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Ombudsing: Many Links, One Chain

November 6-9, 2005

Asilomar Conference Center
800 Asilomar Boulevard
Pacific Grove, California 93950
CONVENERS:
Troy Brooks, Brock University
Marcia Kellam, Lawrence Livermore Laboratory

REGISTRAR:
Lewis A. Redding, Jet Propulsion Laboratory

CONFERENCE PLANNING COMMITTEE:
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Fred Cone, Lawrence Livermore Nat’l Laboratory
Kathleen Dickson, University of California, Berkeley
Susan Neff, University of Washington
Lois Price Spratlen, University of Washington
Mauricio Ramos, University of California, Los Angeles
Lewis Redding, Jet Propulsion Laboratory
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CCC110
Ombudsing: Many Links, One Chain
Asilomar Conference Center, Pacific Grove, California
November 6-9, 2005
The Awards Committee

Michael Chennault, Chair
*University of California, Irvine*

Kathleen Dickson
*University of California, Berkeley*

Lois Price Spratlen
*University of Washington at Seattle*

Tom Sebok
*University of Colorado at Boulder*

The Awards Committee is composed of four ombuds. This combination links those who worked with and are familiar with the contributions of our founders and those whose tenure in the caucus is more recent. The committee meets each year to review the names of ombuds who have been nominated by their peers to be considered for an award.

Named awards began to be given out in 1994 and the Ombud of the Year Award has been awarded seven times since then. The Service Excellence Award is given annually to ombuds who have made a significant contribution to the caucus and to the ombuds profession.
2004 Service Excellence Award

Gary Insley is in his second five-year term as the Ombudsman for Camosun College, located in Victoria, British Columbia. Camosun College is a large community college with over 20,000 students and 1,200 faculty and staff plus up to 300 term faculty.

Gary has a Master of Arts degree in Organizational Leadership and Training and an undergrad degree in Political Science. He is a certified group facilitator and restorative justice facilitator.

In completing his graduate degree, Gary’s thesis focused on the educational needs of the Ombuds community. He is committed to the sustainability of the Ombuds concept through education and leadership, and is presently working with Royal Roads University in designing a post-graduate program dedicated to Ombudsing.

Troy Brooks received his BA in Communication Studies and Psychology at Brock University and has been the Student Ombudsperson there since 1997. He works with the Centre for Teaching Learning and Educational Technologies and is an advisor to several university committees.

Troy has consistently held a leadership role as co-convener for the CCCUO conference at Asilomar. He is also a past president of the Association of Canadian College and University Ombuds.

In 2001, Troy received the Community Leadership Award from United Way for his work in the community, which has included suicide prevention awareness and promoting international tourism as well as developing employment and sustainability strategies for newcomers to the Niagara region.
**The Journal Co-Editors**

**Lois Price Spratlen** is University Ombudsman and Ombudsman for Sexual Harassment at the University of Washington campuses in Seattle, Bothell and Tacoma.

She is a board certified psychotherapist, holding the designation of Clinical Specialist, and is a Fellow in the American Academy of Nursing (FAAN).

She became an active participant in CCCUO in 1988 and has served as Convener of the Annual Asilomar Conference and as Co-convener on three occasions. She has also served as a member of the Awards Committee and as chair for four years.

In 1998, under her leadership, *The Journal* of CCCUO was established as the first and only peer-reviewed journal in the field of ombudsing.

**Katherine Ziff** is Associate Ombuds at Ohio University in Athens, Ohio, a position she has held since 2001.

This is her first year as co-editor of The Journal and her second year of service to its Editorial Board.

Katherine is experienced in both qualitative and quantitative research methods and has published in the Journal of the CCCUO as well as in counseling journals.

A former school counselor, Katherine teaches and publishes in the area of infusing the visual arts into school counseling practice.
With a mixture of regret and good wishes, we express a reluctant farewell to Eugene Smith, who has been Managing Editor of The Journal for the past six years. During this time he helped us establish and maintain a professional level of publishing that we will continue to build in expanding the literature of ombudsing theory and practice.

Eugene has indicated a desire to direct his full attention to his own writing and publishing endeavors. All of us as Co-Editors and members of the Editorial Board wish to say thank you Eugene, and farewell after a job well done.

We would also like to express a special thanks to Maren McDaniel for her contributions in the development of this Journal.
Allen W. Church is an adjunct professor at Wayland Baptist University in Plainview, Texas, where he is a lecturer in undergraduate and graduate Business Ethics. A Graduate with Honors from St. Mary's University Law School and Southern Methodist University Graduate School of Law, his participation in the world of education extends as a Faculty Member for the National Institute of Trial Advocacy and the Insurance Institute of America. He is a contract Ombudsman, active in The Ombudsman Association and the California Caucus of College and University Ombuds and has published for the latter.

As the first member of the criminal justice program at UMass Lowell, Professor Alan Jay Lincoln has a long history of contributing to the campus community. He has served three terms as graduate coordinator for the Criminal Justice Department and eleven years as Special Assistant to the Graduate Dean. He completed a Postdoctoral National Institute of Health program in Family Violence and also held a Fulbright Professorship in the Netherlands. In addition to being the University Ombuds, Lincoln serves on the Institutional Review Board for human subject research and the Research Committee for The Ombuds Association. He is the author of numerous articles and three books on crime and violence, and is a former journal editor of Library and Archival Security. Lincoln is a certified mediator and recently completed advanced mediation training.

Arnold Medvene is a Staff Psychologist at the University of Maryland Counseling Center. He holds a Ph.D. in Counseling Psychology and served as faculty ombuds officer from 1994 to 1999. Arnold consults on and off campus regarding mediation based programs. Divorce mediation is part of his private practice. He is the editor of the book Storms and Rainbows: The Many Faces of Death. His current research interest is in examining the relationship between narrative psychotherapy and meditation based imagery.

Trey Reckling has worked for the Savannah College of Art and Design (SCAD), in Savannah Georgia for seven years and became the college's first ombudsman in 2003. With an MS in Therapeutic Recreation, he is committed to the quality of life among staff and students on campus. He has worked with the Oregon State Hospital's outdoor therapeutic recreation program and was a staff member with Semester at Sea, helping to lead students on an educational voyage around the world. Trey has created and administered programs in student involvement and residence life, including an alcohol and drug education program. He has also worked in collaboration with the Human Resources Department at SCAD to create a customer service training series for staff.
Barbara Schaffer has been a faculty member in English and Women’s and Gender Studies at DePaul University for the past 15 years and has been the Director of the Sexual Harassment Policy Office (formerly the Sexual Harassment Ombudsperson) since 1994. In addition to her roles as director and teacher, Schaffer has served as a consultant nationally and internationally regarding sexual harassment, the establishment of sexual harassment policies, and the status of women in the workplace. Barbara also serves as a writing consultant to a variety of business and professional organizations, including the Federal Reserve Bank of Chicago. She has written two articles related to her fields of interest: The Medium and the Message: Confidentiality and E-Mail Discussion Lists; and, The Power of Language and the Language of Power.

Myron Schwartzman is Professor of English at Bernard Baruch College (NY) and was Ombuds there from: 1995-2001, succeeding Don Watkins. He was educated at Columbia College, the University of London, and SUNY Stony Brook, where he earned a Ph.D. in English Literature. Schwartzman is the biographer of the late African-American collage-maker, Romare Bearden. A widely published author, with articles in such journals as James Joyce Quarterly and Modern Fiction Studies, he is also a jazz pianist. For six years he played with Larry Rivers’ East Thirteenth Street Band, which he co-founded. He has been active in CCCUO and ECOG. See his article, “Notes from Underground: An Ombuds’ Dostoyevskian Journey in Academe,” in the November 1999 Journal. Schwartzman has returned to full-time teaching at Baruch, but remains committed to the CCCUO and its Journal.

Tom Sebok is the Director of the Ombuds Office at the University of Colorado at Boulder. Between 1976 and 1990 he worked as a counselor in three different community colleges. He became an ombudsperson at the University of Colorado at Boulder in 1990 and the Director of the office in 1992. From 1995 - 1999, he served as Secretary for the Board of the University and College Ombuds Association (UCOA) and is the current Secretary for the Board of the International Ombudsman Association (IOA). He has published seven articles related to ombudsming and has made numerous presentations at regional and national conferences related to ombudsming, conflict management and restorative justice.

Professor Douglas Whitman is a Professor at the School of Business at the University of Kansas where he has taught Negotiation and Dispute Resolution to both graduates and undergraduates. He has presented seminars on negotiation and also on cross-cultural negotiation to companies such as Nortel Networks. Doug also taught courses in law for over 30 years. He became the University Ombudsman in July, 2003. He holds the following degrees: Bachelor of Arts in political science, Masters of Business Administration, Juris Doctorate and Masters of Law. He has written over 24 law reviews and scholarly articles and has authored several book reviews. Doug served as the President of the Midwest Business Law Association and twice served as staff editor for The American Business Law Journal. He is the coauthor of five textbooks on law, including The Legal and Social Environment of Business, which has been used by schools across America.
THE IMPORTANCE OF TEACHING IN ACADEMIC OMBUDSING

As ombuds practicing in academic institutions, we have many opportunities to serve in teaching roles as we provide services to clients and to the institution generally. Based on my own practice of 24 years, I feel that we have an obligation to connect what we do to the educational mission of the institution. If we do not embrace teaching in our work as ombuds, we miss opportunities to serve clients and the institution through education. We also lose opportunities to help clients acquire knowledge and skills that will help them define, evaluate and solve problems, or generally respond to conflicts in more comprehensive and competent ways. I realize that these are big claims. But they are claims that I believe in strongly enough that I appeal to all ombuds to consider and cultivate the importance of teaching in ombudsing. As we embrace this approach ourselves, it will more likely be recognized and acknowledged by others in the institution who observe our role performance. Also, I have found that teaching provides a dynamic way of establishing and maintaining rapport with each client. It also serves as a tool for personalizing the ombuds-client relationship.

This editorial is designed to encourage ombuds to see our practice from an instructional perspective. As we engage in the process of helping the client define the nature of the problem or conflict and explore how to manage or resolve them, we will be more effective when we emphasize the purposes and roles of teaching. In this editorial I summarize the main functions and forms of teaching in ombudsing. Next I describe the expected benefits from and contributions of a teaching approach to ombudsing. Then implications are presented for the future of academic ombudsing which lead to my main conclusion that our long-term interests will be better served, along with those of clients and even the institution as a whole, through an instructional approach to academic ombudsing.

Historical Perspective of Academic Ombudsing

Since 1965 ombuds have served institutions of higher education in North America. During this 40-year history, little effort has been made to link the practice of ombudsing to the mission of academic institutions. Yet putting forth such effort serves the interests of both ombudsing and higher education. Ombudsing gains by focusing on competency development and by helping those who are served to gain knowledge and skills in problem solving and conflict management. Institutions gain in several ways. They gain from having a problem solving process and conflict management methods that are built on educational principles. In addition, these approaches promote a humanistic environment where competency development is valued. Over time ombudsing will gain in status and support as a result of developing and using an instructional approach.

Functions and Forms of Teaching in Ombudsing

The ombuds as educator expands role responsibilities to include the client as learner. In the educator/teacher role, ombuds help clients and actively engage them in the problem-solving
process. As an active participant in the dynamic process, the client is encouraged to acquire new knowledge and skills which aid in the management and resolution of the current challenge. Teaching and learning take place in a variety of forms and settings. Face-to-face exchanges are most frequent. But coaching, interpersonal training in communication and confidence-building along with role-playing interactions form part of the educational process. Group learning and even seminars will extend the ombuds role responsibilities. The ombuds as educator can facilitate competency development and thus aid in the prevention of similar problems in the future. Self confidence and a sense of personal empowerment are also experienced by the client.

Recognize also that teaching can and does occur in the process of carrying out diverse role functions as ombuds. In mediation, for example, there are opportunities to engage in “teachable moments.” During a recent mediation session, it became apparent to me that we had been in session for four hours with only brief bathroom breaks. When we returned from one such break to continue negotiations, I proposed that we consider recessing until after the holiday break (from 12/19/05 to 01/03/06). As a mediator I felt tired. Others around the table also appeared to be tired. After reviewing how far we had progressed and the number of topics that remained undiscussed and unresolved, it was agreed by everyone that we could not complete the mediation within a manageable number of continuous hours. We reviewed what had been covered, evaluated agreements and understandings and prepared the way for additional thought and reflection. In addition, we established ground rules for communication and identified how the interim period could be used for learning and preparation for mediation after the recess. Each participant stated how she or he felt the session had been productive and how she or he would use the break productively. We all viewed the scheduled recess in positive ways.

Another situation also illustrates the broad scope of teaching in ombudsing. During a recent 30-minute meeting with the University President, it was possible to explain and get approval for a revised Executive Order. This followed several previous meetings with the University Attorney General in which he and I drafted language that would affirm “confidential conversations” between the ombuds and clients. To become University policy, the order required the President’s Approval. It was also possible to cover other changes in the forms used and the way information flowed between the ombudsman and clients. This exchange provided the President with a better understanding of the programs and services offered in the Ombuds Office. It represented a teachable moment in the process of making procedural and wording changes in University policy. The President appreciated the fact that I had worked closely with another University official whose work he respects and appreciates.

In the course of any given day, ombuds have many such opportunities to engage in teaching activities. As these examples illustrate, informal teaching occurs much more frequently than the presentation of formal seminars or client-coaching situations.

**Expected Gains and Contributions of a Teaching Approach to Ombudsing**

Individual and institutional gains can be expected from adopting and adapting an educational approach to ombudsing. For the ombuds, our role functions are being directly linked to the basic mission of the institution in which we serve. The institutional mission emphasizes knowledge generation through research, knowledge dissemination through teaching and publishing of research and knowledge preservation through written and electronic means of com-
munication. In our practices, knowledge and skills are being shared with clients or in communication with others in the institution who are involved in improving the process of complaint handling and related policy development in the institution. Of course generation of new knowledge occurs through written reports and other documents that are developed and distributed in the process of role performance.

Clients as learners gain from this dynamic process. As ombuds we should also realize that we can learn with and from our clients. In our interactions and problem-solving and other role functions we can improve the quality of our practice and our services. The client can, and usually does, improve her/his knowledge and experiences. Individuals and the institution where this practice occurs can enhance the status and standing of the field of academic ombudsing.

For the institution there is a transfer and accumulation of knowledge about problem-solving and complaint processing. This also links ombudsing to the general process of disseminating information that is beneficial to various members of the college or university community.

Implications for the Future of Academic Ombudsing

The more ombuds emphasize the role of teaching in professional practice, the more others in the college or university community are likely to recognize and appreciate our contributions to the advancement of knowledge while also effectively managing and resolving conflicts. In combination our interventions contribute to humanizing institutional interactions. As more and different members of the college/university community recognize the contributions we make, the greater the appreciation level for what it is that we do for individuals and the institutions that we serve will rise. We will become known more broadly as educators and not only as mediators or complaint handlers. The true value of our contributions will become more apparent to others. As more people in the institution learn to understand and appreciate what ombuds do and how our efforts benefit them and the institution as a whole, there will be more of an appreciation of ombudsing. With greater appreciation from those who are served, our contributions will be better understood and supported.

Conclusion

Since entering the field of ombudsing in 1982, I have emphasized the concept of competency development. Ombuds, like nurses (the profession from which I entered ombusding), have unique opportunities to interact with clients in diverse roles. Serving as educators, mediators and conflict managers are integral and important role functions for all ombuds. When our process is more closely aligned with the mission of the institution, our long-term interests are likely to be served more effectively. Over time our practices and the status of ombudsing will be enhanced through linking ombudsing and teaching in our practice.

Lois Price Spratlen
Co-Editor
Mission Statement

We are committed to publishing the highest quality of scholarly and professional articles submitted for publication. We will publish articles by and about ombuds that provide insights into and understanding of our institutional role, practice, and contributions. Manuscripts and materials submitted will be peer-reviewed. We use a collaborative approach to publishing, in which prospective authors receive constructive critiques from reviewers in an effort to increase quality of the content of *The Journal*. Our main purpose is to enhance understanding of the art and practice of ombudsing.
Abstracts of Articles in This Issue

Speaking Ourselves into Existence: the Trickster Metaphor as a Means to Reflective Ombuds Practice - by Martine Conway and Katherine Ziff

This paper presents the metaphor of the Trickster as a guide to reflective ombuds practice. It discusses metaphors and mental frames, examining their roles in constructing meaning. It discusses the use of metaphors and framing in ombuds practice, introduces the Trickster as a folk figure and metaphor, and analyzes the Trickster metaphor as applied to ombuds work. Finally, the authors reflect on ethical considerations in using the Trickster metaphor on ombudsing and present implications for ombuds practice. The Appendix contains A Trickster Tale, a short play written by Martine Conway illustrating the Trickster as a metaphorical ombuds figure.

