER RESOLVED, That the American Bar Association urges legislatures and/or courts to enact laws or rules of procedure requiring videotaping of the entirety of custodial interrogations of crime suspects at police precincts, courthouses, detention centers, or other places where suspects are held for questioning, or, where videotaping is impractical, to require the audiotaping of such custodial interrogations, to provide necessary funding, and to provide appropriate remedies for non-compliance.

### Report No. 8C

**The recommendation was revised to read as follows:**

RESOLVED, that the public's trust and confidence in a fair, impartial and independent judiciary is threatened by previously unregulated, non-candidate electioneering communications ~~designed to influence voters in~~ regarding judicial elections.

FURTHER RESOLVED, that the American Bar Association urges states and territories to take appropriate steps, through legislation or administrative regulation consistent with the constitutional principles articulated in the decision of the Supreme Court of the United States in *McConnell v. Federal Election Commission* (02-1674, 2003), to require the ~~full and immediate~~ timely public disclosure of expenditures, ~~by~~ and the source and amount of all contributions exceeding a ~~defined limit to~~, ~~groups that engage in~~ specified amount, for electioneering communications ~~designed to influence the outcome regarding~~ of judicial elections.

### Report No. 103D

**The recommendation was revised to read as follows:**

RESOLVED, That to preserve the authority of the states and territories to regulate marriage under our federal system, the American Bar Association opposes any federal enactment that would restrict the ability of a state or territory to:

(a) prescribe the qualifications for civil marriage between two persons within its jurisdiction; and

~~FURTHER RESOLVED, FURTHER RESOLVED, That the American Bar Association opposes any federal enactment that would restrict the ability of a state to give (b) That the American Bar Association opposes any federal enactment that would restrict the ability of a state to give~~ determine when effect should be given to a civil marriage validly contracted between two persons under the laws of another jurisdiction.

### **Report 105**

**The recommendation was amended to read as follows:**

RESOLVED, That the American Bar Association,

1. Urges that the Federal Government retain exclusive jurisdiction over civil immigration matters;
2. Opposes delegation of legal authority to state, territorial and local police to enforce federal civil immigration laws, and
3. ~~Opposes legislation creating a crime based merely on an alien's undocumented presence (e.g., entering the country without documents or inspection or overstaying a lawful visa).~~ Opposes criminalization of civil violations of immigration law.

### **Report No. 110**

**The recommendation was revised to read as follows:**

RESOLVED, That the Commentary to Section 2 of the Model Rule for Minimum Continuing Legal Education be amended to include the following language:

Regulatory systems should require that lawyers, as part of their mandatory continuing legal education either through a separate credit or through existing ethics and professionalism credits, complete ~~as part of their mandatory continuing legal education~~ those programs related to the promotion of racial and ethnic diversity in the legal profession, the promotion of full and equal participation in the profession of women and persons with disabilities, and the elimination of all forms of bias in the profession. Lawyers who practice in states and territories that do not require mandatory continuing legal education are encouraged to complete ~~these~~ such programs as part of their continuing legal education.

## **Report No. 113A**

**The recommendation was revised to read as follows:**

RESOLVED, That the American Bar Association adopts the black letter of the Standard 1.65 Court Use of Electronic Filing Processes as an amendment to the Standards Relating to Court Organization, dated February 2004.

### **STANDARDS RELATING TO COURT ORGANIZATION (February 2004)**

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#### (a) General principles

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(xiii) Limiting access to specified documents and data. All electronic filing applications should contain the capabilities to restrict access to specific documents and data in accordance with statutes, rules and court orders.

(xiv) System Security. Electronic filing applications should include robust security features to ensure the integrity, accuracy, and availability of the information contained in them. They should include, at a minimum, document redundancy; virus protection software; firewalls, intrusion detection systems, authentication and authorization features; plans for system archival, contingency, and disaster recovery; and other generally accepted security features to detect and prevent attempts by unauthorized persons to gain access to or modify court records; system audit logs; secured system transmissions; privilege levels restricting the ability of users to create, modify, delete, print or read documents and data; means to verify that a document purporting to be a court record is in fact identical to the official court record; and reliable and secure archival storage of electronic records in inactive or closed cases.

#### (b) Court Rules

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The recommendation was revised to read as follows:

**RESOLVED, That the American Bar Association endorses the revised Standards for the Establishment and Operation of Ombuds Offices dated February, 2004.**

**STANDARDS FOR THE ESTABLISHMENT AND OPERATION OF  
OMBUDS OFFICES**

**REVISED FEBRUARY, 2004**

...

**INDEPENDENCE, IMPARTIALITY, AND CONFIDENTIALITY**

- C. To ensure the effective operation of an ombuds, an entity should authorize the ombuds to operate consistently with the following essential characteristics. Entities that have established ombuds offices that lack appropriate safeguards to maintain these characteristics should take prompt steps to remedy any such deficiency.

...

