Employee Performance and Discipline Problems:

A New Approach

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Executive Summary

Over the past two decades innovative high-performance work systems have produced substantial improvements in the quality of working life and organizational effectiveness. But while the organization development literature is full of analyses of these initiatives, it does not deal in detail with the problem of managing employee performance and disciplinary problems within the context of the new high-performance systems. This study helps to fill the gap by providing a detailed guide for developing a new approach to diagnosing and resolving performance and discipline problems, an approach that avoids the vicious adversarial cycle of traditional punitive methods and encourages management and labour to collaborate in finding responsible solutions for their mutual benefit.

- In many cases employees perform below standard because they do not receive timely and accurate feedback on their performance. An important first step in improving performance is clearly identifying job expectations. The development of work plans for individual employees, along with measurable standards of expected performance and reporting mechanisms can help significantly in clarifying expectations.

- Investment in training produces improved performance results. The challenge with a poorly performing employee is to be certain that a skills deficiency is the real reason for the poor performance and that management is prepared to support the employee in applying the new skills once the training is completed.

- If the organization is acting as a barrier to performance, management, in consultation with the employee, should attempt to determine how the barrier might be removed. This process of employee involvement should continue by including employees in the development and implementation of action plans for problem resolution.

- Management and the union should work together to help correct personal problems that are having a negative effect on performance. The key element in creating a successful employee assistance program to deal with these problems is to create a program employees know about, understand, and

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About the Author

Mark Alexander is a human resources and labour relations practitioner with over twenty-five years of experience in the field of labour-management relations, personnel management, and organization development. He has developed a unique expertise in implementing employee-centred change.

trust, and having supervisors and union stewards who are skilled in confronting employees about their performance in a supportive and responsible manner.

- While many of the traditional reasons for taking disciplinary action can be eliminated by following the program set out here, discipline will still be required in some cases involving theft, harassment, and willful violation of company rules. To avoid a vicious adversarial cycle of union and management disagreement, the parties should work together in collecting and analyzing relevant information, an outside investigator should be used, and union representatives should be included in any interviews that are conducted.

- While management is responsible for developing a formal disciplinary policy, it should be reviewed with the union for input. Management and the union should collaborate in informing employees of the policy and its rationale and ensuring that employees who appeal the disciplinary measure are provided with due process.

- The early stages of the new approach will be crucial to its success, since employees and the union will be skeptical about whether management genuinely desires to work cooperatively and management will suspect that the new approach may simply be permissiveness dressed up in fancy clothes. The program should be implemented systematically, following a four-step process of assessing organizational readiness, providing education and training and designating champions, identifying cases where action is needed, and ensuring that there is a continuing, collaborative review of the process.

Introduction

Dealing with performance problems and taking disciplinary action are two of the most frustrating and stressful issues that management has to face.[1] Similarly, union representatives are too often involved in the time-consuming task of defending individual employees who have been disciplined, at the expense of providing other services to all the membership. This study reviews the problems associated with traditional approaches to performance problems and discipline and outlines several strategies that will allow management and union representatives to handle these problems more effectively.[2]

Redeker (1989) and others have recommended 'non-punitive discipline' or 'discipline without punishment' programs for dealing with performance problems and disciplinary matters. Although these programs have sometimes proven beneficial, they usually fail because

- they do not clearly differentiate between performance and personal problems and legitimate discipline cases,

- they place the responsibility for solving the problem solely with the employee and not jointly with the employee, the union, and management, and

- they do not recognize that different situations and different people require different approaches.

These are significant shortcomings. The models and approaches discussed here are intended to overcome them, while at the same time building on their benefits.

High-Performance Work Systems: The Larger Context

Over the past two decades innovative high-performance work systems have, in many instances, produced substantial improvements in the quality of working life and organizational effectiveness. The organization development literature is replete with analyses of these initiatives (Kochan, Katz and McKersie 1994; Kochan and Osterman 1994; Betcherman et al. 1994; Huselid 1995; Walton, Cutcher-Gershenfeld, and McKersie 1994; Cohen-Rosenthal and Burton 1993; Lowe 1998; Noon and Blyton 1997; Capelli and Rogovsky 1998; Nissen 1997) and a general acceptance that we have found a better way to manage performance in the workplace is now developing.

The studies just cited, however, do no deal in detail with managing individual performance and disciplinary problems within the context of new high-performance systems. This lack of analysis has acted, and will continue to act, as a barrier to the implementation of these innovations: not having effective and responsible ways to deal with performance problems and discipline may imperil attempts to implement employee-

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1 Traditionally unions have avoided taking responsibility for this problem, because it is viewed as part of management's 'right to manage,' a right which unions are only too willing to leave with management because of the political repercussions with their membership. Unions should be included in this analysis, however, not only because of their duty of fair representation but also because they should be part of the solution and not (as is too often the case) part of the problem.

2 In order to give a sense of how serious a problem discipline is in unionized organizations, I reviewed the data collected by the Ontario Federation of Labour (OFL) on arbitrators' decisions from 1977 to 1990. Disciplinary cases accounted for 4,729, or almost 38 percent, of all the cases heard by the arbitrators in Ontario during this period. Since only a small fraction of cases, particularly discipline cases, ever go to arbitration, it is clear that discipline is a serious labour-management issue.

centred and high-performance work systems. Furthermore, even in organizations that are not moving towards more innovative work practices, both management and unions will benefit from better ways of dealing with individual performance problems and discipline.

The Current Situation: Inaction and the Vicious Cycle

Conflict Avoidance

Because employees and their representatives usually react in a negative way to management attempts to use traditional punitive disciplinary measures, management too frequently avoids acting and leaves the problems uncorrected. Far too often it is fear of union reaction that leads to management inaction.[3] However, by not acting, management is signaling to every employee that unsatisfactory performance and inappropriate behaviour is acceptable or, at the very least, that employees can skirt or even break rules or regulations without fear of discipline.

It will, of course, be clear to almost everyone that management inaction in such a situation is not acceptable:

- It is not acceptable to management, because it is not fulfilling its role of managing the organization's resources in the most efficient and effective manner possible.

- It is not acceptable to the majority of employees who do perform satisfactorily and who want management to ensure that everyone does so.

- It is not acceptable to the unsatisfactory employees, because they are not receiving feedback and help with their problems.

- It is not acceptable to unions, because it damages their relationship with management and potentially compromises their relationship with the majority of their members, because of their defense of the actions of a few.

Too often, discipline is used when alternative approaches would be far more appropriate.

Management faces this problem because, too often, it thinks that formal discipline is the only way to deal with poor performance and unacceptable behaviour. Management and labour have often failed to explore the numerous ways they can work together to deal effectively with workplace performance issues in a more enlightened manner. Too often, discipline is used when alternative approaches would be far more appropriate and much more likely to produce results that benefit employees, their unions, and management.

The Vicious Cycle of Discipline

Because disciplinary action is, by its very nature, negative and punitive, it is most often viewed as heavy-handed and arbitrary (Ball, Trevino, and Sims 1993). Predictably, the union fights tenaciously on behalf of its members against the real or perceived injustice of management's action. Management and union then become locked in a time-consuming and often acrimonious struggle related to management's 'right' to discipline and a win-lose

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3 There is an interesting discussion of the phenomenon of conflict avoidance and its cost in Hasson and Slaikeu (1998).