Seven Conditions for the Ethical Justification of Academic Ombudsing - by Hugh Lehman and Thaddeus Spratlen

In this article two emeritus professors (one in ethics and the other in business) explain the conditions under which ombudsing is ethically justified. They illustrate how two widely recognized ethical frameworks (based on Utilitarian and Kantian ethical principles, respectively) can serve as guides to understanding and applying ethics and equity in the practice of ombudsing. Ombuds will recognize the connections that the authors make between fundamental ethical principles and generally accepted characteristics of ombuds and ombudsing (such as neutrality, confidentiality, independence, access, voluntary participation, expertise in university governance, and recognition as an informal process of conflict management and resolution). Understanding and linking ethics and equity as presented in the article offers a solid ethical foundation for the practice of academic ombudsing.

The Ombuds Profession as a Storied Profession - by Elizabeth Graham and Lynn Harter

In this essay, the authors position the ombuds office as a storytelling hub, a space in which to explore the process of narrative knowledge development. They couple narrative theory with ombuds practice as they lay out key concerns of narrative theory and illustrate how they are realized in the ombuds setting. They offer two shared problematics (shared concerns) particularly useful in thinking about the storied activities of university ombuds: (1) the problematic of continuity and disruption (i.e., narratives reveal chaos and human plight); and (2) the problematic of the partial and indeterminate (i.e., narratives are partial and ongoing). In sum, the daily activities of the ombuds reveal the centrality of narrative in helping individuals cope with the experience of continuity and disruption as events do not stand still; they are as indeterminate as the relationships, circumstances, and enterprises of our lives.

Exploration of the Educational Needs of Ombuds - by Gary Insley

According to this author, ombuds have been educated by three dominant means: self-study, mentoring and internship programs. Even today these continue to be the most accepted methods for educating ombuds. A multi-method empirical study was conducted by this author to systematically document the perceived educational needs of ombuds responding to an online survey and the responses of a focus group of ombuds attending an annual ombuds conference. The sample size of the online ombuds was 400 international ombuds, of which 158 (39.5%) responded. The major findings were: (1) respondents in both groups indicated a strong
desire for a formal educational program for ombuds; (2) as is true for most adult learners, these ombuds respondents indicated a desire to have a role in determining the substantive content that is to be provided to them; and, (3) in the absence of a defined curriculum, these ombuds indicated a desire for graduate education which provides a certificate or graduate degree program. The concept of the ombuds as a change-agent was also reported. However, no specifics were provided about how the ombuds would operationalize this role.

In light of the above reported findings, it is imperative that this study be replicated, especially with a larger sample of focus group participants. Based on the findings from this study, the author also makes several recommendations. Principal among them are the potential benefits that will flow to those ombuds, and the organizations where they practice, who pursue formal education. They also discussed the contributions that a better educated group of ombuds could contribute to the practice of ombudsing.

**Bullying in Academia: What’s an ombudsman to do? - by Sue Theiss**

Cases involving the effects of bullying behaviors are some of the most complex and challenging for ombuds to effectively address. This article considers bullying as a dynamic process. The author reviews the related literature and research that exists, and offers options to ombuds for assisting their constituents with cases of bullying. Descriptions of what bullying is and the types of bullying that exist are provided, as well as an understanding of the various stages involved as these cases progress. Examples of intervention strategies are provided for ombuds in an academic environment.

**The Taste of Conversation: A Dialog Between Stanley V. Anderson and Geoffrey Wallace Edited by Misa Kelly**

Misa Kelly facilitates a dialog between ombuds scholar Stanley V. Anderson and former University of California at Santa Barbara’s University Ombuds Geoffrey Wallace. In the dialog Anderson discusses the early years of the spread of the Ombuds office, the literature it spawned, and his scholarly contributions. Wallace answers the questions, “What type of mentoring did you receive from Stan?” and “How was Anderson involved in your appointment at UCSB?” In addition Wallace and Anderson discuss their thoughts about the future of ombudsing.
Speaking Ourselves into Existence: 
the Trickster Metaphor as a Means 
to Reflective Ombuds Practice

by Martine Conway and Katherine Ziff

Martine Conway has served as ombudsperson at the University of Victoria, Canada since 1999. She holds an MA in English from the University of Chambéry, France, and has a background in adult education and mediation. Her experience extends to community, workplace and restorative justice settings. Her interests include language, discourse and their use in conflict analysis and resolution.

Katherine Ziff (Ph.D., Ohio University 2004) is Associate Ombuds at Ohio University, where she is in her fifth year of service. Katherine, a counselor, has published journal articles related to career transition, school counseling and the arts in counseling. She teaches courses in school counseling and is an exhibiting artist in southeastern Ohio.

Introduction

Ombuds work is interdisciplinary in nature. While core principles of ombudsing inform practice, the specific settings of practice and the training and background of ombuds also inform the work of individual practitioners. Reflective practice is therefore an important component of ombudsing. Schön (1983) tells us that:

Through reflection, [the practitioner] can surface and criticize the tacit understandings that have grown up around the repetitive experiences of specialized practice, and can make new sense of the situations of uncertainty and uniqueness which he may allow himself to experience (p. 61).

And in their search for what makes mediators effective or ineffective, Bowling and Hoffman (2003) stress the need to find a truly authentic style through self-reflection and self-awareness. For them, it is this commitment to self-reflection that allows a practitioner to fully develop.

One way of engaging in reflective practice is to examine the language that we, as ombuds, use in action as we listen, question, reframe and recommend, and as we define and describe what an ombuds is and does. This paper is the result of the authors’ conversations with each other about our own professional training (conflict resolution language and counseling, respectively) and about the different language that we use in our work. These conversations, in turn, led us to presentations at the 2004 Cal Caucus Conference and at the ACCUO (Association of Canadian College and University Ombuds) conference in 2005. This paper, a further development of those presentations, is an exploration of metaphor as a means to reflective practice in the ombuds field. Specifically, this paper (1) examines the role played by metaphors and mental frames in constructing meaning, (2) discusses the use of metaphors and framing in ombuds practice, (3) analyzes the Trickster metaphor as applied to ombuds work, and (4) reflects on ethical considerations derived from the Trickster metaphor. The Appendix contains A Trickster Tale, a short play written by Martine Conway illustrating the Trickster as a metaphorical ombuds figure.

Metaphors, Mental Frames and Meaning

A metaphor uses one thing to describe another in such a way that new meaning is given to what is being described (Leary 1990). Metaphors can also be of assistance in the ordering of personal experience (Fox 1989). Research on cognitive style suggests that metaphors are based in the language of the right brain and as such are a fluid,
imagistic, and feeling-related way of knowing (Miles and Crowley 1986). Most importantly, metaphors also convey and construct meaning. Problems and conflicts do not exist in isolation of the language used to identify or describe them. Generative metaphors, or metaphors used to create new “perceptions, explanations and inventions”, are worthy of reflection for the purposes of understanding the construction of problems (Schön, 1979).

Attention to the use of metaphors provides insight into a person’s mental frames, or the ways in which the person conceives and constructs difficulties and dilemmas. People are hard-wired to think in terms of frames (Lakoff, 2003). That is, constructing and maintaining mental frames is supported by the neural circuitry of the human brain. Furthermore, frames are enduring; when facts do not fit a frame, in the process generally known as cognitive dissonance, people tend to dismiss facts rather than alter their frame (Lakoff, 2003). Schön (1979) suggests that problems are constructed for the purpose of sorting out complex and worrisome situations. He notes that discovering the ways in which problems are framed and the metaphors that are implicit in those frames are key to understanding the construction of problems (and hence to finding new solutions).

**Metaphors, Frames and Ombuds Practice**

When the authors were asked to speak of the use of metaphors in ombuds work at the Cal Caucus conference, the title “walking the minefields” was proposed for the presentation. This immediately brought to mind a war metaphor, suggestive of invisible dangers and possible destruction. We changed this frame and proposed a different metaphor, that of creation and transformation, with a new title, “speaking ourselves into existence.” This new frame suggests that we shape the world around us with the very words we speak, calling perhaps for a more deliberate and on-going process of creation and reflection. Conflict, however, is an ongoing and even central part of ombuds work; visitors consult or engage the ombuds office when they find themselves in a situation of conflict, whether it is a concern, a disagreement about a decision, a complaint, or a difference of opinion. It would seem that, as practitioners, ombuds can reflect on metaphors and frames in at least three different ways: first, how ombuds construct meaning from situations brought by visitors; second, the metaphors and frames that visitors themselves use; and finally, the metaphors that are used to describe ombuds practice in general.

How ombuds construct meaning from the situations brought by visitors has a direct impact on how we deal with a situation. Certainly, different metaphors can be used to frame and reframe conflict. Conflict has been seen as a war, a dance, an opportunity or a journey, to name a few metaphors (Lakoff and Johnson 1980; Cloke 2000). Depending upon how we frame conflict, it can be seen as hurdles or we may see springboards. We can frame conflict as war and opposition or we can see opportunities for integration and creation.

After meeting with a student who reported difficulties in securing academic accommodations appropriate to her physical and mental disabilities, we were struck by the language she used to describe the situation and the narrow margin for finding constructive solutions. Each request for accommodation was a battle. A successful request was a victory. An unsuccessful request was an attack on the student who was prepared to fight back. In speaking with the department, we found a similarly narrowed framing of the conflict, where the student preyed on individual faculty members’ sympathy to extract what the department saw as inappropriate concessions. In that context, the latest request for an open book exam was a no-win proposition. It was a matter of human rights for the student. The department saw it as violating the integrity of exam conditions. How could the ombuds make sense of the story? Was it about student rights being trampled, or about overwhelmed faculty members valiantly holding on to sound academic principles? Our own bias toward seeing conflict as an opportunity for learning and growth didn’t seem to fit.

Ombudsing often involves situations where the frames that people bring with them are not working well for them; it may be an ombudsing task to assist them in examining and even shifting frames. Toward this end, an ombuds may wish to:

1. Listen for metaphors and frames explicit and implicit in the language of visitors,
2. Call visitors’ attention to operating metaphors and the assumptions which underlie them (Lyddon, Clay and Sparks 2001), and
3. Introduce new frames of reference by the use of metaphor as
a device to create new possibilities (Lyddon, Clay and Sparks).

In speaking with the student and the department mentioned above, we drew their attention to the language they were using and the limited options they had in seeing each other as opponents. We asked them to describe the relationship they would like to have if things were working better. Building on the ideas of respect and teams suggested by their descriptions, we helped them work on a new framing of the problem, one where fairness to all students was the common goal, thus integrating both original frames of reference: the right to an appropriate accommodation and the responsibility to ensure the integrity of exam conditions.

Being aware of and working directly on mental frames is one way of enriching our daily practice. As reflective practitioners, we may also wish to examine different generative metaphors for ombuds practice itself. This paper offers the metaphor of the Trickster as a means to reflect on ombuds practice.

The Trickster as a Generative Metaphor for the Ombuds

The Algonkian of North America passed on tales of Hare, a Trickster figure (Campbell, 1949). Native Americans of the Pacific Northwest told of Raven, another Trickster figure. In Africa, hare, spider (Aransi) and tortoise are Tricksters. Bier Rabbit, in the American South, is a trickster figure imported from Africa, presaged by tales from India where the hare outwits the elephant and the lion (Botkin, 1984).

Defined by Ricketts (1964) as a traveling clown, a powerful transformer and a culture hero, Trickster also shows up in American popular culture. For example, think of Peter Falk's Columbo or of Inspector Clouseau (immortalized by Peter Sellers), who portrayed paradoxical and even bumbling heroes who triumph because of their resilience, persistence and imagination.

Trickster defies conventional analysis and definitions. But the paradoxical nature of Trickster provides a compelling analogy with the ombuds. Trickster has a special relationship to the community. S/he is a liminal character, neither in nor out; simultaneously a disturber and a builder of social order, Trickster creates reality by weaving together disparate and conflicting experiences (Pelton 1980). Like Trickster, the ombuds exists where there is a community (a government agency, a campus, an organization) and influences or shapes the social order (policies, structures, environment). Like Trickster, the ombuds has a unique place, simultaneously inside and outside the community, somewhat like the court jester at the royal court (Hartsock 2003).

Trickster is a boundary crosser, shape-shifter, peacemaker, storyteller, and even a creative disrupter; posing as the creative fool or wise child, Trickster traditionally questions assumptions and shows paradox (LeBaron 2003). Trickster has been suggested as a model for conflict resolution practitioners because of the integration of analytical and intuitive inherent in the work of both (Benjamin, 2003). According to Benjamin, Trickster's skill at shape-shifting is similar to the conflict resolution skills of listening, empathy, and entering the reality constructions of disputants. Like Trickster, ombuds use constructive deception when s/he asks seemingly innocuous questions and introduces dissonance into the discussion of a problem, thereby creating opportunities for a different construction or a transformation of meaning and reality.

Ethical Considerations of a Trickster Role

Ombuds as Trickster also presents ethical considerations and questions for reflection. First, how can the ombuds become comfortable with a Trickster role? And second, how can we consciously engage in reflective ombuds practice? Trickster has a strong shadow side. In many stories, he brings chaos, deceit and disharmony, a reminder of our own potential for both good and bad. The trickster metaphor highlights the need to reflect on the ethical uses of the skills of creativity, persuasion and personal influence.

Like Trickster, the ombuds faces ambiguous and paradoxical situations: confidentiality versus promoting constructive change; impartiality versus advocating for fairness; independence versus the reporting relationship. And like those of Trickster, the actions of the ombuds may introduce doubt and create chaos.
before they create order, such as improved processes and decisions. Like Benjamin’s mediator (2003), a Trickster-ombuds may choose to introduce ambiguity, disorder, dissonance, constructive deception and conflict in order to create channels of communication. S/he may plant ideas, let others take credit, serve as an annoyance in persisting with questions, and make possible the constructive expression of conflict. How do we learn to be comfortable with handling ambiguity, disorder and conflict?

Then, what is the ombuds’ responsibility in helping to process the disequilibrium resulting from his/her intervention? A shift in mental frames or metaphors can change the construction of reality of a visitor, causing emotional tension (Lyddon, Clay and Spark, 2001). What is the ombuds’ responsibility in supporting the visitor in the construction of, or even co-constructing, a new reality?

Finally, understanding the unique relationship between the ombuds and the system in which s/he works is key to ethically relating the dilemmas of our visitors to constructive system change. How do we continue to critically evaluate that relationship through reflective practice? Like Trickster, ombuds has a role in disturbing and shaping the social order. And like Trickster, ombuds becomes involved in many ambiguous situations because concepts of fairness and justice relate as much to felt experience as they do to objective criteria.

**Implications for Reflective Practice**

1. Metaphor can be a tool for understanding the mental frames (assumptions and problem construction) of visitors to the ombuds office. By examining these frames and proposing different ones via metaphor, the ombuds may be able to help visitors create new possibilities.

2. The Ombuds-as-Trickster metaphor can be a tool for reflective ombuds practice. Trickster can serve as a metaphorical companion as we go about our sometimes solitary work of problem-solving; a guide when we must balance impartiality and benevolence with tough questions of fairness, justice, and process.

3. Trickstering may bring disorder and conflict, and ombuds must reflect on the possibility of these consequences. Far from being neutral, the ombuds is often described as a change agent. S/he is a paradoxical leader who influences through persuasion rather than through decision-making power. Responsible trickstering also demands our thoughtful participation in supporting and constructing new realities.

4. Pelton (1980) sees Trickster as a symbol of human dealings with daily, commonplace and often opposite occurrences in an ongoing process of creation and enlargement of the social order; he shows Trickster to be a master of language, suggesting that the human world itself is language. In much the same way, we, ombuds, go in and cut of daily situations, weaving new meaning and finding new solutions through the use of language, and shaping a dialogue between individuals and their environment. As we speak ourselves into existence, we need to be mindful of the metaphors and frames underlying the language we use and the interventions we choose to make or not to make. How does our language embody our values and vision in our work? Or, as Lakoff and Johnson would ask, what metaphors do we live by?

**References**


Ombuds. Asilomar Conference Center, Pacific Grove, California, November 9-12.


A Trickster Tale
Written by Martine Conway

Trickster and Ombuds are sitting across from each other. Trickster is very proud of himself because he has applied for membership into the Best Coast Ombuds Association and today he has an interview.

Ombuds tells him it isn’t possible for Trickster to be a member because he doesn’t meet SoPs. Trickster looks most distraught and humbled at the news, and he asks Ombuds to teach him about these SoPs.

Ombuds stands by flipchart with list of standards and starts authoritatively:

O: Confidentiality/access/independence/impartiality/system change/.

T: (clearly impressed) Whoa!

O: For example, confidentiality means that…

T: (very interested and insinuating)…that when you go and meet with someone, you don’t tell them that you know that they…(winks) you know.

O: Well, it depends…

T: (his eyes light up) so you do keep secrets!

O: (frowning) Not exactly. You see, for people to come to us with their problems (he points to ACCESS on the chart)…

T: (Interrupting)…they have to know you won’t ra: on them. I understand. (smiles). You make them feel comfortable.

O: Well…Yes.


(Looks up expectantly at Ombuds). And you say you are also independent? You don’t report to line-management.

O: (cautious) That’s right. At least not functionally. They just give me my budget.

T: They pay you not to report to them?