- (3) Confidentiality. An ombuds does not disclose and is not required to disclose any information provided in confidence, except to address an imminent risk of serious harm. Records pertaining to a complaint, inquiry, or investigation are confidential and not subject to disclosure outside the ombuds's office. An ombuds does not reveal the identity of a complainant without that person's express consent. An ombuds may, however, at the ombuds's discretion disclose non-confidential information and may disclose confidential information so long as doing so does not reveal its source. An ombuds should discuss any exceptions to the ombuds's maintaining confidentiality with the source of the information.<sup>1</sup>

**LIMITATIONS ON THE OMBUDS'S AUTHORITY**

- D. An ombuds should not, nor should an entity expect or authorize an ombuds to:
- (1) make, change or set aside a law, policy, or administrative decision
  - (2) make binding decisions or determine rights
  - (3) directly compel an entity or any person to implement the ombuds's recommendations
  - (4) conduct an investigation that substitutes for administrative or judicial proceedings

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<sup>1</sup> A legislative ombuds should not be required to discuss confidentiality with government officials and employees when applying this paragraph to the extent that an applicable statute makes clear that such an individual may not withhold information from the ombuds and that such a person has no reasonable expectation of confidentiality with respect to anything that person provides to the ombuds.

- (5) accept jurisdiction over an issue that is currently pending in a legal forum unless all parties and the presiding officer in that action explicitly consent
- (6) address any issue arising under a collective bargaining agreement or which falls within the purview of any federal, state, or local labor or employment law, rule, or regulation, unless there is no collective bargaining representative and the employer specifically authorizes the ombuds to do so,<sup>2</sup> or
- (7) act in a manner inconsistent with the grant of and limitations on the jurisdiction of the office when discharging the duties of the office of ombuds.

### REMOVAL FROM OFFICE

- E. The charter that establishes the office of the ombuds should also provide for the discipline or removal of the ombuds from office for good cause by means of a fair procedure.

### NOTICE

- F. An ombuds is intended to supplement, not replace, formal procedures.<sup>3</sup> Therefore:
  - (1) An ombuds should provide the following information in a general and publicly available manner and inform people who contact the ombuds for help or advice that –
    - (a) the ombuds will not voluntarily disclose to anyone outside the ombuds office, including the entity in which the ombuds acts, any information the person provides in confidence or the person’s identity unless necessary to address an imminent risk of serious harm or with the person’s express consent
    - (b) important rights may be affected by when formal action is initiated and by whether notice is given to the entity and when the entity is informed of the allegedly inappropriate or wrongful behavior or conduct
    - (c) communications to the ombuds may not constitute notice to the entity unless the ombuds communicates with representatives of the entity as described in Paragraph 2

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<sup>2</sup> Under these Standards, the employer may authorize an ombuds to address issues of labor or employment law only if the entity has expressly provided the ombuds with the confidentiality specified in Paragraph C(3). An ombuds program as envisioned by these Standards supplements and does not substitute for other procedures and remedies necessary to meet the duty of employers to protect the legal rights of both employers and employees.

<sup>3</sup> An ombuds program as envisioned by these Standards supplements and does not substitute for the need of an entity to establish formal procedures that may be necessary to protect legal rights and to address allegedly inappropriate or wrongful behavior or conduct.

- (d) working with the ombuds may address the problem or concern effectively, but may not protect the rights of either the person contacting the office or the entity in which the ombuds operates<sup>4</sup>
  - (e) the ombuds is not, and is not a substitute for, anyone's lawyer, representative or counselor, and
  - (f) the person may wish to consult a lawyer or other appropriate resource with respect to those rights.
- (2) If the ombuds communicates<sup>5</sup> with representatives of the entity concerning an allegation of a violation, then —
- (a) a communication that reveals the facts of
    - (i) a specific allegation and the identity of the complainant or

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<sup>4</sup> The notice requirements of Paragraph F do not supercede or change the advocacy responsibilities of an Advocate Ombuds.

<sup>5</sup> Under these standards, any such communication is subject to Paragraph C(3).

## **Report No. 116**

### **The recommendation was revised to read as follows:**

RESOLVED, That the American Bar Association urges Congress to enact legislation that would address the complex problem presented by the large number of adults with mental illness and juveniles with mental or emotional illness or disorders who come into contact with the criminal and juvenile justice systems; such legislation should provide for:

- 1) Grant programs to help states, territories and localities develop pre- and post-booking diversion programs;
- 2) Prevention, in-jail, in-custody, and community-based treatment programs, including re-entry services to adults with mental illness and juveniles with mental or emotional illness or disorders; and
- 3) Effective training for mental health personnel, law enforcement, judges, court and corrections personnel, probation and parole personnel, prosecutors, and defenders.

FURTHER RESOLVED, That the American Bar Association urges federal, state, local and territorial governments to increase funding and financing for public mental health services systems so that adults with mental illness and juveniles with mental or emotional illness or disorders can obtain the support necessary to enable them to live independently in the community, and to avoid contact with the criminal and juvenile justice systems.

FURTHER RESOLVED, That the American Bar Association urges federal, state, local and territorial governments to improve their response to adults with mental illness and juveniles with mental or emotional illness or disorders who come into contact with the criminal justice and juvenile justice systems, by developing and promoting programs, policies and laws that would accomplish the following:

- 1) Improve collaboration among professionals, administrators, and policymakers in the criminal justice, juvenile justice, mental health, and substance abuse systems;
- 2) Provide training on mental illness and co-occurring disorders and the mental health and substance abuse systems to judges, court and corrections personnel, law enforcement, probation and parole personnel, prosecutors, and defenders who deal with adults with mental illness and juveniles with mental or emotional illness or disorders;
- 3) Develop pre- and post-booking programs to divert, where appropriate, adults with mental illness and juveniles with mental or emotional illness or disorders from the criminal and juvenile justice systems;
- 4) Ensure that law enforcement, courts, and correctional agencies properly accommodate adults with mental illness and juveniles with mental or emotional illness or disorders with whom they come into contact, both as crime victims and as individuals suspected of committing a crime;

...