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battle develops over whether management had 'just cause' to discipline the employee or whether the seriousness of the employee's action warranted the degree of discipline administered. The quasi-judicial appeal procedure that results can eventually involve the expensive alternative of having an outside arbitrator render a final decision.[4] In many instances, this decision, handed down months after the disciplinary action, meets neither management's needs nor those of the employee and union.

Over time, as a result of this sequence of events, management becomes increasingly reluctant to act and poorly performing employees continue in the organization for years to come, without their problems being addressed.

This situation is summarized in figure 1, which outlines the steps management has traditionally taken to deal with performance and disciplinary problems, the union's response, and the most frequent outcomes. In the light of such outcomes, is it any wonder managers are reluctant to act when confronted with performance and disciplinary problems?

Diagnosing Problems

Categorizing Performance and Disciplinary Problems

What are the available alternatives for dealing with employee performance and disciplinary problems? Improvement efforts should focus on correcting the problem, preventing recurrence and restoring the individual to a healthy, satisfying work relationship. If the goal is to correct the problem, then recognizing the type of problem involved is crucial to determining an appropriate strategy for improvement. Performance and disciplinary problems can be categorized into four distinct types.

Type 1 Situations where the employee's quality and/or quantity of work is unsatisfactory.

Type 2 Situations where personal problems, off the job, are influencing the employee's work performance, e.g. alcoholism, drug abuse, financial or family problems.

Type 3 Situations where there has been a deliberate violation of the law or established company rules or regulations, e.g. through theft, fighting, falsification of records, conflict of interest, harassment or safety infractions (for an example and an attempt to correct it, see appendix 1).

Type 4 Situations where there have been repeated minor violations of company rules, regulations, or performance problems that have not responded to non-disciplinary corrective action, e.g. minor safety infractions, incidental insubordination, uncorrected tardiness or continued poor quality workmanship (for an example and an attempt to deal with it, see appendix 2).

A clear distinction has to be made between types 1 and 2 and types 3 and 4. The first two involve unsatisfactory work performance; the second two involve violations of rules, regulations, or the law, or behaviour that is organizationally unacceptable and known by the employee to be so. The distinction between the two types is very important for determining the strategy to be used in dealing with the problem.

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4 The grievance and arbitration process is often described as a problem-solving process. Although there is potential, at the very early stages of the process, for the parties to problem solve, it is essentially a win-lose contest. See Sacks (1994).

Improvement efforts should focus on correcting the problem, preventing recurrence and restoring the individual to a healthy, satisfying work relationship.

Figure 1
The Vicious Cycle of Discipline

A problem arises from performance measures or observations, or complaint or incident.

Management investigates the situation, determines 'just cause' and takes disciplinary action.

The employee seeks redress and goes to the union for assistance.

The union provides 'fair representation' for the employee and appeals the case to management.

Management defends its 'right' to manage and to take disciplinary action.

Management and the union become involved in a win-lose battle with potential for third party arbitration of 'rights.'

Chastened by the experience, the parties become much more cautious/determined in their relationship.
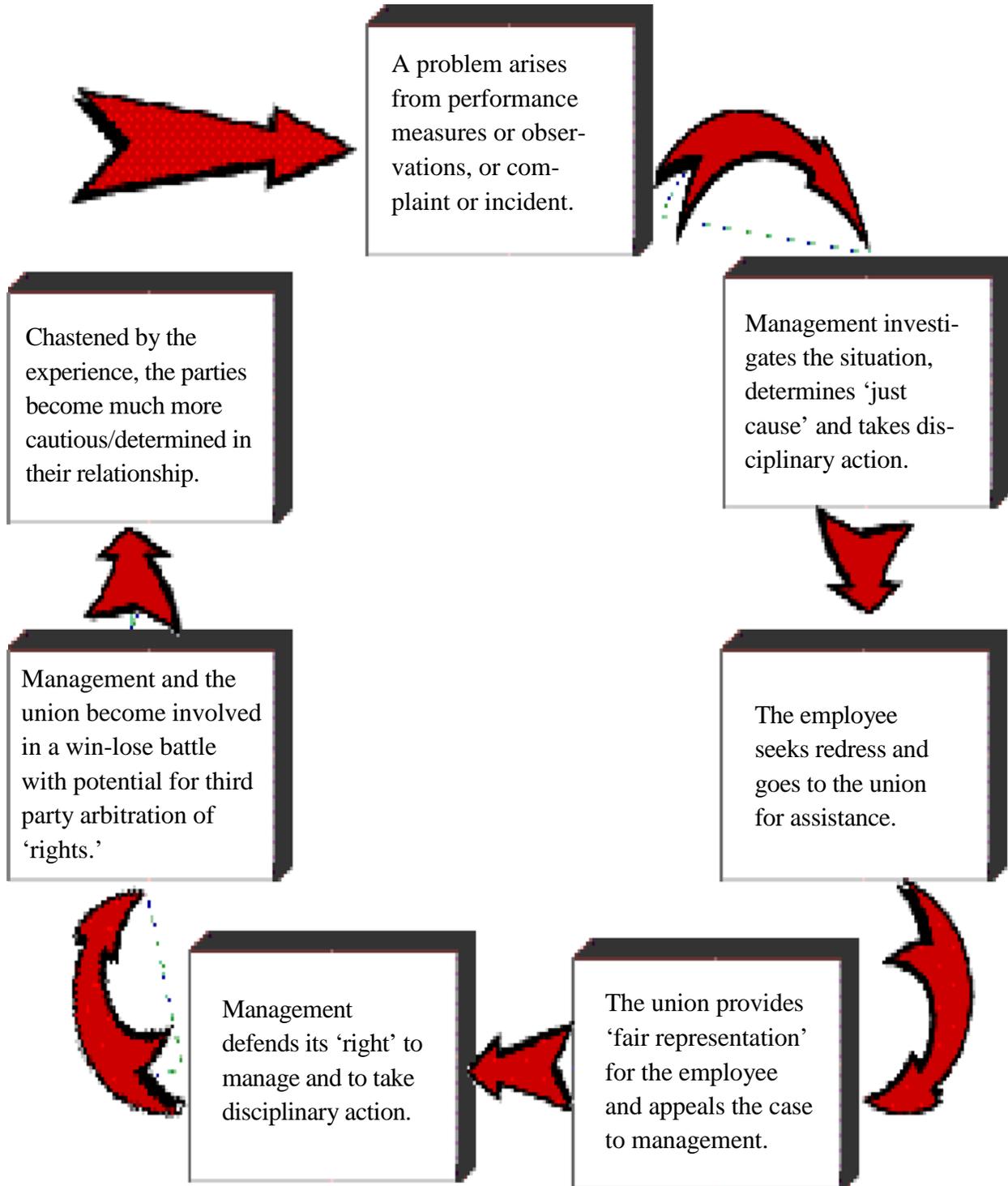
Figure 2 locates the four types of problems in the larger context of diagnosis and problem solving. Inputs—performance measurement, behavioural observation, complaints and incidents—provide a basis for determining the type of problem. Depending upon the input and the type of problem, a manager (ideally in concert with the union) would use very different strategies or corrective actions.