O: That’s right.

T: (Writes down). In-de-pen-dent. Good. And that’s how come you claim to be impartial?

O: Well, partly. (More confidently). You see, when someone comes with a complaint, I look at all sides. I consider all relevant information and I make a recommendation based on fair criteria.

T: (nooding approvingly). Fair criteria. Most ingenious.

O: (a little surprised). What do you mean?

T: Well, if you don’t report to them, they can’t tell you what to do, can they?

O: That’s true.

T: So you do what you want. (Before Ombuds can object). And if you’re supposed to be impartial, they can’t complain about you not being fair, can they?

O: Well I suppose…

T: And if you decide something’s not fair, you just change it? (Points to “system change”).

O: (amused) I ask other people to change it.

T: (to the audience) She doesn’t even have to do it her-self! (to Ombuds). You know (thoughtfully) at first, I thought there wasn’t much in common between trickstering and ombudsing.

O: (shaking his head no). No, indeed.

T: (also shaking his head no) Different standards.

O: (nodding) Right.

T: (still shaking his head no) Different methods.

O: (nodding) Yes.

T: (nodding) But now…

O: (stops nodding) What?

T: (still nodding thoughtfully) I wonder.
O: (interested) About what?

T: (inviting Ombuds to sit back down beside him) Maybe you and I ought to have a closer look at this

**Part Two**

*Ombuds looks on hopefully at Trickster who now stands at the flipchart. On the chart are the 3 trickster characteristics: Traveling fool, powerful transformer and culture hero*

O: So what would I have to do to be recognized as a trickster?

T: Let’s see now. The first characteristic is “traveling fool”.

O: Well, I travel. (a pause. No reaction from Trickster) I visit departments and meet with people.

T: (grudgingly adds a tick beside the word “traveling”) And?

O: And I ask questions. A lot of questions.

T: What kinds of questions?

O: Oh, the innocuous kind, you know. To get people to explain how they do things. You see, sometimes, just by answering my questions, they realize something’s not right and they change it. I don’t even have to say anything.

T: Ah. So you play the fool? (pointing to the word).

O: Well, I wouldn’t have put it that way, but…

T: Good. And what if they stick to their foolish views, what do you do then?

O: Well…

T: Yes?

O: I find it best to explore it with them.

T: Explore it?

O: Yes, See, if I accept their view, we can talk about likely scenarios, implications…

T: And the more you explore it with them…

O: Well, the more we explore it, the more they see that they must change it.

T: (smiling) So, you fool them. Nice!

O: (hopeful) You really think so?

T: I think it’s a beginning. (ticks beside “fool”) But a trickster is a magician, a transformer, and a powerful one. What skills do you have in that area?

O: I shape-shift a lot. (questioning glance from Trickster). I am a listener, a teacher, a translator, a mediator or an arbiter of process. I have a closet full of hats.

T: Not bad.

O: And I frame and reframe.

T: What does that mean.

O: (becoming passionate as she speaks) I switch focus from past to future. I turn a blame into a need. I weave people’s mission statements into my recommendations. I make people want to excel at being fair!

T: You have a velvet tongue, my friend. Your magic is words.

O: (modest) If you say so.

T: (ticking beside “powerful” and “transformer”). Fine then. That just leaves us with culture hero.

O: (throwing his hand up in defeat) Well, I am no hero.

T: (thoughtful) But you go and speak with anyone on campus, you said, you bring up anything you want.

O: (modest) Yes.

T: And if they don’t listen, you write reports, you said.

O: That’s true.

T: And if it is difficult to change but most unfair, you will try again and again you said.

O: Yes.

T: And that doesn’t make you a hero?

O: Well, I don’t get the credit, you see. It’s not really me changing things anyway. I just plant an idea here and there.

T: Ah, but you plant it in the right ear!

O: (smiling) So you think I have a chance?

T: (ticking beside “cultural” and “hero”). You, my friend, have a lot of potential.
Seven Conditions for the Ethical Justification of Academic Ombudsing*

by Hugh Lehman and Thaddeus Spratlen

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Since June of 2002, Thaddeus H. Spratlen has been Professor Emeritus of Marketing at the University of Washington Business School. He joined the UW faculty in 1972 after three years at UCLA and previously nine years at Western Washington State College. Thaddeus’ teaching and research interests in relation to ethics have included topics in public policy and corporate social responsibility with specific reference to targeting vulnerable segments in cigarette advertising and critiquing academe’s moral failure in the retrenchment from affirmative action. More recently he has focused his writing on co-authoring a textbook with Leslie Lum and Michael Verchot on Managing and Marketing in a Multicultural Environment. He and the co-author have been friends since the 1960s. Thaddeus has been a scholar-activist throughout his career and has been involved in numerous peace, social justice and civil rights causes. He also has served in many leadership roles with the ACLU of Washington, The African American Jewish Coalition for Justice and the Abe Keller Peace Education Fund.

It is common in colleges and universities to have an office to serve the function of resolving conflicts among individuals associated with the institution. Such individuals may be students, faculty, researchers and other staff workers such as laboratory technicians, managers of research stations, office staff, etc. The official who occupies the office of conflict resolution is often called an ombuds, ombudsman or ombudsperson. In an academic institution, conflicts may arise with respect to many matters. Among these are allegations of sexual harassment or of other forms of inappropriate behavior, various forms of unjustified discrimination, unfairness in regard to distribution of resources, improper behavior or unfairness in regard to grading of students or evaluation of professional standing among faculty, etc. The knowledge and experience of ombuds may also be put to use to effect changes in university policies and practices. Such changes can contribute to the elimination of unfair practices, increases in equitable outcomes in conflicts, or other improvements in people’s lives with respect to ethical matters.

Our purpose in writing this paper is to contribute to an understanding of the nature and practice of ombuds and ombudsing. In particular, our discussion clarifies the ethical dimensions of ombudsing by explaining the seven conditions that represent the ethical justifica-

*We would like to thank the anonymous reviewers for their critiques and criticisms of the language and arguments in earlier versions of this paper. We have attempted to incorporate revisions that add to the clarity of our presentation. True to all philosophical discourse, we expect that we have not satisfied all of our readers.
tion for academic ombudsing. More specifically, we present ethical concepts and principles that should be practiced in order to be consistent with two broad ethical frameworks, Utilitarianism and Kantian ethics. Our explanations are aimed at an audience of practicing ombuds rather than academic specialists in moral philosophy. Our goal is to help the reader better understand ethics and equity in relation to the characteristics of academic ombudsing.

The conflicts with which ombuds are concerned regularly, if not always, involve allegations that some behavior, either of individuals or groups, is unethical, i.e., morally unacceptable. A primary goal of the ombuds is to resolve the conflict in a manner that is acceptable to all parties involved. To do this the ombuds will often have to address the question concerning unethical behavior. To do this effectively, the ombuds must have general ethical knowledge as well as sufficient ethical sensitivity and judgment to understand the particular situations with which she is confronted. By using these and other skills properly, the ombuds can reduce or eliminate allegedly unethical behavior.

Further, the ombuds is expected to follow and satisfy certain conditions in pursuing the resolution of conflicts. These conditions are explained in the first section of the paper, where they are linked to basic ideas regarding ethics and equity.

To explain the relevance of ethics to the conditions in ombudsing we explain two ethical frameworks, Utilitarianism and Kantian ethics. We show that regardless of whether one approaches ethics in a Utilitarian or a Kantian manner, ombudsing must satisfy the conditions in question. Equity is integral to the discussion because the performance of the ombuds and outcomes expected by participants are connected to expectations of fairness, justness or other ideas associated with notions of equity.

**Characteristics or Conditions of Ombuds and Ombudsing**

We discuss several characteristics or conditions that are an integral part of academic ombudsing. For more detailed analyses of these characteristics see Anderson (1969), Anderson (2001), and The Ombuds Handbook, (1995). In The Ombuds Handbook four characteristics are referred to as cornerstones of ombudsing. These are neutrality (impartiality), confidentiality, independence, and access. We believe that three others are also fundamental conditions: voluntary participation; the ombud's expertise in governance; and recognition as an informal process in which the ombuds has the power to recommend action instead of being an enforcement authority in the academic institution. These conditions are, of course, ideals. In the real world ideals are never perfectly realized.

We start with the first condition that the ombuds must, so far as possible, be impartial. In other words, in approaching a conflict to be resolved the ombuds must not be biased in favor of any of the individuals involved in the conflict. The ombuds must be like an umpire or referee at a sporting event in not supporting some contestants over others.

The second condition is that all proceedings of the ombudsing process are expected to be kept confidential.

Thirdly, the ombuds must be independent. This means that the office and the person who fills the office must not be subordinated to or affiliated with any part of the university that could influence her judgment concerning matters presented to her.

The fourth condition is that the process must be universally accessible within the university. Denying access to the process to any individuals would be inequitable.

The fifth condition is that participation in the process must be voluntary. Individuals must not be coerced into accepting the services of the ombuds.

As a sixth condition, ombudsmanship is an informal process of conflict resolution and management in which participants represent their own interests instead of having a legal or other third party advocate represent their interests. Participants may also pursue other means of resolution, if they do not reach a mutually satisfactory agreement in the process. Within this condition it is also recognized that the ombuds has the power to recommend action rather than to enforce penalties or sanctions directly.

The seventh and final condition is that ombuds are expected to offer expertise in governance such that users of the services are assured consistency and familiarity with policies, procedures and rules of the institution in which services are provided. Lacking such competence, it is unlikely that participants can be served effectively and equitably.
We shall next turn to the explanation of two ethical perspectives, Utilitarianism and Kantian ethics, and shall indicate why, on either of these views, ombudsing must satisfy the above conditions.

**Utilitarianism**

Briefly stated, Utilitarianism is a theory about our moral obligations. It is associated with two English philosophers, Jeremy Bentham and John Stuart Mill. According to this theory, we are each morally obligated to act so as to produce the greatest good. This terse statement requires some elaboration. Our task is to explain the nature of goodness and how goodness relates to utilitarian decision making. We also explain how, on Utilitarian grounds, we should make our decisions concerning what we ought to do.

One of the assumptions included in any Utilitarian theory is some assumption concerning the nature of goodness. In other words, it is an assumption concerning what makes anything good. An assumption about the nature of goodness provides an answer to the prototypical question, “Why is Y good”? It may answer the question by specifying some characteristic the possession of which allegedly makes a thing good. It may answer the question by specifying some relationship such that anything that stands in that relationship is (allegedly) good.

A theory about what is good is often also a theory about what is bad. Frequently, Utilitarian theories are hedonistic; that is to say they regard pleasure as good and pain as bad. Something is good in so far as it is pleasant and bad in so far as it is painful.

Another theory about what is good (and bad) is the view that what satisfies desires is good and what frustrates desires is bad. Theories that make this assumption about goodness are also normally considered to be hedonistic. There are still other assumptions that could be considered concerning goodness. Further, one doesn’t have to agree that only one kind of characteristic makes anything good (or bad). It may be that both pleasure and the satisfaction of desires are features that make something good. Clearly, we could say much more about theories about goodness. Further, the reader may have some objections to either of the above theories of goodness. In a more complete discussion we would try to assess objections as part of a procedure for determining our own theory about goodness.

In determining one’s obligations within a Utilitarian framework, we envisage a person as trying to determine whether a particular course of action is ethically required. To do this he tries to determine what the consequences of his performing the action will be. He also tries to determine what the consequences of his not performing that action will be. Then he tries to determine the overall goodness and badness of the consequences of each of these alternatives (either performing or not performing the action). We may think of the overall goodness as the total amount of the goodness minus the badness that the action would yield. According to the Utilitarian, a person is obligated to do whatever alternative produces the greatest overall goodness. This approach can be applied to issues concerning social practice or policy as well as to individual actions. For example, one can determine whether a practice related to ownership of property is morally acceptable by considering whether
following a specific practice rather than some other practice produces maximum goodness. In sum, with respect to both individual and social policy decisions within a Utilitarian framework, the moral worth of any alternative or action is determined solely by the relative goodness or badness of its consequences.

As the reader can see, there are many problems that a Utilitarian must address. One of these is to settle on a theory of goodness. Another of these has to do with the problem of aggregating the goodness in a wide variety of events or states of affairs. Nonetheless, if the reader will reflect on her own behavior, she will probably see that in trying to determine what she ought to do, or what someone else ought to do, she often appeals to hedonistic considerations to settle the issue. Commonly then, some attention will be on ways of seeking pleasure or happiness (or avoiding pain and unhappiness) in settling the issue.

We also recognize that there are non-hedonistic variants of Utilitarianism. However, rather than engage in that discussion, we think it would be more helpful to the practicing ombuds for us to emphasize that high priority should be given to getting the facts right for evaluating the consequences of the choices and decisions that are made in a Utilitarian framework. Effort should then be focused on selecting the best possible level and balance of good consequences over bad consequences for all parties in, or who are affected by, the conflict.

Kantian Ethics

The second basic ethical framework that we present is grounded in the work of Immanuel Kant. Like many German philosophers of earlier times, Kant used a complex technical vocabulary to express his thought. Consequently it is very difficult: to understand Kant is his own words (or in their English translations). We do not attempt to explain Kant’s terminology. Our presentation expresses the central principles of Kant’s ethics in ways that will be understandable and relevant to our readers.

Kant’s thought is often unfairly criticized. Part of the reason for this is that Kant called the principle, which he thought was the fundamental ethical principle, the categorical imperative. What he meant by the use of the term categorical is essentially that a person’s having a particular obligation is not defeated or undermined by that person’s not wanting to fulfill the alleged obligation. In general, Kant thought that our obligations are independent of our personal inclinations. Utilitarians would not disagree with this point. On Utilitarian grounds, our obligations may in the same sense be categorical. Further, one can be a Kantian and allow that our obligations may vary depending on particular circumstances.

The main distinction that we want to make in this comparison between Utilitarianism and Kantian ethics is that the former stresses that judgments should be focused on the consequences of actions. In the Kantian framework the individual’s moral principles rather than consequences of the actions determine whether an action is morally right or wrong.

In the course of explaining Kantian thought concerning ethics, it will be useful to use an example. Thus, we present a brief story concerning a professor whom we call X at the university with which the first-named author was associated for twenty seven years. He was in a department that we choose not to name.

Professor X acted as if his primary job were to vigorously criticize any colleague who raised questions about the acceptability of an emerging technology. (Of course, that is not the official description of Professor X’s duties.) The technology of interest has great potential and is strongly endorsed by members of the American government both in the executive and in the legislative branch.

There is nothing unusual about one university professor criticizing the work of others. Indeed, criticisms of a certain sort are an important part of the assessment of knowledge claims, a process that is essential to making progress in knowledge generation and understanding. However, Professor X’s criticisms are unsatisfactory. His criticisms are unsatisfactory for both methodological (or epistemological) reasons and for ethical reasons.

When Professor X criticizes a colleague’s work, rather than respectfully interpreting what his colleague has said and then raising relevant substantive or methodological questions about it, he normally engages in various irrelevant appeals to belittle his colleague and thereby to undermine his or her credibility. For example, where a scientist has raised questions about the effectiveness of the technology in producing the benefits it is alleged to have, Professor X does not discuss the scientific evidence concerning the effectiveness of the technology. Rather, he suggests
that the work of the scientist in question is "junk science" or uses other pejorative terms concerning the scientist. Briefly, Professor X engages in name calling and making other irrelevant appeals. Since the reasoning deployed by Professor X to challenge the claims made by his colleague is manifestly fallacious, it does nothing to advance the quest for knowledge. Professor X's remarks are useless for the task of distinguishing empirically valid knowledge or scientifically warranted beliefs from opinions that have not been subjected to scientific scrutiny or even from opinions that have been found to be false.

Professor X's criticisms are unacceptable on ethical as well as on methodological grounds. We could argue for this on the basis of the basic ethical postulates of a number of distinct ethical perspectives. According to a Utilitarian perspective, a person is morally obligated to act so as to increase the well-being of the greatest number of people (and perhaps other sentient creatures as well). While Professor X's behavior may enhance the well-being of the stockholders and employees (and their families) of the technology corporations whose interests he represents, his remarks have so many negative consequences, that there is little question that the well-being of the greatest number of people is not served.

Since Professor X is a member of a respected department of a respected technological university, his words carry some weight with the general public. Consequently he adds to confusion about technology. Further, his actions interfere with pursuing the customary path towards useful scientific work. Moreover, people may be unnecessarily harmed because they trust him in regard to the technology in question, etc.

Kant formulated what he regarded as the foundational ethical principle in several ways. He argues that the various formulations are equivalent. Here we state two of the formulations.2 To avoid an extended technical discussion, we will not pursue the issue of whether the two are equivalent to each other.

According to the first formulation, we are required never to treat any other human being merely as a means to our own ends. The second formulation may be stated as follows: In all of our dealings with other persons, we are required to respect their capacity to determine and to do the right thing as a result of their own rational choice.

