

CONSTRUCTION INTERNATIONAL, INC.

Mr. X is an engineer with a long and successful career with Construction International. His career entailed frequent travel and discussions with senior officials in developing countries throughout the world. His personality was somewhat reserved and aloof, but on the whole he was polite and proper in his dealings with clients and colleagues. Some people enjoyed his dry and sardonic wit; others found it condescending and biting. Mr. X was a "workaholic" who pushed himself and colleagues to high levels of performance, and the results of his efforts were well-received by managers. Nevertheless, he was not regarded as an easy person to manage, in part because his thinking was a bit rigid and he held strong views on technical matters, which he made little effort to present in diplomatic terms. As the result of his solid professional performance he was given a managerial position at the starting level for such posts; he had served in that capacity for three years.

In the summer of 19__, Mr. X's managers received notice that he had been charged with child abuse and sexual assault. The charge reflected incidents occurring over a period of time, and on several occasions, with the children of visitors to his summer home. The managers did nothing to inform the staff of the department about this, although an account of the charges was carried in the local newspapers and the situation became widely known within the corporation.

The case was brought to trial in December of the same year, at which time Mr. X pleaded guilty to the charges. He said this was largely to protect the girls involved from the ordeal of testifying in court. Some of Mr. X's colleagues and managers submitted written references to the Court on his behalf. There were nine charges under the statute which applied, each carrying a maximum sentence of one year imprisonment. After reviewing the submissions of the prosecution and defense, the Court handed down a sentence of thirty days in prison, 100 hours of community service, and probation for nine years, with the requirement that Mr. X participate in psychological or psychiatric treatment, therapy or counseling as recommended by his Probation Officer.

There was lengthy discussion between managers and the Personnel Department about what the corporation should do under these circumstances. A decision was finally made to allow Mr. X to return to his department in a non-managerial capacity for a six-month term to see whether his return to full active status would be feasible. The reasons for this decision were "compassionate" in that the sentence of the Court reflected a high degree of leniency under the circumstances, and there was no desire on the part of the managers or Personnel to add additional punishment to what was already a very painful situation for Mr. X.

The above decision was communicated to staff in a departmental meeting. The departmental director told staff he hoped they would accept Mr. X as a colleague, and that he would need their support after a very difficult ordeal. The director then asked if there were questions, and when there were none, he offered to discuss the decision with anyone who came to see him privately. When the meeting ended, the director came away feeling that the staff had been receptive to the idea of Mr. X returning to duty. There had been no detailed discussion of the case in terms of the nature of the charges or the Court's findings.

Shortly after the meeting, several of the staff went to Personnel and protested vigorously about the decision to retain Mr. X. This protest was communicated up to the Director of Personnel, and through him to the department director. First-level managers were also becoming aware of strong negative reactions by many employees. In an effort to defuse this developing opposition, Personnel asked the Ombudsman if he would be willing to look into the situation and make recommendations on how to handle Mr. X's case.

The Ombudsman agreed and set aside a series of three days during which he would be available to hear the views of any member of the department who wished to see him. About one-half of the employees took advantage of this opportunity with the following results: supporting Mr. X's return to the department — 40 percent; supporting Mr. X's return to the corporation, but not to the department — 30 percent; opposed to Mr. X's return to the corporation under any circumstances — 30 percent. Looked at from one perspective, a large majority (70 percent) favored reinstating Mr. X somewhere in Construction International. On the other hand, another majority (60 percent) did not want Mr. X assigned to his former department. Women in the sample were divided evenly on the issue of Mr. X's return, but men were heavily in favor of reinstatement. Most of the professional staff favored the return, but a majority of support staff were opposed.

The reason for the opposition included revulsion over the nature of the crime, sympathy for the victims, a feeling that light treatment was given Mr. X because he was a professional and that support staff would have been treated more harshly, even for lesser offenses, and anger at what seemed a "losing" situation for employees who did not want to associate further with Mr. X as opposed to his "winning" by retaining his job and salary despite his conviction for a serious crime.

Those favoring his reinstatement in the corporation cited religious beliefs which led them to favor clemency in the case, Mr. X's previous record of high performance levels and good behavior, a feeling that the Court had decided on the punishment which the crime deserved and further punishment was not called for, and a need to provide an environment and an opportunity for Mr. X to proceed with the rehabilitation efforts which the Court had ordered.