Type 1 performance problems occur most frequently. They are also the most complex in their causes and potential solutions.

Analyzing Type 1 Situations: Performance Problems

Performance measurement provides the primary source of information on Type 1 problems. Not only is valid and reliable performance information important for determining whether a problem actually exists, it is also essential for finding solutions that avoid the adversarialism of traditional punitive measures. Behavioural observations, complaints, and incidents are other potential indicators of problems.[5] Analysis of all of this information provides the basis for determining the cause of the problem. Once the cause is determined, potential solutions can then be developed.

Poor performance originates either from management- and organization-centred causes or from employee-centred causes.
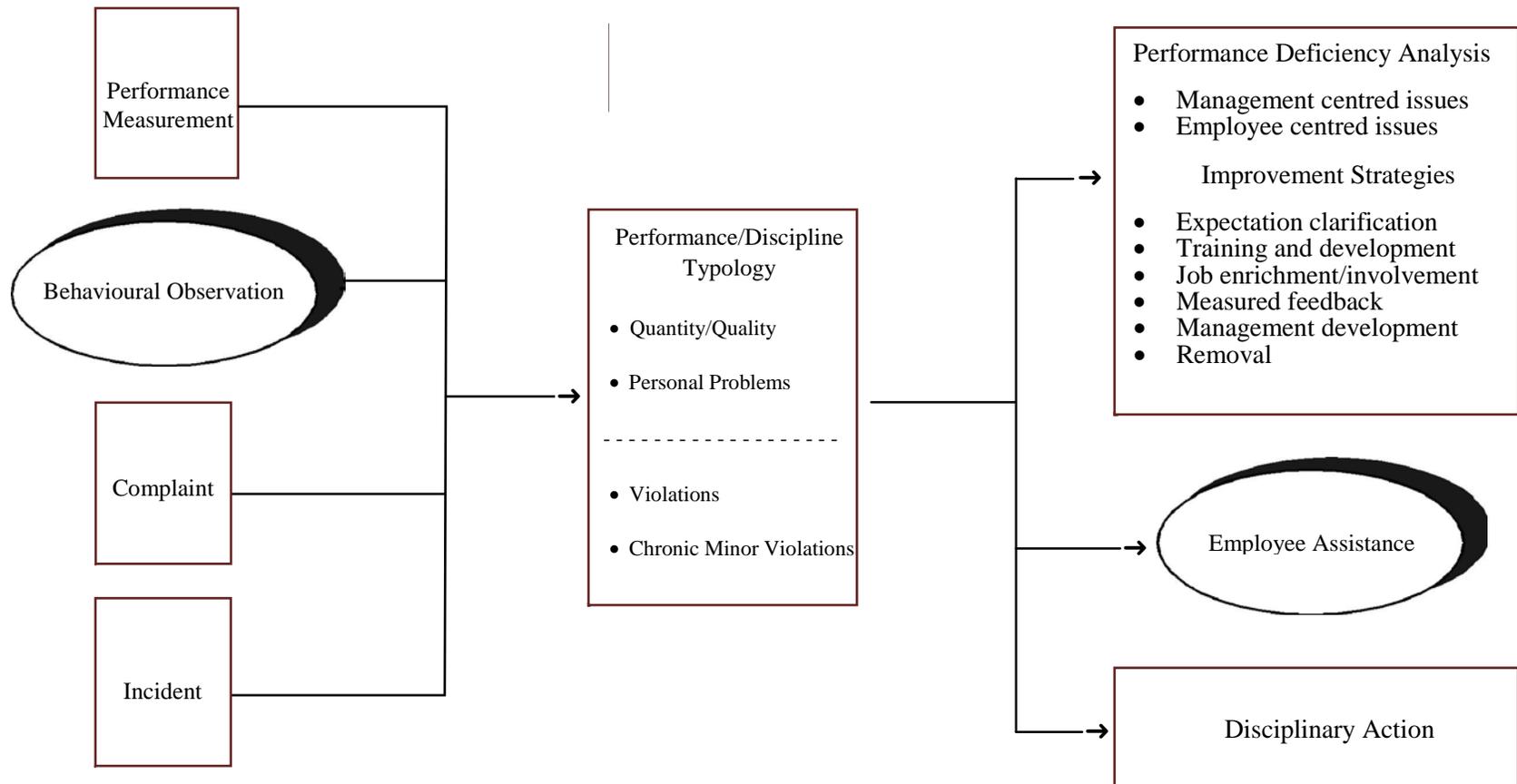
Managerial and Organizational Shortcomings

The managerial and organizational shortcomings that most often make for an individual's unsatisfactory performance are as follows:

- *Lack of understanding of roles and expectations.* In many instances management fails to tell subordinates what their roles are and what is expected of them. Performance problems arise when the performance expectations of individual employees differ from those of the organization (Grote 1996), or when, in the absence of clearly defined standards and objectives, the employee simply does not perform to management's expectations, however poorly defined they might be.

- *Inappropriate job assignment.* Poor performance may occur when the organization makes a poor job assignment. This is more likely to occur in a growing organization, but it also occurs in more stable situations. The problem lies in promoting, transferring, or otherwise assigning an employee to a job to which he/she is not fitted because of a lack of training, personal skill, background, or experience (Cranny, Smith, and Stone 1992).

- *Job design.* In many instances poor performance arises because of the design of the job. Employees will be motivated to perform well in jobs that offer variety, a challenge, responsibility, and an opportunity for personal growth. In the absence of these characteristics, less than optimum performance can be expected (Albers, Cohen, and Mohrman 1995; Cranny, Smith, and Stone 1992).

- *Inadequate or poor supervision.* Performance problems will usually occur if supervisors do not provide the proper kind of direction and information, if they provide negative or inappropriate feedback, or if supervision is inconsistent.

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5 Complaints, incidents and behavioural observations, because they are subjective, are less valuable inputs. Too often, labour and management will get caught in the vicious adversarial cycle because of a difference of opinion regarding the complaint, incident or behaviour.

Figure 2
Diagnosing Performance , Personal, and Disciplinary Problems

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┌─────────────┐
│ Performance │
│ Measurement │
└─────────────┘

  Behavioural Observation

┌─────────────┐
│  Complaint  │
└─────────────┘

┌─────────────┐
│  Incident   │
└─────────────┘
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┌──────────────────────────┐
│ Performance/Discipline   │
│   Typology   │
│   │
│ • Quantity/Quality   │
│   │
│ • Personal Problems   │
│   │
│ - - - - - - - - - - -   │
│   │
│ • Violations   │
│   │
│ • Chronic Minor Violations│
└──────────────────────────┘

┌──┐
│ Performance Deficiency Analysis   │
│   │
│   • Management centred issues   │
│   • Employee centred issues   │
│   │
│   Improvement Strategies   │
│   │
│   • Expectation clarification   │
│   • Training and development   │
│   • Job enrichment/involvement   │
│   • Measured feedback   │
│   • Management development   │
│   • Removal   │
└──┘

  Employee Assistance

┌──┐
│   Disciplinary Action   │
└──┘

Employee-Centred Causes

The problems that arise from employee-centred causes are varied and numerous. In some cases, the problems are sufficient enough, in and of themselves, to cause unsatisfactory performance by the individual; in other cases, they become evident only when combined with organizational shortcomings. While too numerous to categorize completely, the most common employee-centred causes are the following:

- *Lack of interest*. Obviously, if an employee is to perform properly, he/she must be interested in the type of work that needs to be done.