The behavior of Professor X is incompatible with either Kantian principle. By abusing his colleagues (and others) in order to further his career interests and benefit the technology companies who, we suspect, are ultimately responsible for the money that supports his position, he is using his colleagues merely as means to his own ends. Similarly, he fails to respect the capacity of his colleagues to play a rational part in the assessment of technologies or to control their behavior in accord with the dictates of moral reasoning. We shall return to this point briefly below.

Let us consider the implications of these two Kantian principles with respect to some further examples. In many cases, if we lie to a person in order to benefit ourselves or protect ourselves from some harm, then we are using the person merely as a means to our own ends. By giving the person misinformation we are trying to control the other person's behavior in a way that that person might not have chosen had he or she had all the available relevant information. We may do this to avoid harm or to achieve some other benefit for ourselves. When we do this we are not concerned with the desires or goals of the person to whom we lie. Again, if we try to control a person's behavior by use of force or threat of force we are failing to respect their capacity to rationally determine their own course of action.

We recognize that this brief discussion of a Kantian way of approaching ethical questions is woefully incomplete. Many questions will come to the reader's mind as to how to apply the Kantian approach to ethics, questions that the above discussion is insufficient to resolve. For example, we do not attempt to reduce Kantian ethics to a single decision rule that can be generally applied to specific conflicts and cases. But the two basic requirements of the framework stated above should be readily applicable to conflicts and cases. We should also note that unlike the Utilitarian perspective, determining our obligations by reference to Kantian thought does not require us to aggregate goods that are difficult or impossible to aggregate. Were this a course in ethics there would be as much opportunity to pursue such questions as time would allow. However, this is not a course in ethics. It is an essay in which we wish to suggest that a Kantian approach is appropriate for regulating interpersonal relations within universities.
Moreover, either a Kantian or a Utilitarian approach to ethics serves both to understand and justify the conditions that ombuds and ombudsmen are expected to satisfy. We noted above that if the reader reflects upon her thought processes when she is trying to determine what she ought to do, she will often find that she is engaged in Utilitarian thinking. However, it is also true that a person who is trying to determine her obligations will often appeal to Kantian considerations as well.

**Ethical Justification of the Characteristics of Academic Ombudsing**

University policies regarding the practices of ombuds or officials concerned with resolving disputes among faculty, students and faculty, faculty and administrators, etc. generally require that conversations with the ombuds be regarded as confidential. Ombuds must be neutral or impartial and must be independent. It is also normally required that the decision whether to use the services of the ombuds must be voluntary and universally accessible. Ombudsing is recognized as an informal process in which the ombuds is expert in the rules, policies and procedures of the institution. These conditions can readily be justified on practical, that is, on non-ethical grounds.

If the ombuds is to effectively serve to resolve disagreements or controversies among personnel of a university without the inconveniences associated with formal or legalistic processes, then employees of the university must be willing to make use of the services of the ombuds. This is unlikely to happen if a person considering using such services thinks that by doing so he or she is going to relinquish his capacity to act autonomously. Such a person is unlikely to enter into a relationship in which he might be coerced to accept an outcome that he does not regard as in his best interests.

Similarly, a potential client of the ombuds would normally not consult the ombuds if he regarded the ombuds as partial toward the person with whom he had a conflict. Again, in cases of controversy between students and faculty, a student would be most unlikely to make use of the ombuds’s services if she thought that the ombuds’s services were to be influenced by conditions not relevant to a just or fair resolution of the conflict.

Similarly, we can say that the remaining characteristics of academic ombudsing enhance its effectiveness. We consider this to be a practical justification for the conditions in question. However, assuming that these conditions enhance the effectiveness of the work of the ombuds’s office, it is likely that satisfying the conditions also yields decreased pain and suffering or increased pleasure. We consider it appropriate to infer that ombudsing won’t work or won’t work well, if its basic characteristics are not satisfied in the totality of an ombuds’ practices and services.

Proceedings carried on under the ombuds’ auspices are less formal or legalistic than other conflict resolution procedures that are offered in academic institutions. Thus, they are likely to be less irksome. Further, in these less formal proceedings, the parties involved have more control over the exact terms of the steps to be taken to resolve the conflict than they would have in a more legalistic proceeding. This being the case, the resolution is likely to be more pleasing (or less painful) to all parties. In other words, the actions of the ombuds subject to the conditions in question tend to produce the greatest good for the greatest number. Thus, the practical justification for a college or university to have an office for informal resolution of conflicts subject to the conditions mentioned is also a moral justification for having such an office subject to those conditions. It is a moral justification on Utilitarian grounds. Thus, we have presented a Utilitarian argument for the claim that, if the conflict resolution process is ethically justified, then the above seven conditions are satisfied.

The same claim can be established within a Kantian framework. We try to show this, as briefly as possible, in the following discussion. First, consider why the ombuds must be independent. If the ombuds is dependent on some third party who has influence over the advice or recommendations that she makes, then the client is, in effect, being used merely as a means to further the interests of the third party. For the ombuds to be acting ethically she must treat the client as rationally choosing to participate in the conflict resolution process. For example, in a controversy between a student and a professor, if the well being of the ombuds can be determined by the professor in question, then it would be irrational for the student to consent to intervention by that ombuds. To use a common way of expressing this, if the ombuds makes decisions that reflect or are based on being dependent on someone else for her well being, then the
ombuds has a conflict of interest. If the ombuds is acting to further the interest of someone on whom she is dependent then her action is not in accord with the Kantian maxim. She is using the client merely as a means to some else’s objectives.

Similar considerations apply to the condition of impartiality. If the ombuds is partial, then the student will be at a disadvantage vis-a-vis the professor in the conflict resolution process. A student could not knowingly and rationally choose to put herself at a disadvantage in such a controversy. If the student knows that the ombuds is partial then as a rational person she would not voluntarily choose to utilize the services of that ombuds when involved in a controversy with a professor. Consequently, if the ombuds is partial then she is not treating the client as capable of rationally choosing her service in order to receive a fair resolution of the controversy.

The argument that in an ethically justified conflict resolution process the participation is voluntary can be expressed very briefly. The obligation to treat all human beings as if they are capable of rationally determining the right thing to do and of choosing to act accordingly has no exceptions that would warrant coercing students or faculty to participate in a process of conflict resolution. Essentially this principle says that individual human liberty or autonomy must be respected. When this condition is set aside, as it often is for legal proceedings or punishment, then some ethical justification must be given. Ethical justifications for legal systems and punishment on utilitarian grounds can readily be envisaged. For a number of reasons such systems may promote the greater good.

However, justifications for use of compulsion on Kantian grounds are complex and controversial. Some thinkers have argued that compulsion cannot be ethically justified on Kantian grounds. Others have suggested failure to bring an alleged criminal to trial shows a failure to respect the criminal as an autonomous person. In any case, since we are considering a process that is voluntary, we do not need to pursue that issue. Similar Kantian considerations show that an ethically justified conflict resolution process is subject to confidentiality and that it must be universally accessible.

With respect to the characteristic of being expert in governance, it is questionable whether there is a clear-cut Kantian justification. While it surely would be rational to expect the ombuds to be competent regarding institutional rules, policies and procedures, (to be consistent with Kantian reasoning) we cannot say that, if the ombuds is not an expert in governance, the client is being used merely as a means to someone else’s objectives.

We can use the Kantian approach to explain why the actions of Professor X are immoral. The tactics that Professor X uses to achieve his goals are coercive. He is trying to use social pressure to silence dissent. In so doing he uses those faculty who disagree with his view merely as means to his objectives. He tries to coerce or force them to do what he wants rather than respecting their capacity to determine what to do rationally. He uses pressure to influence their judgment rather than appealing to logically relevant considerations to invite them to modify whatever conclusions they had reached that were critical of the technology that he supports.

**Equity**

In the previous section of this paper we argued that when ombudsing satisfies the seven fundamental conditions and characteristics, it is ethically justified. In this section we relate the ethical justifications to notions of equity in ombudsing. This is in many respects the overarching standard by which the process and outcomes of ombudsing are to be judged.

Equity includes or connotes justness or fairness. It also means freedom from bias or favoritism. Further, equity, in a distributive sense, is a fair, though not necessarily an equal, distribution of the wealth, opportunities and assets of a community. Equality, like liberty, is a moral ideal and much has been written concerning the propositions that must be made true in any society in which this ideal is realized. These ideals, liberty and equality may both be realizable in a society providing that each ideal obtains within limits. No rational person advocates the realization of unrestricted liberty. Indeed, since one person’s liberty will often restrict the liberty of others, unrestricted liberty for everyone is unachievable. Total or unrestricted equality for everyone is not achievable either. To achieve total equality everyone would have to be identical.

The degree to which we should pursue equality is a matter of controversy. Some people have argued that everyone is entitled to equal consideration of interests, i.e., desires or objectives. Some have ar-
argued that everyone is entitled to equality of opportunity. Some people maintain that wealth should be distributed equally among all people (or all members of one’s society). While some people might say that the only fair distribution is one in which wealth is distributed equally, few highly respected moral philosophers have taken this position. For example, Plato, in his work The Republic, notes that some people have greater needs than others. Plato may be taken in this section of the work as suggesting that wealth should be distributed according to need. According to this suggestion, if there were people whose needs were not being met, for example because they didn’t have enough wealth for adequate nutrition, while others had excess wealth (assuming that we can determine when all of a person’s needs have been met), then the wealth should be redistributed to achieve greater equity. Clearly, there is much more that could be said concerning equity in regard to the distribution of wealth.

Further, there is more that could be said in regard to distributive equity within a university community. In a university community it could perhaps be argued that every member is entitled to equal access to the services of the ombuds (assuming that there is an ombuds). However, there are clearly limits to the equality of individuals in a university community. For example, it is clearly not the case that every member of an academic unit such as mathematics, for example, is entitled to an equal opportunity to teach a course in functional analysis or point-set topology or some other specific course. Rationally, that decision has to rest on education, experience, seniority or other academic criteria. Further there is much more that could be said concerning the extent to which it is acceptable to restrict liberty to achieve greater equality and vice versa. However, a full consideration of distributive equity is outside the scope of this work. The implication for ombudsing is that equity considerations should be paramount in evaluating the choices and outcomes in the services that are provided.

Here we are concerned with equity in regard to a process involved in the resolution of conflicts. However, we are not concerned with all such processes. Democratic political procedures can be an equitable way of settling controversial issues concerning public policies. In this paper we do not consider the nature, limits or justification for democratic procedures. Rather, we are concerned with procedures for resolving conflicts in rather limited circumstances such as within universities or other comparable institutions.

The type of equity with which we are here concerned is similar to the type of equity that should obtain in courts of law. Everyone who has to undergo a trial for an alleged crime should have a hearing in which the outcome is not predetermined by bias or a judiciary that is not totally independent. Any person who is subjected to a hearing or trial should have an equitable opportunity to be acquitted. If a civil proceeding is equitable, the judge or jury will not be biased either in favor of or in opposition to either contestant. A trial in which such equality obtains is an equitable trial. However, the notion of equity in conflict resolution within universities and other institutions differs from the ideal of a fair trial that is commonly expressed by saying that a person is innocent until proven guilty beyond a reasonable doubt. In a fair trial, the prosecution bears the burden of proof. In consequence, so far as the trial process is concerned, the accused person is more likely to prevail. The accused does not have to establish his or her innocence. In regard to the conflict between the prosecutor and the accused person there is a type of inequity in the proceedings.

In ombudsing we emphasize that the fundamental requirement of equity is that the rules and conditions of the process itself do not favor either participant. Each participant in the process is expected to disclose accurate and reliable information regarding the conflict at hand. It is customary for the person against whom a complaint is filed to be expected to explain, defend and give an account of his or her allegedly errant behavior. When facts are irreconcilably in dispute, obstacles against resolution may be insurmountable. The parties are not likely to reach mutually satisfactory outcomes when facts are disputed (and there is no objective basis for the ombuds to reconcile the factual differences between parties). Yet when there are differences in intent, perceived motives or other aspects of a conflict that are subject to interpretation, chances of reaching mutually satisfactory outcomes are more promising. Nevertheless, for the process to be fair, the rules and conditions to which the process must conform must not, in and of themselves, make it more likely that one of the participants has a better
chance of prevailing than the other. That is, in a fair or equitable process it is not the case that the conditions of the process ensure that one participant rather than the other is more likely to achieve the outcome that she desires. This is not to say that in an equitable process of conflict resolution each of the parties to the conflict is equally likely to be happy with the outcome. For reasons having to do with the substance of the conflict, one of the participants may be more likely to be pleased with the outcome than the other. But pleased or not, the participants must reach a mutually satisfactory solution to the conflict. If they do not agree with the outcome, participants go to a formal or some other process in the institution. Alternatively, the complaining participant may decide not to pursue the matter further for his or her own personal reasons.

To illustrate the idea of an equitable conflict resolution proceeding, let us consider a hypothetical example involving Professor X and one of his colleagues. Let us suppose that the university at which Professor X works has an ombuds and that some other professor, say Professor V, at the university brings a complaint to the ombuds. Professor V might allege that Professor X’s behavior was unprofessional in that he made remarks in public (or which were published) that were degrading to Professor V; and further that unless this slur to his reputation is rectified, his reputation will suffer, thereby reducing his opportunities for professional advancement. Suppose further that Professor X can either agree to accept the mediation of the ombuds or face a formal trial in a court of law. If such a court rules against him, he might be reprimanded or even face harsher penalties, if damages and pain can be documented. Under those circumstances Professor X would face fines or other sanctions. Such an eventuality could persuade Professor X to agree to mediation by a university ombuds.

Since Professor X’s remarks are on the public record, and since the remarks he makes are clearly instances of fallacious appeals, the ombuds will have little trouble in determining that Professor X really did say what Professor V alleges. Further, the ombuds can readily determine that X’s public comments do not contribute to the advancement of knowledge and that it belittles Professor V. It might then be reasonable for the ombuds to propose that X publicly apologize to V and agree not to engage in public vilification in the future. If X agrees to these stipulations then X will have some incentive to accept this resolution since he will thereby avoid more rigorous scrutiny in a court hearing and avoid the risk of more severe penalties. If the conflict resolution process were equitable, then the process itself did not favor either Professor X or Professor V. However, given the substantive details of this case, in an equitable conflict resolution process, Professor V is surely more likely to prevail.

Let us note that if a process of conflict resolution is morally justified then it is equitable. However, the converse proposition does not hold. A process could be equitable and still fail to satisfy some condition in ombudsing. For example, there could be an implicit coercive element or threat of legal action that persuades Professor X to concede to mediation in the hypothetical ombuds proceeding. In another situation one participant might divulge what was supposed to be confidential information to an uninvolved third party. If such discrepancies do not undermine the overall integrity and acceptability of the ombudsing process, the outcomes could still be equitable.

Conclusion

We have explained how a conflict resolution procedure involving the work of an ombuds can be morally justified and thus would be an equitable procedure. We have included in our explanation how procedures, conditions and characteristics are justified within either a Kantian or a Utilitarian moral framework. Carrying out the functions of ombudsing under such conditions often leads to outcomes that also achieve equity for participants in the ombudsing process.
References


End Notes

1 The reader wanting to learn more about ethics could consult any of many good introductory works on ethics. One place to start would be to ask a member of a university philosophy department for guidance. The classic works on utilitarianism are the essay by John Stuart Mill called Utilitarianism and the work by Jeremy Bentham called Principles of Morals and Legislation. There are many published editions of these works. Kant’s major ethical works are his Critique of Practical Reason and Fundamental Principles of the Metaphysics of Morals.

Two previous articles in The Journal should be mentioned as background literature. In 1997, James W. Vice wrote “Neutrality, Justice and Fairness, (pp. 39-52) in which definitions of justice from Plato’s Republic are discussed along with other criteria for applying concepts from ethics to interpret neutrality and fairness in academic ombudsing. In 1996, Kathleen Beattie wrote “Ethics in the Academy” (pp. 1-5) in which the ombuds is cast in the role of being the “community conscience.” She uses situations or cases to illustrate what constitutes ethically appropriate behavior. But neither Vice nor Beattie provides a comprehensive framework for understanding the broader ethical dimensions of academic ombudsing.

2 The first formulation that Kant gave of the principle he called the categorical imperative was that we are required always to act on maxims that we could rationally will as universal laws. This formulation raises issues that are peculiar to Kant’s philosophy. However, discussion of those issues is no: central to an introduction to ethical thought.

3 In saying the process of conflict resolution is confidential we mean that personal information or ideas or other matters that are part of the process are not published in any way without the consent of all parties involved in the process.

4 We include in this discussion legal criteria and relationships because equity has such a long and extensively documented history in our system of jurisprudence. In a partial quote from Black’s Law Dictionary, (1991, 6th Edition) equity “denotes the spirit and habit of fairness, justness, and right dealing” (p. 540) that govern human transactions and interactions.

One instance of legally defined equity can be illustrated with respect to marriage dissolution. In nine community property states (AZ, CA, ID, LA, NV, NM, TX, WA and WI), the husband and wife are deemed to equally own all money earned by either one of them during the marriage, even if only one spouse works. In addition, all property acquired during the marriage with “community” money is deemed to be owned equally by both the wife and husband, regardless of who purchased it. “Community Property and Equitable Distribution” http://www.legalzoom.com/law_library/pre-nuptials/community.html. In the 41 other so-called equitable distribution states, equity in the division of property is established through the evaluation of multiple criteria (length of marriage, capacities of the parties, property owned by each spouse and many other factors). We add this background to indicate that even within long-established rules of law, the determination of equity can be quite complex and ultimately judgmental in nature.
The Ombuds Profession as a Storied Profession

by Elizabeth E. Graham and Lynn M. Harter

Elizabeth E. Graham (Ph.D, Kent State University, 1987) is the University Ombuds at Ohio University and has served in this capacity since 2002. She is an active member in the California Caucus of College and University Ombuds and regularly attends the Asilomar conference. In addition to being the Ombuds, Beth is also a professor in the School of Communication Studies at Ohio University. She teaches courses in interpersonal communication, research methods, and statistics on the undergraduate and graduate level. She has published journal articles and book chapters concerning communication in families experiencing transition, change, and possible reconfiguration and is currently co-editing a new edition of the Communication Research Measures Sourcebook.

Lynn M. Harter (Ph.D., University of Nebraska, 2000) is an Assistant Professor in the School of Communication Studies at Ohio University. Her teaching and research interests focus on discourses of health and healing and organizing processes, feminist and narrative theory and practice. Her research has encompassed a range of issues including participation in the workplace, poverty and homelessness, disability-related concerns, and the aesthetic and spiritual dimensions of communal life. She is currently working with the Ohio University College of Osteopathic Medicine’s Mobile Health Clinic, a traveling clinic that provides curbside care to underserved populations in Appalachia, and facilitating an externally funded project with Passion Works, a studio that supports the art of people with disabilities.

The office of the ombuds plays a central role in facilitating a deepened sense of community inasmuch as it informs, serves, invites, and engages visitors so that they can feel empowered to resolve their own issues. When people visit an ombuds office it is often that they share a personal narrative, detailing the characters, plot, villains, and vic- tims. Sometimes, the ombuds is able to help the visitor identify alternative ways of framing events and individuals. In some cases, providing visitors with a safe place to tell their story helps prevent problems from erupting into explosive, legal cases. Of course, the storytelling nature of ombuds work doesn’t end when a visitor leaves. Ombuds must re-narrate the events from their own stand- point as they investigate the concerns presented by visitors and other related parties. In short, the ombuds profession is a storied pro- fession.

Although storied professions have become increasingly important to communal life (e.g., therapeutic settings and customer service work), sustained examinations of how narrative functions in such settings remain rare (see critiques by Frank, 2004, and Morgan-Witte, 2005). University ombuds are uniquely positioned to reveal the power of narrative as a resource for individual and organizational change. In this essay, we position the ombuds office as a storytelling hub—a space in which to explore the process of narrative knowledge development often discussed but rarely captured through empirical study. We couple narrative theory with ombuds practice as we lay out key concerns of narrative theory and illustrate how such sensibilities have heuristic merit when situated within the ombuds setting.

Coupling Narrative Theory with Ombuds Practice

Narratives involve characters who perform roles in various settings and at specific points in time (e.g., Burke, 1969; Bruner, 1987; Fisher, 1984; Ricouer, 1984). Human beings rely on storytelling to engage in sense-making and attribute meaning to events. As
such, narrative remains a primary way we perceive, experience, and judge our actions and the value of our lives and the world around us. Narrating is a relational process that works simultaneously as an agent of self-discovery and self-creation, constituting knowledge of self and other and shaping our actions and behaviors. “In order to make sense of our lives and to express ourselves,” argued White and Epston (1990), “experience must be ‘strored’ and it is this storying that determines the meaning ascribed to experience” (pp. 9-10).

Opportunities and identities arise for narrators and other characters through the telling of particular stories in particular ways. Scholars and practitioners working in storied professions ought to pay attention to which stories in their (re)telling become taken for granted knowledge and how stories evolve and change as various individuals render their experience in alternate stories. Equally important are gaps in stories (e.g., incomplete or embellished plot lines and characters) as well as the absence of particular stories altogether.

In their synthesis of narrative theory, Harter, Japp, and Beck (2005) identified several problematics (i.e., shared concerns) that remain central to narrative theory. We find two problematics particularly useful in thinking about the storied activities of university ombuds: (1) the problematic of continuity and disruption, and (2) the problematic of the partial and indeterminate. Next, we discuss each of these problematics, connecting narrative theory with the narrative practices of ombuds.

**The Problematic of Continuity and Disruption**

The problematic of continuity and disruption concerns chaos and reveals how narratives remain deeply about human plight (Harter et al., 2005). At the heart of well-wrought stories is what Kenneth Burke (1969) called Trouble with a capital “T.” Indeed, the primary impetus for narrative activity is expectations gone awry—in and through stories we come to terms with our imperfect grasp of the oddities of the human condition.

In large part, stories allow us to account for disruption and restore the continuity in our lives. “The narrative gift,” suggested Bruner (2002), “seems to be our natural way of using language for characterizing those deviations from the expected state of things that characterize living in a human culture” (p. 85). Ricoeur (1984) too drew our attention to plot as a central element of narrative; how characters and actions are organized in a temporal fashion as they encounter and shape predicaments and conflicts. Ideally, the storying of experience provides individuals with a sense of order and meaning in their daily lives.

Visitors inevitably enter the office of the ombuds because of perceived Trouble with a capital T. Many visitors to the office are people who have already exhausted all other avenues to address their situation. In some cases, the role of the ombuds is to help a person come to terms with a failure such as a job loss or termination from an academic program. Some situations involve communication breakdowns or miscommunications; in others there are abuses of power or non-acceptance of a practice or policy. The ombuds office, thus, emerges as a storytelling centerpiece in the personal and professional lives of its stakeholders (i.e., interested parties). We assist visitors by listening to their stories, identifying problems, assessing options, conducting inquiries, making referrals, providing education about university policies and procedures, and offering support to visitors while maintaining impartiality. In many instances no clear-cut guidelines exist and the problem is complex. Each case requires an analytical process and a creative response. The office of the university ombuds ideally serves as a fair and neutral resource for all members of the university community including students, faculty, staff, alumni, and even parents.

Serving as a shuttle diplomat to assist each side in understanding and appreciating the other’s viewpoint or working toward creative solutions is an ongoing goal of the ombuds office. The ombuds position continually challenges us to resolve problems and restore order, investigate situations, identify concerns, mediate, negotiate, serve as a change agent and an intermediary, stay current with legal and ethical issues, provide referrals, and help visitors construct counter-narratives.

It is very important to pose questions to visitors so that they might articulate critical issues, possible solutions, and outcomes. By describing the situation in their own words, visitors become both narrator and character in the unfolding saga. By carefully listening to how visitors frame events and individu-
als, ombuds, like the therapists described by White and Epston (1990), often find themselves trying to figure out how individuals may inadvertently contribute to the “survival” of as well as the “career” of the problem.

Helping visitors to identify ways that their own framing of events serves to provide “life support” for the problem remains a mainstay of the ombuds position. Oftentimes, visitors have been living with their problem for so long that they become accustomed to, and in some cases comfortable with, its existence and indeed “it” (the problem) takes on a life of its own. From the posing of particular questions to the offering of alternative ways of envisioning relationships among characters or plot trajectories, ombuds (re)construct meaning and knowledge. In doing so, ombuds become trusted co-authors of visitors’ stories.

The Problematic of the Partial and Indeterminate

The problematic of the partial and indeterminate recognizes that all narratives are discretely bounded (i.e., partial) and ongoing (i.e., indeterminate) (Harter et al., 2005). Because we perform narratives in particular moments, any narrative is always partial and can never encompass the full richness of our lived experiences. Narrative knowledge always arises within the places and spaces of performance. As such, sense-making and meaning-making are not static processes. Narrative enactments of events do not stand still—they are as indeterminate as the relationships, circumstances, and enterprises of our lives. We live stories, and in doing so reaffirm, modify, or construct new ones. Every telling or retelling of a story, through its performance, is a new chronicle that in some cases encapsulates and in other cases expands upon previous renditions.

White and Epston (1990) drew particular attention to the situated and shifting nature of narrative performances and suggested:

The structuring of a narrative requires recourse to a selective process in which we prune, from our experience, those events that do not fit with the dominant evolving stories that we and others have about us. Thus, over time and of necessity, much of our stock of lived experience goes unstoried and is never “told” or expressed” (p. 12; emphasis added).

We find the “pruning” metaphor useful in thinking about the storytelling process in an ombuds office. From a narrative perspective, visitors are characters in their own unfolding situations. Of particular import for the ombuds is how clients organize their stock of lived experience in storied form.

Yet ombuds must recognize that visitors’ stories are always partial and always shifting. Visitors “prune” out particular details in their performance just as ombuds prune visitors’ stories in their retelling. The stories visitors tell in the immediate aftermath of an event may differ from the retrospective accounts that time and space allow. Meanwhile, the ombuds has to “ferret out” concealed information that could be useful.

By understanding narratives as sense-making structures, ombuds can identify how the particularity of visitors’ framing of events potentially influences the “career” or trajectory of the problem. Ombuds also can help shift meanings and possibilities by allowing visitors the opportunity to cultivate potentially healthier sense-making structures. When persons visit the ombuds office, an acceptable outcome would be the generation of alternative stories that enable them to perform new meanings that they find more helpful or satisfying.

In some instances, the need for revision of university procedures or development of new procedures has been identified due to actions of the ombuds office. Thus, university scripts also must be understood as partial and subject to revision. We inform appropriate offices and persons when a pattern of concern develops and make recommendations with regard to ongoing problem situations and institutionalized scripts. We do not have any formal authority but rather, we rely on reasoned persuasion to bring about redress of problems as expeditiously and equitably as possible.

While it is difficult to codify the impact of our recommendations to the university, we know that when people feel valued and heard, they can participate in the university mission more fully. We know that people are empowered when they are privy to policies and information. And we know that valued, empowered university members are less distracted by ancillary and peripheral issues and are more willing to be engaged.

Implications for Practicing Ombuds

Recognizing that storytelling is an important mechanism by which
visitors manage disruptions and restore the continuity in their lives has interesting implications for practicing ombuds. For example, sometimes visitors do not know how, or more likely where, to begin when telling their story. It is at this point that ombuds can prompt and guide them into the storytelling mode by encouraging visitors to describe when and how trouble with a capital T started. At the same time that we encourage visitors to tell us their story, we must remember that their stories are told from the teller’s own perspective and therefore often only a partial rendering of the situation.

Being part of a storied profession and in effect the keeper of stories, carries with it a set of responsibilities. An ombuds must not only bear witness to stories but sometimes we are obliged to gently challenge with care the story itself and sometimes the storyteller in an effort to understand the characters, complexities, and the unfolding plot.

While we are at once the keeper of stories (and sometimes secrets) we also have a responsibility to re-articulate shared concerns in an effort to seek redress for problems and inequities. In short, when we commit to the ombuds role, we are committing to dealing with dilemmas. It is through the process of storytelling and retelling that we hope to restore peace after disruption and continuity in place of chaos.

**Conclusion**

Narrative scholars and practitioners remain concerned with the processes by which we make sense of the world; assuming that most of what we know of life emerges through relational and storied experience. The daily activities of the ombuds reveal the centrality of narrative in helping individuals cope with the experience of continuity and disruption in their lives. Addressing disruptions in the context of the ombuds office provides a safe space for visitors to confront the partial and shifting nature of our storied experience. In the ombuds context, narrative functions as both means and end. Through narrative visitors re-author their lives and leave with an altered and/or reinforced story.

**References**


An Exploration of the Education Needs of Ombuds

by Gary Insley

Gary is presently the Ombudsman at Camosun College in Victoria, BC. He has a wide range of experience and training in conflict resolution, criminal and civil justice and restorative justice. In the mid 1970’s Gary served as a UN Peacekeeper with the Canadian 73rd Battalion in the Middle East and was awarded the United Nations Service Medal, the Canadian Peacekeeping Service Medal and in 1988 he was among the many UN peacekeepers that were awarded the Nobel Peace Prize. Gary was also awarded the Nobel Peace Prize medal by the government of Norway. In 1998 Gary received training by the Royal Canadian Mounted Police (RCMP) as a restorative justice facilitator and has been the lead facilitator in over 20 cases. In 1999 he began training other facilitators in the Community Justice Forum model of restorative justice. Gary was also called upon to assist a number of communities across British Columbia in establishing community justice programs. He has sat as a plenary panel member for the British Columbia Ministry of Attorney General in regional training workshops and participated in a Canada wide RCMP study on restorative justice.

In the late summer of 2003 a research project was undertaken as part of a master’s degree on the educational needs of the international Ombuds community. The research began with an extensive review of relevant literature on Ombudsing, adult and organizational learning, and professional development. An eight question online survey was then created and notices were sent out to the international Ombuds community inviting all Ombuds to participate.

Following the completion of the survey and the collating of all the resultant data, a focus group was held during the 30th annual California Caucus of College and University Ombuds conference to further ensure the validity of the findings.

This article will outline the rationale for conducting the research, and present the results and findings of the research project.

Background

Ombudsing in North America is still in its infancy. It was only in the early 1960’s that this Scandinavian concept was first introduced to North America. “Scholarly writing about the Ombuds idea and proposals for its trans-Atlantic importation began about forty years ago. In Canada, bills proposing the creation of an Ombuds office were introduced in 1962” (Anderson, 2001). In describing the rapid growth of the profession since it’s importation to North America, Anderson (2001) speaks to “the tremendous proliferation of the office”.

With the rapid growth of Ombuds programs and offices has come an ever growing need for formal educational opportunities developed specifically for Ombuds. Ombuds are dealing more and more with cases that are inevitably more complex to resolve and require an expanded skill set. The lack of relevant training, outside of conferences and workshops, has clearly become a significant gap in the Ombuds profession.

Educational Theory and the Ombuds

For centuries Ombuds have been trained through mentoring, self-directed course work and/or internships and that remains true to this day. It seems time to now take stock of how we come to the work of Ombudsing and determine how we are going to sustain the field of Ombudsing. That we must grow and change seems obvious and to do so we must be open and responsive to learning and change in order to ensure the sustainability of each and every individual Ombuds.

The old paradigm of professional development is shifting; there
is becoming a global focus on education in all forms. As pointed out by Emberly (1996),

Technology’s universalizing and homogenizing force leads us to situations where the once isolated Brazilian Yanomamo now sport Sony Walkmen and Nike sneakers, where knowledge degenerates into mere information and data, where higher education is made synonymous with all other forms of learning. (p. 150)

That paradigm shift is evidenced in the move towards transformational learning. Cranton (1992) states, “transformational learning is a process of critical self-reflection, or a process of questioning the assumptions and values that form the basis for the way we see the world.” It is time for Ombuds to question and review our perspectives on how we learn and sustain our profession. “Why do we sometimes need to find a new perspective? While our underlying worldview is fairly constant, our external world is constantly changing. We reinvent ourselves by changing perspective” (Quinn, 1996, p. 66). To change perspective, to transform, to sustain the profession, we as Ombuds, individually and collectively, must fully engage in lifelong learning.

There is within each of us a deep hunger for this type of learning. (Senge, 1990)

In the exploration of the theories of educating adults, it became clear that it was impossible to separate the individual and the organizations in which they work. If the individual changes but the organization does not, then a rift begins and the same in reverse. “Organizational leaders are recognizing the radical rethinking of corporate philosophy which a commitment to individual learning requires. Individual learning does not guarantee organizational learning. But without it no organizational learning occurs” (Senge, 1990).

According to Senge (1990) the concept of a learning organization is directly connected to that of the individuals who make up the organization; “organizations learn only through individuals who learn” (p. 139). Viewing learning as engaging in the creative and generative process of life, Senge (1990) translates that directly to the organizations in which we work. A learning organization is “an organization that is continually expanding its capacity to create” (Senge, 1990, p. 14). This requires that we engage in change; change on the part of the individual and on the part of the organization.

This is true of all professions and Ombuds are no different. We must revisit our methods of, and commitment to, individual learning in order to ensure not only the sustainability of the organizations in which we work but of the profession as a whole. The organizations in which we serve are changing rapidly (Olswang, 2001). To sustain this generative and regenerative process (Senge, 1990) we must individually, and on an organizational level, review how and what we are learning.

External Pressures on the Ombuds Community

At least one outside group, the ABA, appears to be attempting to exert control over who can use the term Ombudsman and to regulate the profession by creating standards for the establishment and operation of Ombuds offices. As articulated by a number of the research participants, much of the current angst that is presently occurring among Ombuds is a result of “claims that Ombudsing should be solely controlled by the legal profession.” One participant related that since being imported to North America, lawyers have traditionally held the classic legislative Ombuds roles and in the beginning that was the dominate Ombuds group. The participant went on to point out that this is no longer true and “individuals from many different professions and with many different backgrounds now fulfill the role of Ombudsman and legislative Ombuds are no longer the dominate group among the North American ombuds community.”