- *Personality*. An employee's personality may be a major cause of poor performance. Because personality traits are often very difficult to change, it may be necessary to assign the individual to a position more in keeping with his/her personality.

- *Limited capabilities.* All employees are limited in their capabilities to carry out certain organizationally required functions, and problems will arise when they are required to perform tasks that are beyond their capabilities.

Determining Which Employee to Help

Because not all poor performers can be helped, each case of poor performance needs to be assessed individually. The factors that should be examined to determine which employees to help and how to do so are the following:

- *The employee's personal and work history*. The most important factors in this category are length of service, performance record, skill level, attendance record, attitudes and personality, level in the organization, the kind of supervision that has been given, the company's investment in the employee, personal consequences to the employee, and the effect on other employees.

- *The seriousness of the problem.* It is important to determine how serious the problem is for the organization's goals and expectations.

- *Constraints on corrective action and probability of successful correction.* Managers should determine what constraints there are on taking corrective action and what the chances are for success.

A review of the causes of poor performance allows management and the union to determine the best approach to solving the problem. At this stage, the level of co-operation between labour and management will be most seriously tested, since the parties will be tempted to fall into traditional, adversarial patterns of behaviour. At this stage they must be objective and recognize that they have a mutual interest in finding the best possible solution for all the parties involved.

Performance Improvement Strategies

Identifying and Clarifying Roles and Expectations

An important first step in improving performance is clearly identifying with all employees their roles and what is expected of them. A job description will facilitate role clarification and it can serve as a basis for discussion between the boss and the subordinate. In a similar sense, the development of objectives and work plans for the individual employ-

Each case of poor performance needs to be assessed individually.

ee, along with measurable standards of expected performance can help significantly in clarifying expectations (Cranny, Smith, and Stone 1992; Grote 1996).

Many employees perform below potential because their managers have not clearly identified with them

- what their job is,
- the standards of performance they must achieve and maintain,
- the objectives they should strive for, and
- the kind of behaviours expected of them.

Training and Development

Organizations can choose from a wide variety of training possibilities for their employees. Investment in training for individual employees or for whole groups produces improved performance results (Huselid 1995). The challenge in achieving the results with a poorly performing employee is to be certain that a lack of training or a skills deficiency is the real reason for the poor performance and that management is prepared to support the individual in applying the new skills once training is completed.

Organization Development

If the organization is acting as a barrier to the attainment of expected performance levels, management should discuss those barriers with the employee and attempt to determine how they might be removed. In many instances, this dialogue will take the form of a problem identification and resolution meeting involving all the employees in the department or work unit. Such a meeting should be well planned and action should be taken on identified problems after the session. In many instances organizations that follow this strategy continue with the process of employee involvement by including employees in the development and implementation of action plans for problem resolution (Pritchard et al. 1998; Kochan and Osterman 1994).

Job Involvement, Job Enrichment, Reengineering

Reengineering initiatives have produced substantial improvements in performance for the individuals involved, for teams of workers and whole organizational units.

If employees are displaying a low level of interest in their work or if the design of the job does not allow for effective motivation, increased employee involvement or job enrichment will produce higher performance levels. The required changes may be extensive and in some cases difficult to implement. However, research and experimentation in a wide range of organizational situations have shown increased employee participation and job variety to be effective when dealing with motivational performance problems. In many instances organizations have responded to the alienation of workers by dramatically reengineering the way in which they produce their products or provide services. These initiatives have produced substantial improvements in performance not only for the individuals involved, but also for teams of workers and whole organizational units (Lawler, Mohrman, and Ledford 1995).

Increased Feedback

In many cases employees perform below standard because they do not receive timely and accurate feedback on their performance (Cutcher-Gershenfeld 1991). Performance measurement and feedback systems may therefore improve an employee's behaviour and effectiveness. For increased feedback to be most effective, however, the employee needs to

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know and understand what is expected, in specific, measurable terms. The employee must then receive the appropriate feedback either through a supervisor or through some kind of measurement and reporting mechanism.

Management Development

The development and education of supervisors at all levels of the organization in techniques of motivation, communication, leadership, and other essential managerial skills is an important step in resolving performance problems. Managers must be knowledgeable about managerial techniques if they or their employees are to perform effectively. Equally, managers need to be empowered to do something about problems when they are identified by employees. Most importantly, managers must realize that their effectiveness is determined by the performance of their employees and that training, support, information, and involvement will enable employees to perform more effectively.

Removal

When there is a poor fit between an employee and the job, managers must consider either transferring or terminating the employee. Too often, however, managers do not seriously examine other possibilities, such as those outlined above. In other cases, fearing the consequences managers are not prepared to 'bite the bullet' and deal with a situation that can be resolved only through relocating the individual. If both the individual and the organization will benefit from the removal in the long run, this alternative obviously has to be seriously considered.

Removal is often not easy, particularly when employees have seniority rights under a collective agreement. Access to good training programs and reasonable probationary provisions can facilitate a transfer. In the case of termination, outplacement counseling and fair severance benefits can ease the fear and apprehension.

Implementation of the Solution

Dealing with type 1 performance problems in a developmental and non-adversarial manner is critical for management and unions. As discussed, problems can arise from various sources, and they are not easily solved. However, as outlined, several proven strategies do exist. The implementation of these solutions requires skill in motivation, leadership, communication, feedback, and measurement. It is vitally important for managers and supervisors to recognize their responsibility to manage performance problems. They must understand that in most instances considerable personal involvement is needed, and unions also need to recognize that they have a responsibility to work with management on the implementation of improvement strategies. Each of the strategies outlined above represents a potential win/win for management, the union, and the employee. Each represents an alternative to the traditional, punitive formal approach to discipline and the vicious cycle that can result.

Dealing with Type 2 Situations: Personal Problems

The attitudes of management and unions to personal problems and their effect on performance and employee well-being have changed dramatically over the past twenty years. While organizations once saw personal problems as an employee's responsibility, they are now prepared to help correct them. In many cases, these changes have come about through the co-operative efforts of labour and management. Most personal problems arise for two reasons:

Unions need to recognize that they have a responsibility to work with management on the implementation of improvement strategies.

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- *Health and stress problems.* The levels of stress associated with working in the modern organization can severely affect a person's health and lead to personal problems such as alcoholism and absenteeism. (It has been estimated that at any time a minimum of 6 percent of a company's workforce is suffering from substance abuse problems alone (Brown 1988).) Health and fitness are clearly correlated, in turn, with work performance.]

- *Family and personal problems*. Family and personal problems are major outside sources of unsatisfactory performance. Almost everyone has family or personal troubles that affect their work performance at some time during their career. Employees have parents, children, or brothers and sisters who face various crises, such as sickness or death. Similarly, there are personal problems related to finances, life-style and relationships that will be significant enough to affect an employee's commitment and motivation.

Employee Assistance

In many cases, the employee's problem can be corrected or alleviated only with professional help. Many companies and unions deal with personal problems using employee assistance programs (EAPs) that operate confidentially and refer employees to professional social workers, counselors or trained coordinators. EAPs have been shown to be cost effective in treating substance abuse and other personal problems that can influence an employee's performance (Luthans and Waldersee 1989; Foote et al. 1978; Sonnenstuhl and Trice-Harrison 1990; Holosko and Feit 1988).