Organizational Pressures for Educational Programming

Professional development for Ombuds is becoming much more difficult as the organizations in which Ombuds function are in a constant state of change. “In today’s changing global economy, uncertainty and constant change are an ongoing concern and an ever-
present reality” (Quinn, 1996, p. 43). Our institutions are changing at an ever increasing pace. “Organizations have changed about as much in the past ten years as in the previous fifty” (Bolman & Deal, 1997). Steven Olswang (2001), of the University of Washington illustrated the changes that Ombuds face daily in their work, stating that as the world undergoes rapid changes “conflicts of interest, time, purpose, finance, and commitment are expanding areas of concern.”

The emphasis on education for and from Ombuds is ever increasing. “Emphasis on the prevention of conflict through education and client consultation has increased—action before, rather than after, conflict occurs. Education, mediation, and resolution efforts are extremely important dimensions of this role, especially as more causes for conflict arise” (Olswang, 2001).

To provide that level of service demands that Ombuds constantly upgrade their skills and learn new methods of resolving conflicts within their organizations. “Responsive organizations need responsive people. In an age of continuous change, organizations must match their environments by being more responsive, and people must match their organizations by being more responsive” (Quinn, 1996).

“Ombuds are the change agents of today and of tomorrow. We must be prepared by educating ourselves and our institutions, to be able to respond to and with, an ever growing and changing institutional setting” (Olswang, 2001).

Internal Pressures for Educational Opportunities

Internal Turmoil:

The research results, primarily in anecdotal responses from the research participants, revealed a deepening rift or angst amongst the many sectors of Ombuds. As articulated by Anderson (2001) there has been a rapid growth in the Ombuds concept since it was imported to North America. That rapid growth has created conflict between the function of what is described as classical Ombuds and the roles and operational mandates of Ombuds in other sectors. As articulated by the respondents, a power vacuum now seems to exist and conflict has arisen as various groups or classifications of Ombuds attempt to exert control over Ombuds and attempt to define what we do as a “profession.” Many respondents stated that they fear the move to credentialization; that they wanted educational opportunities over training or credentialization.

Some of the angst seems to be driven by a perceived need for enhanced credibility and/or recognition of Ombudsmen as a profession. Yet there appears to be confusion and suspicion surrounding changes in ombudsing in general.

Some Ombuds were suspicious of the intent of this research project. One association refused to disseminate the request to participate in the research project to its’ members. Other individuals refused to participate in the research simply because the term Ombuds was used and not Ombudsman. A communication was received from one country’s Ombudsman berating the researcher for not using the correct terminology in the research invitation.

There was some confusion and/or angst caused in the use of other terms in the research invitation. There were a number of reactions to the term “profession” with some questioning whether or not we should use that term when describing ourselves. Some expressed concern over what was meant by the term and any implications of the usage of the word ‘profession.’

These responses clearly indicate the level of mistrust and concern within various ombuds associations and among individual ombuds.

Standards of Practice:

Many Ombuds organizations and associations include in their standards of practice the requirement for maintaining professionally current, such as stated in The Ombudsman Associations’ (TOA) article 9, “We keep professionally current and competent by pursuing continuing education and training relevant to the ombudsman profession” (The Ombudsman Association, 2003).

Many Ombuds offices incorporate the concept of ongoing professional development into their individual charters. “An ombudsperson has a responsibility to maintain and improve professional skills, to assist in the development of new practitioners, and to promote impartial dispute resolution in the institution.” (http://www.depts.ttu.edu/ombudsman. Retrieved, September 21, 2004.)
The Standards of Practice Guidelines of the University and College Ombuds Association (UCOA), provides specific recommendations as to the operation of an Ombuds office in general, and specifically how Ombuds should conduct themselves as professionals. Those recommendations are covered under six major topic areas: independence, impartiality/neutrality, confidentiality, informality, access to service, and professional competence. The latter is of particular significance as it directly addresses the need for ongoing education. “The Ombuds acts in accordance with professional standards of practice and pursues and provides opportunities for staff to pursue continuing education and training” (University and College Ombuds Association, 2003).

While we speak of professionalism, the term itself is difficult to define. Yet what is clear is the requirement for Ombuds to remain ‘professionally’ current through educational opportunities. There appears to be a significant gap between the requirement to remain current and the ability to do so. This apparent gap has been further validated in conversations with other Ombuds about the lack of training opportunities and in peer reviewed articles.

Brown & Sebok (2001) point out in their article, “Orienting the New College or University Ombuds,” that training of new Ombuds is more and more often falling on the shoulders of experienced Ombuds. Professional training is seen as a requirement for the new Ombuds. “Providing new Ombuds with conceptual knowl-

edge, practical skills, and information about the organizational culture … will accelerate the learning process so that the new Ombuds can provide high quality services as soon as possible after being hired” (Brown & Sebok, 2001). Yet this mentoring competes with ever increasing caseloads and complexity of cases. “Experienced Ombuds may find themselves challenged by this role” (Brown & Sebok, 2001).

The concept of the Ombudsman has grown and expanded dramatically over the past 43 years since it was first introduced to North America. Now seems to be the time to take the next step in that growth and development and move to increase our formal educational opportunities through well thought out and delivered programs. Programs which are innovative and responsive and constantly strive to meet the needs of the learners are absolutely necessary to meet the demands of a world in constant change.

Research Findings

Methodology

The research was conducted using Participatory (Community) Action Research methodologies. Participatory Action Research has been defined as “learning by doing – a group of people identifies a problem, does something to resolve it, sees how successful their efforts were, and if not satisfied, tries again” (O’Brien, 1998, p. 2). Action research can be more succinctly defined as, “…a dual commitment in action research to study a system and concurrently to collaborate with members of the system in changing it, in what is together regarded, as a desirable direction” (O’Brien, 1998, p. 2). Stringer (1996) speaks to community-based action research defining it as: “a collaborative approach to inquiry or investigation that provides people with the means to take systematic action to resolve specific problems” (p. 15).

To ensure validity of the research, multiple data collection methods were utilized. “It is the concept of using a variety of data-gathering sources to help ensure reliability that is the key” (Parsons & Servage, 2003, p. 104).

Data collection was conducted utilizing a combination of a computer-based survey of the international Ombuds community conducted in September of 2003, followed by a focus group held in November of 2003 at the annual conference of the California Caucus of College and University Ombuds, and lastly, through an analysis of the current literature on the standards of practice for Ombuds as articulated by several Ombuds associations and organizations.

The online survey targeted approximately 400 Ombuds internationally with 158 total respondents. This was followed by a focus group consisting of 12 participants, a recorder, and the researcher as the facilitator.

Findings

The thematic analysis of both the online survey and the focus group revealed the desire for educational opportunities for Ombuds.
As reflected in the survey narrative comments and in those from the focus group, there is a very strong desire among the participants to contribute to the sustainability of the Ombuds profession through the development of enhanced educational opportunities. The most frequent theme from the research comes in the question, how can we import our knowledge to, and from, others?

There were several other significant, recurring themes which surfaced during the research. The survey results, which were validated and enlarged upon by the focus group, strongly supported the need for educational opportunities for Ombuds. Respondents in this study reflected the current literature on adult education in that they articulated the desire for, and an understanding of, the value of ongoing, life-long learning. The respondents voiced the desire to have a direct say in the content of the educational opportunities that may arise as a result of this study. There was a clear distinction made between training and education, with the respondents wanting graduate level educational opportunities over short non-credential issuing workshops.

The narrative comments in the survey and from the focus group clearly demonstrated a desire for efforts to be made to ensure the sustainability of the Ombuds profession. Advanced educational opportunities were seen to be the path to enhancing the credibility of the profession. They would also provide opportunities to share our collective knowledge and history, to learn from each other’s past mistakes. To accomplish this it was stated that educational opportunities should bring together Ombuds from all areas of expertise so that we can learn from each other.

The area of study most desired was that of Organizational Leadership and Change Management. It was articulated by the research participants that Ombuds must understand an organization’s culture as well as how to work in culturally diverse organizations. Having a clear understanding of systems thinking and of the unwritten rules of an organization was seen to be vital to the role of an Ombudsman.

The ability to act as a change agent to guide positive changes through the maze of an organization’s cultures and conflicts was articulated as being central to the role of the Ombuds as an ambassador for fairness. Some respondents deemed this ability to understand the culture and subcultures of an organization as key to the survival of the individual in the position of an Ombudsman.

Another significant finding was the desire to build ‘communities of practice’ through education. Many respondents felt there is a need for Ombuds to have time to come together to learn, to reflect on what they already know,

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**Study findings: The Four Themes and their Sub-Themes**

<table>
<thead>
<tr>
<th>The Need for Formal Education</th>
<th>Sustainability of the Ombuds Professions</th>
<th>Organizational Leadership/Change Management</th>
<th>Building Community of Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standards for education</td>
<td>Self-understanding</td>
<td>Orient to company/institution</td>
<td>Networking</td>
</tr>
<tr>
<td>Non-rigid, experiential education</td>
<td>Enhanced credibility through education</td>
<td>Culture and diversity Understand sub-cultures (the unwritten rules)</td>
<td>Communication dialect</td>
</tr>
<tr>
<td>Education, not more training or credentialization</td>
<td>Share our collective knowledge</td>
<td>Ambassador for fairness and positive change</td>
<td>Time and place to reflect and grow</td>
</tr>
<tr>
<td>Have direct say in educational process</td>
<td>Be inclusive</td>
<td>Systems theory</td>
<td>Spirituality and connections</td>
</tr>
<tr>
<td>Build on what we already know</td>
<td>Live our learning</td>
<td>Understanding organizational conflict</td>
<td>Support for and by each other</td>
</tr>
</tbody>
</table>

to share collective knowledge, and to network in an educational setting. This would be in addition to the conferences we already attend.

It was interesting that the focus group for this research study occurred at an annual conference that in its’ beginning, 30 years ago, was strictly for educational Ombuds, but has slowly evolved to include organizational Ombuds. This year marked a milestone, as nearly one half of the attendees were non-academic Ombuds; a significant increase even from one year ago when the number of non-academic Ombuds would have been about 20% of the total number of attendees. The desire for an even more in-depth educational experience with Ombuds from all fields was clearly evident from the statement of the conference attendees.

In addition to the general themes that emerged, specific comments were given on the nature of the courses desired. The online survey identified eight major areas of study. The participants of the focus group further defined the course material themes that arose from the online survey. The courses most desired were organizational leadership/change management; organizational culture and subcultures; counselling/listening skills; skills on how to recognize and respond to substance abuse; strategies for dealing with individuals with mental illnesses; understanding and resolving third party conflict; investigation techniques; law courses; and advanced mediation training.

As well as the thematic data, specific data on the level of academic credential desired, the length of courses, the desirability of online training, and the time of year most desired for training, was gathered from both the online survey and from the focus group. Two narrative questions were asked, “What qualifications would you recommend to someone who wishes to become an Ombuds?” and “Do you have any other comments or suggestions?” The results from the two narrative response questions further validated the findings of the first six questions, and in turn the focus group participants validated the online survey data.

Level of Credential: There was an overwhelming positive response, 68% of respondents, to the development of a post-graduate level certificate program for Ombuds. Only 8% of respondents selected the diploma option, while 24% of respondents chose the post-graduate degree option.

Length of Course: One week (28% of the responses) and one year or longer (30% of the responses) were significantly favoured by the survey respondents over the other three options. Two weeks and one month were each selected by 10% of the participants while six months was chosen by 20%. A number of respondents in the online survey selected multiple options and one participant selected them all.

Desirability of Online Courses: Of the participants that responded, only 15% felt that online training was not desirable. The majority, almost 40%, felt that it was somewhat desirable, while 28% thought it was desirable, and 17% considered it very desirable. This question did not generate a lot of narrative response in either research setting.

Time of Year for Program: The survey provided four options: spring, summer, fall, and winter. 37% of respondents chose the summer option. The other three selections were fairly evenly split with 20.5% for both spring and winter, and fall at 22% of responses. Summer is obviously the preferred time for training; which may indicate that summer is the time of year with lower case loads for many Ombuds. Thus, they are able to take the required time off for training.

Entry Level Skills: There was a wide range of responses and thoughts on what skills and abilities an individual needed to enter the profession of Ombudsing. The responses fell into one of two categories: personal qualities, and professional skills needed to fill the role of an Ombudsman. One response that did stand out was the need for knowledge of organizational leadership and change management. This is a recurring theme throughout the research.

- Personal Characteristics: The personal characteristics most commonly referred to were, maturity, emotional intelligence, mind set, broad life experiences, common sense, ability to relate well with others within a culturally diverse setting, intelligence, curiosity, openness, ability to be objective and withhold judgment, good listener, creative thinker, innovative problem-solver, people-person, and
integrity. The most common personal values articulated throughout the research were that an Ombudsman must believe in people, be ethical, and have a deep sense of integrity.

- **Professional Skills and Training:** Professional skills listed included: organizational leadership, change management, mediation, both written and spoken superior communication skills, knowledge of conflict resolution and alternative dispute resolution, negotiation skills, group dynamics/facilitation abilities, investigative training, knowledge of due process, administrative law, and counselling/crisis intervention.

**Study Conclusions**

1) The Ombuds profession has expanded rapidly since the concept was first introduced in North America in the early 1960's. Since Anderson first began researching Ombudsing in 1960, there has been a tremendous growth in both the number of Ombuds in practice and the areas in which they practice. Ombuds are now found in colleges, universities, government, private and public companies, banks, non-profit sectors, and associations. Yet training has not kept pace with the development and usage of the concept of Ombudsing.

2) The training of Ombuds is currently being conducted by other Ombuds at conferences or in workshops. The study participants questioned the consistency, quality, and depth of the current forms of training. As articulated by many respondents in the survey and focus group, caseloads are increasing and cases are becoming increasingly complex. The research respondents clearly articulated that the current training efforts do not meet the advanced needs of current practicing Ombuds. The respondents clearly indicated a desire for higher level educational opportunities, over and above, the current training provided by TOA (now IOA) and others.

3) The participants reflected the current literature on adult education. The participants stated they see the value of ongoing, life-long education. At the same time they clearly felt a desire and need to have a say in not only the development of the program content, but in its entrance requirements and in the style in which courses would be delivered: all of which is a mirror of the modern theories of adult education.

4) There needs to be a focus on the development of formal educational opportunities if Ombuds are to stay abreast of the changes occurring in our organizations and to take advantage of the many opportunities that are developing in this profession.

**Sustainability of the Ombuds Profession**

Sustainability through education was a clearly stated need. There is concern about the credibility of the profession and the ability to take advantage of the many new opportunities arising from the growth of the Ombuds profession. There are both internal and external pressures towards creating Ombudsing as a fully recognized profession. This pressure is causing significant angst and turmoil among the various individual Ombuds in all sectors.

1) Ombuds must come to understand the growth and diversity that is occurring within our own ranks. As articulated by the research respondents and others (Olswang, 2001), caseloads are changing, becoming more complex, and increasing in numbers. The types of organizations that have an Ombuds and the roles they fulfill are changing and increasing significantly.

2) Enhanced credibility for Ombuds can be addressed through the development of formal educational opportunities.

3) Formalized education will provide opportunities to share our collective knowledge and wisdom.

4) The Ombuds profession is about fairness, justice, and in-
clusiveness. It was articulated by the research participants that any educational opportunities must be inclusive in its admittance policies.

5) To ensure sustainability we must live our learning, pass on the wisdom that comes with experience, and encourage life-long learning of our peers.

**Study Recommendations**

**Recommendation One:**
Conduct a second targeted study of the various Ombuds sectors to determine if there are indeed significant differences in educational needs from sector to sector.

**Recommendation Two:**
An Advisory Committee be struck from members of all current Ombuds associations to assist in the development of an educational program.

**Recommendation Three**
As reflected in the research findings, any educational program should have as its central core the current theories on organizational leadership and change management.

**Recommendation Four**
The educational process should include the concept of building a community of practice within the Ombuds profession.

**Conclusion**

At times in life, events occur, people gather, and something magical happens in the synergy that is created. It matters not what we call this phenomenon or how we describe it; what matters is that we recognize the opportunity when it arises. There is an opportunity here to work collaboratively as Ombuds to plant the seeds that will ensure the growth and sustainability of the Ombuds concept.

I think of the oak beams in the ceiling of College Hall at New College, Oxford. In the 19th century, when the beams needed replacing, carpenters used oak trees that had been planted in 1386 when the dining hall was first built. The 14th-century builder had planted the trees in anticipation of the time, hundreds of years in the future, when the beams would need replacing. Did the carpenters plant new trees to replace the beams again a few hundred years from now? (Dr. Tony Williams, Royal Roads University, 2003)

Will we take this opportunity to plant the seeds of education in order ensure the growth and sustainability of the international Ombuds community for the coming centuries?