The key elements in creating and sustaining a successful EAP are having a program that employees know about, understand, and trust and having supervisors and union stewards who are skilled in confronting employees about their performance in a supportive and responsible manner. Employees will not always respond to organizational intervention and offers of assistance, however. The potential for denial and defensive behaviour is particularly great in cases of addiction. The union can play a vital role in helping both the employee and management in these circumstances. Sometimes disciplinary action is necessary in such cases, in order to make an employee accept responsibility for seeking help.

Sometimes disciplinary action is necessary in order to make an employee accept responsibility for seeking help.

Taking Disciplinary Action in Type 3 Situations

While the typology set out in figure 2 (above) provides the potential for the development of problem-oriented strategies for dealing with performance and personal issues and collaboration between labour and management in type 1 and type 2 situations, management will be required to take some disciplinary action in some type 3 situations. The reasons will usually be similar to those that would lead to criminal or civil action in society. Some of the prominent causes are

- theft of property belonging to the company, fellow employees, suppliers or customers,

- falsification of documents essential to the company's operation,

- sexual or other forms of harassment,

- willful violation of company rules and regulations concerning safety, operating methods, procedures and so on,

- willful and malicious destruction of property belonging to the company, fellow employees, suppliers, or customers.

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In each of these type 3 situations, the test of whether discipline is justified is whether

- the employee deliberately carried out the act,

- the employee knew or should have known that what he or she was doing was wrong,

- the rule or regulation was reasonable, and

- the discipline that is contemplated is appropriate to the seriousness of the offence.

An affirmative response to each statement means that discipline is justified. Although this appears to be straightforward and clear, in attempting to determine each of these points, the parties may become caught in a vicious cycle of disagreement. If we are to improve upon how we take disciplinary action then we need to find ways to avoid this trap.

Was the Act Deliberate?

In determining whether the employee deliberately carried out the act, it is the responsibility of management to prove that the act took place by collecting evidence from witnesses and from relevant documents and records. Ultimately, the investigation needs to provide a body of information that can be accepted by all parties—'an agreed statement of facts.' Management and labour must both recognize the need for this agreement, in order to ensure fair and equitable treatment and avoid the trap of the vicious cycle. The following techniques of information collection will increase the probability of reaching this agreement:

- the use of an independent or outside investigator who is recognized for having special skills and experience in the area under investigation,

- the inclusion of the union representative in any interviews that are conducted in order to collect information,

- the joint undertaking of information collection and analysis by union and

  management. ### Was the Employee Aware of the Rules?

The second test of discipline in type 3 situations is whether the employee was aware of the rules and policies. Again the responsibility rests with management to inform employees of rules and regulations, through initial orientation and on-going training and communication. Several companies distribute a code of conduct every year to inform employees of their responsibilities. Employees are asked to read the code and sign a form stating that they have done so. The code provides an opportunity for management and labour to work together responsibly to achieve fair and equitable treatment of employees.

Are the Rules Reasonable?

The development of a code, along with formal training programs and policies can also resolve the third test, whether the rules, regulations, and expectations are reasonable. Again, consultation between the union and management, before the fact, can help avoid misunderstanding and conflict if and when management needs to take disciplinary action.

The development of a code of conduct provides an opportunity for management and labour to work together to achieve fair and equitable treatment of employees.

Is the Discipline Appropriate?

For the fourth test, determining the degree of discipline, companies have historically used a 'progressive' approach in taking the disciplinary measure they believed to be appropriate to punish the employee and to prevent recurrence. A verbal warning is typically the first step. If the offence occurs again within a prescribed period, the employee is given a written warning and if further violations occur, the discipline progresses to a suspension and eventually termination. In cases where the offence is more serious, then the less severe measures of verbal and written warnings are skipped and the more punitive disciplinary measures of suspension or discharge are taken.

Labour-Management Cooperation

Progressive discipline has existed for a long time. It is normal practice for arbitrators to require management to demonstrate that it has used a progressive approach before they will uphold suspensions and disciplinary terminations. The progressive aspect of this process is seen as its benefit: employees who know that more severe penalties are in store will learn from the punishment and not commit the offence again.

I believe, however, that the prevalence of progressive discipline (and the requirement by arbitrators that it be used) has helped create the adversarial situation that exists today. The rationale behind progressive discipline, the idea that employees will learn to change their behaviour through the progressive application of punishment and negative reinforcement is difficult, if not impossible, to substantiate. Research in the behavioural sciences, particularly in organizational settings, has demonstrated the adverse impact that punishment and negative reinforcement, can have on behaviour and organizational conduct. Consequently, building a 'corrective' process on punishment and negative reinforcement is highly questionable. To put it another way, 'progressive' discipline is not progressive.

This is not to say that punishment is not part of discipline—it is. Employees have to know that there are negative consequences if they commit certain offences, and management has a responsibility to inform employees of those consequences. The union also has a responsibility to inform its members. It is the recognition of these responsibilities that provides an opportunity for management and labour to cooperate in the following ways:

- While management has the responsibility for developing a formal disciplinary policy that outlines the potential consequences for violations and offences, the policy should be reviewed with the union for input. It may contain the traditional disciplinary measures of verbal warning, letter, suspension, and discharge, or it may include innovations such as organizational 'community' service, demotion, or even disciplinary leave.

- Management and the union can collaborate on informing employees about the policy and, most importantly, the reason for its existence. Whatever the eventual policy outcome, it is important for there to be a common understanding that its purpose is to prevent type 3 violations.

- Management and the union can collaborate on ensuring that the employee is provided with 'due process' if he/she decides to appeal the disciplinary measure. This collaboration can extend to finding less expensive ways to provide third-party arbitration of cases that cannot be resolved through the grievance process.

- If the discipline is proven to be justified, management and the union can agree that 'the minimum required measure to prevent recurrence' is taken with the employee.

Research has demonstrated the adverse impact that punishment and negative reinforcement can have on behaviour and organizational conduct.

Taking Disciplinary Action in Type 4 Situations

Type 4 problems are the most difficult to analyze and deal with, because they arise out of type 1, 2, and 3 problems. Type 4 problems are

- Type 1 problems that have not responded to management taking all the appropriate and corrective action to try to solve the performance discrepancy. The employee has not been prepared to recognize his/her responsibility in solving the problem. Consequently, the quantity or quality of the work is still unsatisfactory.

- Type 2 problems for which the employee has been provided with appropriate assistance and support to deal with a personal problem, but the personal problem still results in performance shortcomings.

- Type 3 problems in which continued minor violations and infractions have led to a culminating incident, and, as a consequence, management is required to discipline the employee.

Discipline, in the case of type 4 problems, is a 'wake-up call' that puts the employee on notice that he/she has to take responsibility for the offence. Management (ideally with the union) has worked at trying to solve the problem using non-disciplinary measures. When these measures have not produced the desired results, discipline is a signal to the employee that change is needed.

Because type 4 problems derive from the other three types, they are varied and often complex. They can extend from attendance issues (type 1, see appendix 2) through substance abuse (type 2) to interpersonal conflict, horseplay, and harassment between employees (type 3). The critical element is that in each case, non-punitive corrective measures should be tried before discipline is used, thus increasing the potential for avoiding the vicious cycle.
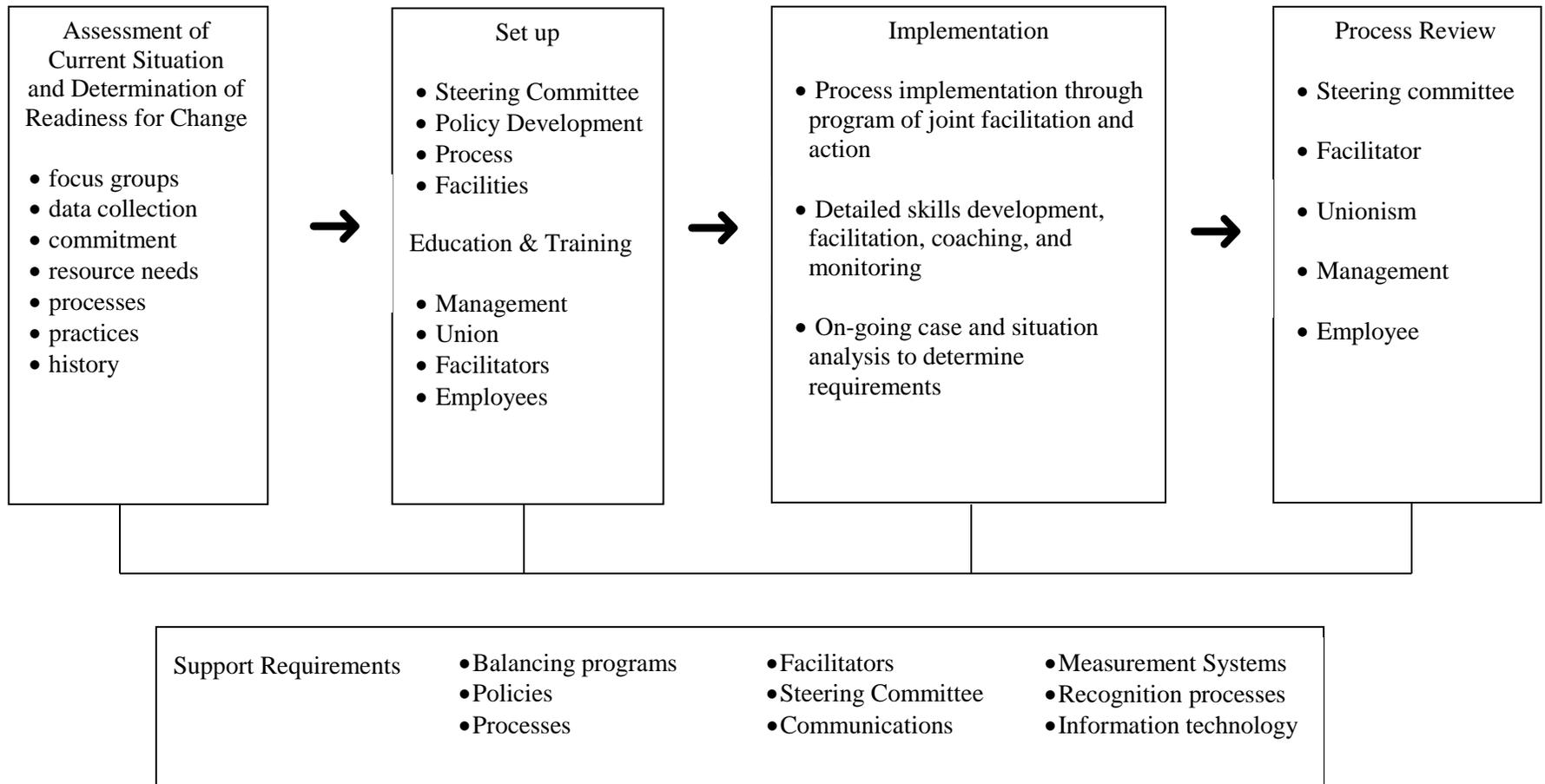
Implementing a New Approach

Organizations that have implemented non-punitive discipline methods (discipline without punishment) have experienced improvements in labour relations and grievance rates (Redeker 1989). Although non-punitive methods are a step in the right direction, these innovations cannot achieve the potential of the new approach described here for reasons that have already been discussed. The question therefore is, how should management and labour go about implementing this new approach to diagnosing and dealing with performance and disciplinary problems?

Figure 3 shows that the New Approach to Performance and Discipline Management (NAPDM) is a four-phase process. To be successful, it requires collaboration between management and labour in

- undertaking a joint assessment of the impact of current practices on employee relations,

- developing new policies and procedures for diagnosing problems and taking the appropriate action,

- training shop stewards and supervisors in the new approaches,

- communicating the new approaches to employees,

Non-punitive corrective measures should be tried before discipline is used, increasing the potential for avoiding the vicious cycle.

Figure 3
A New Approach to Performance and Discipline Management (NAPDM)

Assessment of Current Situation and Determination of Readiness for Change	Set up	Implementation	Process Review
• focus groups • data collection • commitment • resource needs • processes • practices • history	• Steering Committee • Policy Development • Process • Facilities Education & Training • Management • Union • Facilitators • Employees	• Process implementation through program of joint facilitation and action • Detailed skills development, facilitation, coaching, and monitoring • On-going case and situation analysis to determine requirements	• Steering committee • Facilitator • Unionism • Management • Employee

Support Requirements	• Balancing programs • Policies • Processes	• Facilitators • Steering Committee • Communications	• Measurement Systems • Recognition processes • Information technology

- developing the skills needed by shop stewards and supervisors to work together in a problem-solving manner, and

- monitoring the implementation of the program.

A four-phase implementation of an NAPDM, as described below, will allow time for commitment to build around the new approach. Old skills, attitudes, and practices that may have existed for decades and that may be strongly held by the parties have to change if the implementation is to be successful. Both parties must be committed to the process, and employees must understand and support it.[6]

Phase I. Assessment and Determination of Readiness

If change is to take place, the parties need to understand the impact of the current situation on labour relations, quality of working life and organizational effectiveness. As a first step in developing a desire for change, a comprehensive assessment of the current situation is necessary. It should include employees and supervisors, brought together in focus groups, to take a reading on the impact that current processes are having on them. Cost information and estimated time requirements associated with the current processes need to be developed. Finally, information on grievance rates, attendance, and performance should be assembled. Not only do these data provide a baseline for later comparison, they also develop a sense of urgency for change.

Phase II. Set-up, Education, and Training

The process of change needs 'champions' within the organization to lead it. A steering committee made up of leaders from both parties will provide labour and management with a structure, not only to guide implementation but also to provide a vehicle for decision making on critical issues of policy and process design. As well, the process needs a corps of facilitators to act as the 'foot soldiers' for the steering committee on the shop floor. The steering committee charges these individuals, chosen from both labour and management, with the responsibility for helping supervisors and shop stewards in using the new policies and processes.

Crucial to the whole process is education and training in NAPDM. Management and union leaders need to learn about the concepts and practices of effective performance management and dealing with disciplinary situations. Additionally they need to learn communications, conflict-resolution, negotiation, and problem-solving skills. Facilitators have to learn skills in mediation and coaching, and employees have to learn of the changes in policy and procedure.