**References**


Bullying in Academia: What’s an Ombudsman to do?

by Sue Theiss

Susan Theiss is Director and Ombuds for the Office of Student Mediation and Conflict Resolution at the University of Arkansas. She holds a degree in Business Administration and is a graduate student in Communication. During her eight years as a volunteer Ombudsperson for the University of Arizona, she was appointed as co-chair of their committee for three years, participated in the development and presentation of training workshops for new Ombuds and departments throughout the university, and provided ombuds services to members of the university for both employee and student issues. At the University of Arkansas, Sue provides conflict resolution training to faculty, staff, and students, as well as mediation services and group facilitation for all members of the University community on student related issues. Sue is a member of the International Ombuds Association and the Arkansas Conflict Resolution Association.

One of the many challenges faced by ombuds occurs when assisting constituents with problems for which there are seemingly no solutions. Where bullying is concerned, “the buck” often never stops...anywhere. Often those with the most power to influence a change in the course of bullying patterns do not have a clear understanding of what bullying is. Even when cases of bullying are recognized, it can be difficult for a manager or administrator to act, since tactics used by bullies are rarely illegal or clear violations of organizational policies. The extent of the impact bullying behaviors can have on an organization and its members—making everyone involved victims in a cycle of aggressive behaviors—is not always apparent and is difficult to measure. This article considers the literature and research on bullying and offers options to ombuds for assisting constituents with such cases.

Bullying Defined

There are a variety of definitions and identified characteristics of bullying behavior. Such behaviors usually evolve over time, and are part of a dynamic process. Studies have shown that abuse related to workplace bullying “...seem mostly to be of a verbal nature and seldom include physical violence” (Keashly, 1998, as cited by Einarson, 1999, p. 18). Verbal aggressiveness involves “the inclination to attack the self-concepts of individuals instead of, or in addition to, their positions on particular issues.” (Infante, 1988, p. 7). Bullying may also be described as a form of harassment, “mobbing”, or mistreatment. “Bullying occurs when someone [or group] is systematically subjected to aggressive behaviors...” which lead, either intentionally or unintentionally, to a stigmatization and victimization of the recipient (Einarson, 1999, p. 16).

The bully’s actions may be deliberate or subconscious. Regardless of the initiator’s personal characteristics or intent, their actions are unwanted by the recipient, who perceives him or herself as the target of ongoing, aggressive behaviors.

Bullying tactics can include verbal abuse, such as yelling, blaming, or making degrading comments and non-verbal abuse, including physical behaviors, the “silent treatment”, and withholding information. These tactics can be direct or indirect. Examples of indirect actions include scapegoating, malicious gossiping, posturing oneself to appear comparably more credible within a shared community, avoidance, exclusion of the target, and undermining behaviors (Duffy, et. al. 2002). These are common tactics used by different types of bullies in various settings. Any ombuds would be able to add to these lists of abusive behaviors from their own experiences with cases of bullying and harassment.
Types of Bullies

Varying characteristics are associated with different types of bullying situations:

• Predatory bullying occurs in cases where the victim has done nothing to provoke the bully (Einarsen, 1999). The victim could be part of a group that is being excluded socially, or there may be other organizational factors that have motivated the bully to take action toward the recipient. This type tends to be more prevalent within organizations whose practices institutionalize bullying, such as government and academia.

For example, a tenured physician in a medical school may be consistently verbally abusive towards a resident since this was how he was treated as a resident. This practice is commonly accepted (and therefore reinforced) by colleagues. In such institutions, responses tend to be more rule oriented and bureaucratic (Ferris, 2004). If a person of lesser power in the system complains, such as the resident, they have literally no voice through the policies provided, while the rules support the tenured physician. Referrals to processes and offices that do not accommodate or balance the power differences at play between an employee and their bully can result in reinforcing the power of the bully, which in turn institutionalizes bullying behaviors.

• Dispute-Related bullying (Einarsen, 1999, Namie and Namie, 2000) occurs as the result of an escalated conflict. Coercive or aggressive resolution strategies are used to resolve an ongoing dispute.

Namie and Namie (2000) identify four characteristics or “types” of bullies:

• Chronic – Those who use aggressive, dominating, and coercive strategies in nearly every encounter (within and outside of work or the classroom);

• Opportunist – Those who “suspend” their aggressive behaviors outside of work but believe “careers are built with political gamesmanship”. Supporters of the opportunist often believe “they can do no wrong.” Once the opportunist’s behaviors have been reinforced by the organization, the bully will continue to use them;

• Accidental – Those who unknowingly take actions that victimize the recipients, and may retreat and/or apologize when confronted about the behaviors;

• Substance-Abusing – Those bullying behaviors initiated by substance-abusers, where “rationality and logic are tossed out the window.”

Recognizing the characteristics and types of bullying behaviors can be helpful guides for ombuds in knowing how to appropriately assist the victim and administrator, and to address the perceived abuser.

For example, in cases involving substance-abusing or chronic bullies, clear boundaries and consequences need to be established by the organization, including discontinued employment if the behaviors do not change. An ombuds can provide coaching to management on how to recognize and address current behaviors. They can also provide feedback to the organization to guide them towards establishing policies that do not tolerate, or reinforce, these types of bullying behaviors.

In cases of dispute-related or accidental bullying, with the permission of a complainant, the perceived abuser can be educated by an ombuds on more effective and socially productive conflict resolution skills and be made aware of available resources for assistance. For example, in a situation where a resident assistant and the hall director for a dormitory begin arguing over work schedules, and the director uses his or her position of power to impose cooperation from the RA, this action may influence future interactions. Minor disputes which arise may lead to repeated misuses of power by the supervisor, forcing the RA’s cooperation and reminding them of their “place” in the relationship. Once this relationship has been harmed, and the RA contacts the ombuds for assistance with their “abusive” supervisor, the ombuds can, with the permission of the RA, coach the supervisor on more effective ways to elicit cooperation. Effective resolution skills can be modeled for both parties through mediation. If the bullying behaviors are truly dispute-related or accidental, a supervisor will likely be open to learning new skills if it means improving the situation.
When predatory bullying occurs, and/or opportunistic characteristics are evident, the organization must take action to assure an environment exists which does not reinforce or encourage harassing behavior. The ombuds role in this situation is not only to help the victim address their immediate needs, but to serve as a change agent for the organization; helping create an organizational climate which prevents bullying tactics from being effective. When an organizational structure permits one person to exert more influence over another, the likelihood of reaching mutually beneficial resolutions and repairing relationships decreases (Folger, et al., 2005). An ombuds provides balance by assisting all willing parties involved with their unique needs and effects systemic change by providing feedback to management regarding observed patterns of bullying throughout the year.

Consider the following scenario:

A graduate student, Ethan, visits the ombuds office, complaining that he wants to change advisors. “My advisor took credit for a paper written by another graduate student, Keli. She tried to address the issue with him, but has been told that’s the way things are done, and is repeatedly reminded that she works for him. The other faculty advised Keli to be quiet and just get through her doctoral program. The more the issue is discussed, the more my advisor bad mouths Keli to others. I don’t want the same thing to happen to me.”

Targets are not the only victims in cases of bullying. In this instance, the visitor (Ethan) is a bystander, but fears reprisal if the same circumstances should occur with him. There are interpersonal relationships to consider between Ethan and the advisor, the perceived target (Keli) and the bully (the advisor/professor), the other faculty influencing perceptions, behaviors, and the organizational climate, and the relationship between management and all parties affected.

An ombuds’ strategies for intervention may be different for each relationship. For example, Ethan may need to know the procedure to change advisors, as well as the consequences of changing advisors before he chooses that path. If Keli wishes to meet with an ombuds, he or she may be able to offer Keli an empathic ear, help her consider her options, keep her focused on realistic solutions, refer her to counseling to help her deal with the stress of her situation if needed, and follow-up with management and/or the advisor if Keli gives permission to do so.

If the ombuds has access to management, he or she could educate the department chair or dean on the types and stages of bullying (although care should be taken to share the stages themselves, rather than label the bully). The ombuds can provide coaching and options on appropriate strategies given the type of bullying that might exist, as well as the stage in which they are intervening. As a prevention strategy, the ombuds may offer education for the department or college faculty on conflict resolution skills and conflict management. In a case such as Ethan’s, where triangulation has occurred (people talking about, rather than directly to, one another), the ombuds can explain how this will damage relationships and escalate, rather than solve, the conflict.

Consider a related scenario, from a different perspective:

A student’s advisor, Dr. Jones, visits the ombuds office concerned that a dispute with a student regarding authorship has taken a turn for the worse. Dr. Jones explains that “Keli does not understand that as a graduate assistant she is working for the faculty, and that students do not ‘own’ the information we ask them to collect. I’ve tried explaining the protocol regarding authorship to her, repeatedly, but she doesn’t understand. To make matters worse, she continues to ask other faculty their perspective on the situation, so I am constantly meeting with my colleagues to explain things. I have asked her to stop talking to others about this issue.”

In a best case scenario, the ombuds will be able to meet with all parties involved in this conflict and help provide each side with the opportunity to understand the other’s perspective. The ombuds can assist the advisor by helping him or her understand how differences in power between faculty and students can potentially lead a student to perceive themselves as powerless during a conflict. They can offer the advisor options for more effective communication strategies, and reinforce the importance of students having a safe avenue to share concerns. The ombuds may offer to mediate a conversation between Keli and Dr. Jones to help end the triangulation
occurring and facilitate resolution. The ombuds may also suggest that department faculty collaboratively develop and agree to standards regarding authorship, and that guidelines are shared with students (and each other) before authoring begins.

In the previous scenarios, the facts, perceptions, and related effects determine the type of bullying occurring, if any. The student may have misunderstood the department’s protocol of authorship, or she may have actually been a primary contributor, deserving of credit. The advisor may have been working within the guidelines of his institution, or he may have inappropriately assigned himself credit. Extensive inquiry, within the boundaries of an ombuds’ position, is essential in determining what type of bullying (if any) may be occurring, and what options are appropriate to consider. An ombuds can also provide information to university administrators at the end of the year on the pattern of bullying occurrences, their effects, and what prevention practices can be enacted through their intervention and changes in policy.

There are many options available for ombuds when addressing cases of perceived bullying. To effectively explore these options an ombuds needs to not only understand what bullying is, they need to understand how it works.

The Effects of Conflict Climate and Organizational Response

In a study of 1000 cases of workplace harassment, Brodsky (1976) found that “for harassment to occur, elements exist within a culture that permits or even rewards” the behavior (Brodsky, 1976, cited by Einarsen, 1999, p. 24). Organizational tolerance of bullying is communicated through policies and the establishment of norms and values, as well as how management does or does not act upon them (O’Leary-Kelly, Griffin, & Glew, 1996). Bullying will take place if the initiator believes he or she can get away with it. Administrators and managers can be influential in changing the environment for the better. But how can they recognize a bullying situation for what it is? How can an ombuds provide assistance and facilitate change?

The involvement of a third party, such as an ombuds, can often bring about change in any conflict simply by creating a climate that encourages a balance of power (by allowing all voices to be heard), encourages all parties to be more careful about how they communicate, and brings a sense of optimism to previously negative interactions (Folger, et. al., 2005). However, in cases of bullying, ombuds must be careful to understand how bullying works, to be certain that any intervention strategies used do not further victimize the target, or inappropriately label the perceived abuser.

The Stages of Bullying

Einarsen (1999) identifies Four-Stages of Bullying: 1) Aggressive Behavior, 2) Bullying 3) Stigmatization, and 4) Severe Trauma. It’s helpful for ombuds to understand the critical turning points between each of these stages to recognize when inconsequential aggressive behavior becomes bullying, and eventually leads to a stigmatization of the victim.

Often, ombuds are brought into the cycle at a point where the target is beginning to recognize that aggressive behaviors toward them have become frequent and she or he is having difficulty defending him or herself. This is the point at which the stage has moved from subtle, direct, or indirect aggressive behavior, to bullying.

Soon the victim’s inability to defend him or herself, and the stress which highlights his or her inabilities, becomes the focus of the bully, some bystanders, and management. This leads to a stigmatization of the target and is typically the point at which administrators are brought in to intervene. The weaknesses of the victim, such as performance problems, then become the focus of the bully, and of the intervening administrator. “When stepping into the case, upper management … or personnel administration tends to accept the prejudices produced by the offenders, thus blaming the victim for its misfortune.” (Einarsen, 1999, p. 20). If administrators cannot address the situation without further victimizing the target, this can lead to severe trauma for the recipient of the abuse.

Empirical studies have focused primarily on the roles and personalities of the targets and their bullies, and the perceptions of management’s interventions through the eyes of the targets (Keashly & Harvey, 2005; Namie
& Namie, 2000; Rayner & Keashly, 2005). Assistance and training for administrators who must intervene in these situations is essential. “Leaders and managers must use their position power very carefully to keep employees, members of departments, or other subordinates from feeling abused.” (Chedelin, 2004, p. 5). A review of related literature reveals that most employees prefer not to use formal systems to address issues of bullying (Zapf & Einarsen, 2005; Namie, 2000; Rowe, 1996). At the same time, intervention by management can be effective towards stopping bullying behaviors (Ferris, 2004). Unfortunately, effective intervention by management to end bullying behaviors is estimated to occur only 7% of the time (Namie, 2000).

Ombuds can help administrators to understand the stages and types of bullying behavior, and help them explore options and appropriate steps for intervention. When considering the stages of bullying, an ombuds’ attention should be placed on the dynamics of each stage where bullying progresses and on the consequences to all parties involved, especially when the effects are not attended to.

For example, an ombuds may recommend that coaching and education be offered to an accidental bully. If a case has reached the stigmatization stage of bullying, an ombuds may assist an administrator in moving their focus from the stress related performance errors of the target, towards how to address and end the cycle of bullying.

What’s an Ombuds to Do?

As with all ombuds cases, each conflict has its own unique participants and circumstances that must be considered. Who can stop the bullying in academia, and what can an ombuds do? While additional studies are needed to shed light on the impact of administrative and third party intervention in cases of bullying, we can start by considering how ombuds can help the targets:

Awareness - The more an ombuds understands the stages and effects of bullying on the target(s), the bully, bystanders, administrators, and the organization, the better prepared he or she will be during case assessment and intervention. Different cases of bullying, like all conflicts, require different strategies for interaction. Keeping apprised of current statistics regarding the effects on bullying can also be helpful. For example, based on the 2003 Report on Abusive Workplaces, an estimated 70% of bullied targets will eventually lose their jobs, either due to involuntary termination or choosing to quit. An additional 17% will transfer to other positions within the organization.

Ombuds should be realistic when assisting targets. Saving their jobs may not be the best solution, and guiding them towards pursuing other options (while addressing their current issues) may actually empower them to increase their options, and provide them with a safety net. Targets who are armed with a variety of options are better prepared to move on if needed, while victims who hang on to a no-win situation may find themselves losing income as well as hope and self-esteem.

Empower the victim - Ombuds know the power of listening and providing information. Providing a safe place for the victim to be heard, and referring her or him to counseling if needed, can help with intra-personal healing and a movement from feelings of powerlessness to empowerment. “Some of the most common effects of workplace harassment are depression and a sense of powerlessness that stem from targets’ beliefs that no one will believe their experience. These feelings are often intensified when targets are exposed to systematic intimidation with little recourse.” (Lewis, et. al., 2002, p. 114).

At an interpersonal level, ombuds can help recipients of bullying behavior through reflective listening and by helping the targets name their experiences. Ombuds can provide information on the topic of bullying and workplace aggression, as well as direct the individual to helpful resources, to provide targets with information that helps “normalize” their experiences (Lewis, et. al., p. 115).

In some situations, an employee might believe that she or he has done something to instigate the actions of the bully, or worry that others perceive her or him as timid, thin-skinned, and even deserving of being bullied (Keashly & Harvey, 2005). It may raise their self-esteem and awareness to know that many targets are actually those who are well educated, refuse to be subservient, and/or are those whom the
bully finds threatening because of the target's exceptional knowledge, skills, or ability to establish effective relationships with others (Namie & Namie, 2000). Ironically, these are all admirable qualities.

Assessment - During an initial and ongoing inquiry of an alleged case of bullying, perspectives and facts should be collected from as many affected parties as possible within the scope of an ombuds' position, while maintaining the confidentiality and safety of those involved. This can include the perceived offender, victim(s), co-workers, students, and administrators. The broader the input and perspective an ombuds gains about the situation, the more likely s/he is to have an accurate understanding of the type of bullying occurring, the organization's impact, and the dynamics of all parties' interactions. This, however, may be difficult to do if one or more of the parties involved fears retaliation, and the climate allows for an abuse of power.

As with all cases where retaliation is feared, ombuds should first address those concerns with the individual, in a safe environment, and only pursue options with the permission of the individual. There are questions that can be asked to assess what fears might be alleviated through discussion, providing information, or considering additional options. Some include: Who have you already spoken with? What happened when you spoke with them? What do you imagine will happen if you pursue that option? What will happen if you do nothing? What are you willing to do? Who will you permit me to speak with? Have you experienced reprisal from this person before? What happened that time? Through asking questions like these, visitors will often expose what their fears and concerns are. You can then determine which of these fears and concerns (if any) can be alleviated by providing additional information, clarification on policies, or by helping the individual to consider other options that they may find less threatening.