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Phase III. Implementation.

An NAPDM is implemented by identifying and dealing with situations where action is needed. Since they will have new policies and processes that reduce the probability of the vicious adversarial cycle, managers and supervisors will be anxious to act. The early stages are crucial to success. Many individuals within management, the union, and the workforce will be watching to see how management and the union handle incidents and individuals.[7] Because

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6 For a more comprehensive discussion of the labour relations systems context and implications of undertaking a cooperative change management program, see Alexander (1999).

7 Employees and the union will be skeptical about whether management genuinely desires to work cooperatively in a problem-solving manner. Management will doubt whether the new approach is simply permissiveness dressed up in fancy words and needless consultation.

failure is most likely at this time, the steering committee and the facilitators will have to be vigilant to ensure that polices are adhered to and that the process works as planned.

Phase IV. Process Review

The process review is on-going. The primary responsibility for review rests with the steering committee but also includes facilitators, union, management, and employees. The review covers the elements examined in the original assessment—performance data, attendance statistics, and so on—along with follow-up focus groups with supervisors and employees. The review is a 'reality check' that allows the parties to monitor progress. Information collected through the review is acted upon to ensure the implementation is a success. Eventually the process must become self-sustaining and fundamental to the way the organization manages performance and disciplinary problems.

Support Requirements

Positive-recognition processes need to be created that catch employees doing things right.

Support systems and processes (figure 3 above) are essential for a successful NAPDM. It is in the development of these support requirements that a third party consultant can play a very valuable role. In addition to the support requirements already discussed—training programs, policies, processes, facilitators, and the steering committee—an effective employee communications mechanism is needed to build understanding and acceptance of the NAPDM. Employee performance-measurement systems, along with supporting information management systems, must also be established or changed. Finally, positive-recognition processes need to be created that catch employees doing things right—instead of processes focused on catching them doing things wrong.

Conclusion

The development of a new approach to diagnosing and dealing with performance problems and discipline requires a 'paradigm shift' on the part of management and labour. In order to be successful in making this change, the parties have to be prepared to give up established beliefs and entrenched ideas. In many instances, there is a legacy of bitterness and anger running deep through the relationship that will act as a barrier to a successful transition. Management and labour have shown themselves to be willing and able to change and work together in improving safety, training, business survival, and viability (Appelbaum and Blatt 1994; Cohen-Rosenthan and Burton 1993; Kochan, Katz, and McKersie 1994; Kochan and Osterman 1994). Working together to effectively manage employee performance and disciplinary problems represents a further way in which they can find responsible solutions and win/win outcomes for their mutual benefit.

Appendix 1

The Case of Fraudulent Benefit Claims: Dealing with a Type 3 Problem

The telephone call from our plant manager in Northern Ontario came in early on a Tuesday morning. It was clear from the tone of Bill's voice that he was personally upset and disturbed by what appeared to be a case of fraud and theft by a member of the plant's office staff. As he described the simple but ingenious method the young woman named Sharon had used to submit false benefit claims and intercept and collect the payment from the insurance company, I could hear the feeling of betrayal in his voice.

'So what are you going to do?' I asked when he finished describing the situation.

'I really don't have a choice do I? Isn't it the policy to terminate employees in instances where they have falsified records and stolen from the company?'

'Yes, but I detect that you are not very comfortable with doing that,' I replied.

'Well, Sharon's personal circumstances are not very good.' He went on to describe how the young woman was a single parent trying to raise two young sons without any support from her former husband. He described how she had broken down and cried when they had confronted her the previous evening with the discovery of her theft.

'How much money is involved?' I asked.

'Eight hundred and fifty-six dollars, to be exact.'

Knowing that Sharon had been with the company for five years but not knowing much else about her, I asked, 'Is she a good employee?'

'That's the problem, she is the best person I have here in the office. She is smart, incredibly efficient, and genuinely liked by everyone at the plant. This is going to be a real shock, and it is not going to help morale.'

We went on to talk about the situation at the plant where Bill, who had recently been hired from outside the company, was working very hard to improve productivity and morale. Employees at the plant were still very wary of him as a newcomer. I knew a high-profile termination of a popular employee for reasons that could not be fully disclosed was not going to help him build confidence amongst the workforce. We talked about why Sharon had taken the money and concluded that she must have gotten behind on her bills and payments. 'Maybe if we had the employee assistance program in place she would have sought help through it to get her financial situation in order.' Knowing that jobs were scarce in the community where the plant was located, I added, 'You know she is going to end up on social welfare if you terminate her, and I doubt that is going to benefit those two sons of hers.'

'But I don't have any choice.'

I replied that the newly developed company disciplinary policy did not obligate managers to terminate employees in cases where there had been theft of company property. Clearly, there were mitigating circumstances in this case that made other approaches more appropriate. I pointed out that the policy called for the discipline to be the minimum necessary measure to punish the employee for the rule violation and to prevent recurrence.

'Besides,' I said, 'if you terminate her, you are going to lose what is otherwise a very good employee, and we are never going to get the eight hundred and fifty-six dollars back. You may be completely within your rights to terminate her, but it seems to me that it is not the right decision to make.'

I left Bill to wrestle with the decision, hoping that I had provided him with a broad enough perspective to realize that he had choices other than to terminate.

A week later he telephoned me to say that they had decided not to terminate Sharon. They had involved her with the EA program, where a counselor was able to develop a financial plan for her that would allow her to pay off all her outstanding debts and repay the company over the next nine months. In addition, she was assigned to other duties in the office and was told that any similar incident would result in immediate termination.

'I did not think I had an alternative,' said Bill in ending his explanation. 'As much as it was what I thought I was required to do, termination just did not make sense to me. Everyone was going to lose: Sharon, her children, and the company. And yet, that is what I felt I was expected to do.'

As I hung up the telephone, I reflected on whether it was the mitigating circumstances (single mother with two small children) or the business logic (recoup stolen money and keep a good employee) that had moved Bill to make the decision he had made. I also wondered whether he would have made the same decision if the employee had been a unionized employee from the shop floor.

Appendix 2

The Case of the Non-working Union President: Dealing with a Type 4 Problem

'Mark, I am going to fire John. I have had enough of him. This time he has gone too far.' I could hear the frustration and anger in George's voice. George was the plant manager of one of our manufacturing operations in Southern Ontario. I knew John, the employee he was talking about, and suspected why he was angry. John had probably not come to work that morning.

George had good reason to be upset. John was the president of the union local at his plant and had held the post for the past five years. Unfortunately, for George and the rest of his management team, John had acted as though his position gave him the right to come to work when he wanted. As George had put it to me when I first became aware of the problem, 'John comes to work when he wants. If and when he does come to work he only works when he wants—which is not very often or very hard.'

'But George, you cannot just fire him.' I told him. 'As we discussed, if you are going to use discipline you have to use a progressive approach of warnings followed by a suspension, as justification for his termination. You have not done these things. You know John will grieve.'

George went on to explain John's most recent transgression. I told him that, based on the information he gave me and John's history, he was certainly justified in giving him a verbal or written warning. I added that the warning should include a statement saying that any further violation of the rules would result in greater discipline up to and including termination. 'But,' I said, 'is that really consistent with our employee relations principles and the way we want to deal with employee performance and discipline problems?'

As I hung up the telephone, I reflected on the situation and wondered what course of action George would take. John, a large, bombastic man in his mid-forties had worked at the plant for fifteen years. George was his third manager. The previous two managers were now the company president and George's boss, the national director of manufacturing. I had worked with George for the past two years and knew that he was an able manager and not given to hasty or unreasonable decisions. Recently I had led a two-day workshop on labour relations at the plant and the new approach to dealing with performance and discipline problems. In the case of John, George's frustration was justified. I wondered if he would be able to rise above his frustration and use the new approach to deal with a situation that other managers before him had been unprepared to handle.

Later that day, George gave John a written warning. The next day John filed a grievance. Two weeks later, John and the union business agent met with George to discuss the grievance. It emerged in the discussion that the reason for John's frequent absence from work was that he had suffered from 'stress' and got 'headaches.' He said, at times, they made it impossible for him to come to work and difficult to perform to his potential. George did not believe John, and he telephoned me for advice on what to do.

In our conversation, I pointed out that the union was not going to go to arbitration just to have a written warning reduced to a verbal one. However, that did not mean we were

going to get improved performance from John or that we were doing anything to improve our relations with the union. I suggested to George that he should outline a program of performance management and support for John and present it to the union to see if we could get their backing in trying to correct the situation using a non-punitive approach. I questioned George on whether there might be some validity to the claim about headaches. I suggested that when he got back to the union representative he should urge him to ask John to take advantage of the employee assistance program we had recently established at the plant and to visit our doctor. Furthermore, we agreed that if within a year John was performing at the expected level, the letter would be removed from his file. Most importantly, we agreed that our goal was to bring John around to being a fully contributing member of the plant team. After fifteen years with the company, he was a 'citizen' of the plant. We agreed that with 'citizenship' came the right to fair and responsible treatment.

George undertook the performance management program by identifying, with John, clear expectations related to performance and the quantity and quality of his work. With the encouragement and support of the union, John involved himself with the employee assistance program and sought medical help. His performance in terms of both attendance and on-the-job productivity improved—but it was a struggle. George met with John every month to review his performance and involved John's direct supervisor in on-the-job coaching. The union and John acknowledged and appreciated the effort management was making to help John become fully productive and to reach his potential. After several months (and after stepping down from his position as local president) John had reached an adequate level of performance, but it was evident to everyone involved that he was not happy. Just weeks before the end of the one-year review period, John approached George to say that he wanted to leave the organization. At the time, the company was offering voluntary separation packages to employees every time a job was eliminated through reengineering. John knew that a package would be available in the next few months, and he wanted to take advantage of it to make a career change and explore a small-business opportunity.

Clearly a much happier man, John left the organization three months later. In discussing John's departure with George, it was obvious that the plant manager was not dissatisfied to see him leave. When I queried him on his feelings, he said, 'John took up a lot of my time.'

'Would it have taken any less time had we followed a strict progressive discipline route and not done performance management or used the EA program?' I asked. And before he could answer, I added rhetorically, 'and do you think you or John would have been happier or relations with the union would have been any better?'

References

Albers, S., S. Cohen, and A. Mohrman, Jr. 1995. *Designing team-based organizations: New forms of knowledge work*. San Francisco, CA: Jossey-Bass.

Alexander, M. 1999. *Transforming your workplace: A model for implementing change and labour-management cooperation*. Kingston, ON: IRC Press, Industrial Relations Centre, Queen's University.

Appelbaum, E., and R. Blatt. 1994. *The new American workplace: Transforming work systems in the United States*. Ithaca, NY: ILR Press.

Ball, G., L. Trevino, and D. Sims. 1993. Justice and organizational punishment: Attitudinal outcomes of disciplinary events. *Social Justice Research* 6:39-67.

Betcherman, G., K. McMullen, N. Leckie, and C. Caron. 1994. *The Canadian workplace in transition.* Kingston, ON: IRC Press, Industrial Relations Centre, Queen's University.

Brown, A. 1988. Employee drug and alcohol use estimates: Assessment styles and issues. In *Evaluation of employee assistance programs*, ed. by M. Holosko and M. Feit, 265-78. New York: Haworth Press.

Capelli, P., and J. Rogovsky. 1998. Employee involvement and organization citizenship: Implications for labour law and lean production. *Industrial and Labor Relations Review* 51:633-53.

Cohen-Rosenthal, E., and C. Burton. 1993. *Mutual gains: A guide to union-management cooperation*. Ithaca, NY: ILR Press.

Cranny, C., P. Smith, and E. Stone. 1992. *Job satisfaction: How people feel about their work and how it affects their performance*. New York: Macmillan.

Cutcher-Gershenfeld, J. 1991. The impact on economic performance of a transformation in workplace relations. *Industrial and Labor Relations Review* 44:241-60.

Foote, A., J. Erfurt, and P. Strauch. 1978. *Cost-effectiveness of occupational employee assistance programs*. Ann Arbor, MI: Institute of Labor and Industrial Relations, University of Michigan.

Grote, R. 1996. *The complete guide to performance appraisal*. New York: AMACOM.

Hasson, R., and K. Slaikeu. 1998. *Controlling the cost of conflict.* San Francisco: Jossey-Bass. Holosko, M., and M.

Feit, eds. 1988. *Evaluation of employee assistance programs*. New York: Haworth.

Huselid, M. 1995. The impact of human resources management practices on turnover, productivity and corporate financial performance. *Academy of Management Journal* 38:635-72.

Kochan, T., and P. Osterman. 1994. *The mutual gains enterprise*. Cambridge, MA: Harvard Business School Press.

Kochan, T., H. Katz, and R. McKersie. 1994. *The transformation of American industrial relations.* 2d ed. Ithaca, NY: ILR Press.

Lawler, E.E., S. Mohrman, and G. Ledford. 1995. *Creating high performance organizations.* San Francisco: Jossey-Bass.

Lowe, R. 1998. The future of work: Implications for unions. *Relations Industrielles - Industrial Relations* 53:235-57.

Luthans, F., and R. Waldersee. 1989. What do we know about employee assistance programs? *Human Resources Management* 28:385-40l.

Nissen, B. 1997. *Unions and workplace reorganization*. Detroit: Wayne State Press. Noon,

M., and P. Blyton. 1997. *The realities of work*. London: Macmillan Business.

Pritchard, R., E. Jones, P. Roth, K. Strubeing, and S. Ekeberg. 1988. Effect of group feedback, goal setting and incentives on organizational productivity. *Journal of Applied Psychology* 73:337-58.

Redeker, J. 1989. *Discipline: Policies and procedures*. Washington, DC: BNA Books. Sacks,

J. 1994. *Winning cases at grievance arbitration*. Toronto: Lancaster House.

Sonnenstuhl, W., and M. Trice-Harrison. 1990. *Strategies for employee assistance programs: The crucial balance.* 2d ed. Ithaca, NY: ILR Press.

Walton, R., J. Cutcher-Gershenfeld, and R. McKersie. 1994. *Strategic negotiations: Theory of change in labor-management relations*. Cambridge, MA: Harvard Business School Press.