In some cases employees may be threatened with consequences by their supervisor, for which the supervisor does not actually have the authority to enforce. Simply sharing with the targets that their supervisor is not in a position to carry out the threat can help the employees change their perspectives and reduce anxieties.

Helping the employee see a complete picture of all policies, procedures, and options available within the boundaries of the organizational structure can provide a more realistic picture of what options are available to them, and alleviate some of their fears. Unfortunately, many forms of reprisal cannot be effectively prevented or addressed through formal channels, as many forms of retaliation are covert and cannot be resolved through enforcement of policies and rights-based procedures (Rowe, 1996). Offering reality checks and broadening options may help reduce some of a target's fears, but cannot alone offer complete or adequate solutions.

Know the Stages and Characteristics of Bullying - Extensive inquiry may bring to light whether you have, in fact, a case of bullying. If so, who’s the true aggressor? Aggressors frequently claim they are the victims, and may portray themselves as such. Consider diagnosing the situation as your physician would diagnose an illness. What are the symptoms? One symptom by itself can mean many things. A case of “the sniffles” can be associated with cold, allergies, the beginnings of the flu, or a sinus infection. Consideration of multiple symptoms, such as adding a fever, aches, and chills, might narrow the diagnosis down to the flu. Look for the characteristics and stages of bullying as symptoms.

Symptoms also need to be taken into context. What is the patient's history? What are the past behaviors of the perceived bully, the victim, and the organization's response?

The symptoms, historical behaviors, and climate of the organization should all be considered when determining whether or not you are addressing a case of bullying, what the parties' roles are, and at what stage of severity the process is at. Consider the type of bullying occurring, and at what point in the bullying stages you and others have been brought into the picture. This will help you assess what options are truly appropriate to pursue, and at what level administrators need to be involved and coached.

For example, if you discover that a researcher who has just
been awarded a large, multi-project grant, did not exhibit aggressive behaviors towards her staff prior to the beginning of the project, this may be a case of dispute-related bullying where the climate has changed, and mediation or coaching of the parties involved may be an appropriate strategy for an ombuds to pursue.

If in another situation, an ombuds discovers through inquiry that a supervisor has a long history of bullying behaviors towards several co-workers, and has been referred before by management to an employee assistance program for substance abuse counseling, your approach may include coaching management regarding policy, safety issues, and how to set stronger and more immediate boundaries and consequences for the supervisor. It might also include coordinating a solution with human resource personnel.

Model Good Behavior – An ombuds always has the unique opportunity to model effective resolution skills through service, such as during the intake process or mediation. Administrators, targets, and even bullies, can learn how to collect relevant facts, consider multiple strategies, and facilitate communication in a non-adversarial manner, by witnessing how an ombuds approaches a case. Much of our learning occurs through observing others’ behaviors. Anyone can acquire skills and be influenced to change behaviors by observing how others interact and perform (Bandura, 1986). Modeling can be especially influential in changing behavior when performing the behavior is seen as effective, and followed by a desirable outcome.

Through service and education ombuds can facilitate resolution of a current situation, as well as help to prevent future relapses. They can assist administrators with understanding the importance of their roles in (and options for) intervention, as well as establishing policies and norms that do not support, encourage, or reward bullying behaviors. This can be done through ongoing education on conflict resolution skills directed towards department chairs, deans, and administrators who deal with cases of bullying and harassment, as well as coaching during a given case of bullying.

Acting as Change Agent - Administrators can also be assisted by facilitating discussions that encourage colleges to make conflict management part of their strategic planning. In addition, ombuds can provide upward feedback to management to help identify policies and practices which support and institutionalize acts of bullying or create barriers for resolution options and therefore need to be changed.

For example, a college may have implemented a peer judicial committee to review acts of misconduct. If a case of bullying went through this committee process, it is possible the victim will be re-victimized and the chances of further stigmatization of the victim are high. Even if the committee has been asked to keep proceedings confidential, the bully will likely see a peer review as adversarial and an opportunity to lose face. The bully may then be motivated to find additional indirect means of retaliating toward the victim in response to the target coming forward. A peer committee could be an ineffective and damaging option and the organization should be aware it is not appropriate for cases involving bullying, as it would not resolve the conflict and may actually encourage further bullying behavior.

An ombuds can provide feedback to management on patterns of cases which reflect structural flaws in an organization’s systems. When there is a clear aggressor and victim identified, an ombuds may also suggest alternative programs and options that may assist both the aggressor and the victim to effectively address the effects of harm, such as a restorative justice program.

Conclusion

Ombuds can have a significant impact in their roles as facilitators and change agents where bullying exists. This requires an understanding of what bullying is, how it works, and what strategies for intervention can be effective given the multiple symptoms and contexts occurring during the various stages of bullying. These conflicts are rarely simple or easy to address. Several issues can be involved surrounding interpersonal as well as organizational relationships.

The many factors involved in cases of bullying often require a multidimensional approach toward resolution, which might require multiple strategies for intervention at different levels within the organization. Both interpersonal and intra-organizational interactions and influences must be considered
before appropriate intervention strategies can be determined.

Ombuds can help facilitate both short and long-term solutions to cases and issues of bullying through inquiry, analysis of the types of bullying occurring, identifying what stage the bullying process is in, and working with all parties involved to consider appropriate options, solutions, and feedback for resolution, prevention, and organizational change.

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References


The Taste of Conversation:  
A Dialog Between Stanley V. Anderson  
and Geoffrey Wallace  
Edited by Misa Kelly

Misa Kelly has been affiliated with the field of ombudsing since 2000 as an ombuds practitioner, researcher, and writer. She has worked in both the academic and long term care sectors of ombudsing. Kelly’s list of ombuds projects include: The Case Study Project, The Ombuds Annual Report Project, The Oral History Project, The Ombuds Reading and Resource Room, The Ombuds Case Study Project, The Ombuds Profile Project, and the Ombuds Circle.

CCCUO Journal Editors’ Note

As second and third generation ombuds begin staffing corporate, government, academic and other offices around the world, the links to the history of ombudsing that reside in its early practitioners begin to fade. However, the history of our profession is important. A documented history helps create a solid foundation for a profession and contributes to the validity of its existence. Also, by gaining an understanding of the history of our past, we are better able to sort through the professional issues facing us in the present.

This article is one of two ombuds oral histories gathered by Misa Kelly for her Ombuds Oral History Project initiative. Ms. Kelly served in the Ombuds Office at UC-Santa Barbara from 2000-2004 and now works in the field of Long Term Care Ombudsing. This conversation between Stanley V. Anderson and Geoffrey Wallace was facilitated by Ms. Kelly and documented with the assistance of community volunteers, including professional videographers Sergei Oneshko and Ron Dexter.

The exchange between Anderson and Wallace offers both personal and global perspectives on ombudsing. It captures their personal journeys of becoming ombuds, describes some of their work experiences, and provides an historical context in terms of activities and organizations in the ombudsing arena from the 1960’s through the 1980’s.

The Conversation: Facilitated and Edited by Misa Kelly

Stanley Anderson: I am going to talk about the early years of the spread of the Ombuds office and the literature that it spawned. My dedication to the Ombuds idea springs from the very fiber of my being. I was brought up in fundamentalist Christian churches and steeped from early childhood in such sweeping concepts as Salvation, Apocalypse, and Eternity. Grappling with ultimate concerns spilled over into my early efforts as secular scholarly research. I began looking for overriding solutions to overwhelming human quandrums, such as war and peace.

This took me to the field of international relations and eventually to a dissertation trying to explain how it was that the Scandinavian countries had enjoyed peaceful relations among themselves ever since the end of the Napoleonic Wars. These efforts eventually morphed into a study of the Ombudsman institution, whose down-to-earth methods still reflected my idealism, but refocused on goals such as equality, fairness, and openness in government. The transition was triggered by several fortuitous occurrences.
One of these was my decision to take off a year between the first and second years of Law School. Having the luxury of the G.I. Bill, I went to Denmark, the land of my forebears, to study at the University of Copenhagen. That visit changed my life. After practicing law for two years, I decided that I preferred an academic career and went back to Berkeley for a Ph.D. in Political Science. My mentor was Eric Bellquist, a Scandinavianist whose name reveals his Swedish ancestry. In 1959, just as I was heading for Scandinavia to do thesis research, Bellquist advised me to take a look at the Ombudsman institution while I was there. The Danes had radically revised their Constitution in 1953. One innovation mandated an Ombudsman office. In 1955, the Danish Legislature enacted enabling legislation adapted from the venerable Swedish Office. The new office attracted widespread international attention and triggered a global expansion which still continues. It has since been the dominant focus of my research.

As a Congressional Fellow of the American Political Science Association, I spent the 1963-64 academic year in the United States Congress, choosing in part to work in the Office of Congressman Henry Russ. “My Choice is Reuss” was his campaign slogan in Wisconsin. He had introduced an Ombudsman Bill and encouraged me to continue building an exhaustive bibliography of Ombudsman literature up to that time.

While in the Congressman’s Office I met Walter Gellhorn, clearly the key person most responsible for legitimizing the Ombudsman concept. Gellhorn’s tenure as a faculty member in the School of Law at Columbia culminated with his appointment as “University Professor,” a lifelong position rarely awarded which gives the holder staff support and complete freedom to choose research projects or teaching assignments. When I learned that he was working on the Ombudsman institution, I got in touch and spontaneously sent him copies of everything I had gathered. Gellhorn published two books in 1955, “When Americans Complain: Governmental Grievance Procedures” and “Ombudsmen and Others: Citizens’ Protectors in Nine Countries: - Denmark, Finland, Norway, Sweden, New Zealand, Yugoslavia, the Soviet Union, and Japan.” The corresponding Chapters had appeared serially in leading American law journals such as Stanford and Yale, further expanding academic awareness.

In 1968, the American Assembly-founded by Dwight Eisenhower when he served as President of Columbia University—took up the topic at one of the many conferences that it has sponsored. Background papers are solicited and distributed beforehand to participants, who are prominent. Gellhorn asked me to organize the Ombudsman papers and to recruit other authors. As Chapters, the papers were later published under the title “Ombudsmen for American Government?” After several days of committee and plenary discussion, the Assembly on Ombudsman came up with a ringing endorsement for widespread implementation of the Office, which was reported by the New York Times. The Assembly thereafter sponsored a series of regional meetings in different parts of the country to take up the same topic and to make further recommendations.

Meanwhile, the Institute of Government Studies on the Berkeley campus had set up an Ombudsman Activities Project (OAP) in 1964 to publish the results of Ombuds research, naming me as Principal Investigator. Initially, much of my work was talking to legislators. Whenever I would learn that a State or Canadian Province was considering the creation of an Ombuds office, I would get in touch with the authors, visit, and sometimes testify at their legislative hearings.

Later, from 1970 to 1973, OAP research was funded by a grant from the U.S. Office of Economic Opportunity, primarily to monitor three new Ombudsmen offices supported by the OEO in Iowa, Nebraska, and Seattle/King County. We helped to get these offices off the ground and then studied their performance. Two of my UCSB colleagues joined me, Alan Wyner being responsible for Nebraska and John Moore for Seattle. Moore also undertook a study of the first American State Ombudsman office in Hawaii, culminating in a lengthy transcript of a three-day Ombudsman Workshop held there in May, 1971, which he and I edited, entitled “Establishing Ombudsmen Offices: Recent Experience in the United States.”

Another organization which gave early national exposure to the emerging Ombuds concept was the Center for the Study of Democratic Institutions in Santa Barbara. The Center sponsored several dialogues, published in the Center Diary, the
earliest of which was in 1966, “An Ombudsman for the U.S.” featuring Robert Hutchins, Hallock Hoffman, Scott Buchanan, and yours truly.

**Misa Kelly:** Geoffrey, what type of mentoring did you receive from Stan? How has he been of support to you, and what role did he play in your University Ombuds appointment?

**Geoffrey Wallace:** When thinking about what direction to take in life I was drawn to seekers of justice and observed people who seemed to be advocates for the good and the just. Stan was one of these individuals. I wanted to find a legitimate way to live my life. At this time some very thoughtful people were working to try to build an ombuds institution correctly.

John Moore was active with the UCSB Senate Committee that worked on a sense motion of the Senate. The work was predicated on a model of procedure as defined by ombuds scholars Walter Gellhorn and Stanley Anderson. At this time I was contemplating going into coercive forms of justice and law. I saw that there was a type of institution (ombuds) that worked with reason, persuasion, and soft justice⁴. This was very early in the soft justice movement. None of the mass movement of mediation really had the kind of breadth that it currently has. Since then there has been a brushfire of development of other forms of alternative dispute resolution. They are not alternatives now, they are mainstream, and a part of the system.

At that time I looked to the horizon. When the Senate conversation was made accessible, I decided I would look into everything that existed about the ombuds institution. This was made possible because Stan had assembled a lot of information that I was able to get my hands on. It (ombudsing) stopped being a weird Swedish word and it started being something that had shape. The shape was very important. But also, the point that Stan brought up, that there is kind of a worldview of thought here: by reasoning with people you could help them understand fuller ways of viewing institutional acts. In other words, if a person is an institutional actor, without going to them and entering into an adversary relationship, you can try to find a way to sit on the same side of the table and point to investigative realities, to facts. It was a way to take in someone’s “push away” issue, to simply ease up on the push for a moment. To sit at the table together and really assess what the issues are and what they look like. I learned this from people who had knowledge of legal reasoning and a strong foundation of philosophical thought.

There was a convergence of using reasoned persuasion for institutional and incremental institutional change. What we managed to do was discover that there are a lot of things we should not do. For instance, we don’t do “windows” (wash windows), advocacy, and a long list of other things. This was as important as the fact that there were certain things we should try to do faithfully. What was important was the acquisition of a foundation of understanding about what we should be doing. When you’re trying to grab the imponderable you can just grab fingers one at a time and say, “independence, impartiality, fixed term, removal for cause, accessible.”

I was willing to commit to the ombuds institution. Over time what has happened is that I have consistently looked to Stan Anderson and his collection of ombuds related articles. The collection goes all the way back to the narrative that Stan gave about the role of Walter Gellhorn.

My first conversation with a real ombuds was Randall Ivany⁵. It was fascinating to encounter another office with 137 staff, 32 language experts, and a huge case load. They really accomplished a lot based on a predicated movement that suggested that you can improve social institutions, and you can improve them toward citizen justice.

This seemed very important to me because I had come from a time that is chronicled in some of the works that Stan has done. There were very hard times and an incremental change agent was a difficult issue because there was a need for major change.

There were revolts in American universities. But wise people reasoned that in the long haul, you still have to resolve complaints one at a time and in groups. You have to think in terms of getting beyond the revolution towards institutions that make a better system, and keep making the system better in terms of suggestions for institutional change. In my experience, understanding this has enabled us to make suggestions about certain
policy changes.

Just one of these institutional changes in the last thirty years has saved more than the budget cost of the office over that time. That is to say, one institutional change, a seven figure institutional change in terms of annual savings, paid for more than the last three decades of operating an ombuds office. So it was the road map established by scholars such as Stan that allowed this to be a structured thoughtful pursuit.

Stanley Anderson: As I mentioned, Geoffrey, my initial interests were in Foreign Affairs. I went to Scandinavia to try to find out how they had managed to enjoy 150 years of peaceful relations among themselves. The explanations, I’m afraid, were somewhat mundane, growing out of their interwoven histories and cultures, and favored by historical anomalies.

Apart from war and peace issues, Professor Bellquist told me (somewhat tongue-in-cheek) that the underlying formula for Nordic intergovernmental collaborations was BOGGSAT—a Bunch of Gals and Guys Sitting Around a Table. Cabinet Members in the fields pertinent to any current problem would meet together and hash it out among themselves, rather than negotiating through their Foreign Offices. They simply talked things through.

Sobered by the Cold War, I realized that I could not derive a universal solution from the Nordic experience. Wouldn’t it be nice if we could roll all of our problems into one big problem, and then solve the big problem? Such a top down approach reflected my early theological background: “Find the formula to salvation and impose it!” The Ombudsman Institution taught me to work from the bottom up, to start with discrete problems, and hopefully, gradually work up to solutions of broader scope.

I remember, Geoffrey, that when you were appointed campus Ombudsman, I felt that it was based upon your experience as a private Ombuds. Anytime you look for someone who is impartial to help resolve a dispute, you are asking that person to serve as an informal Ombuds. Whether it is a family member, a friend, a parson, or a colleague, you are trying to get BOGGSAT going. So, I felt that it was Geoff’s mediation of campus conflict during the Vietnam unrest that provided him with informal Ombudsing experience, and reflected his character, intelligence, and diplomatic skills.

Geoffrey Wallace: I think it was important to see the value. Stan gives certain potency to the idea of talking through problems. It is as if there is a method and the method has gone into disuse. It has to do with certain kinds of things that I learned from watching Stan’s course. I met Stan as I was in the application process. He saw me as an advocate for justice. When I met him he seemed open to the fact that I could manage this role. When Vernon Cheadle offered me the job he said, “I’ve seen you play a different role as an advocate for justice. Can you take on this explicitly defined role?” Stan had encouraged me that it seemed like I could. I felt that I could. I didn’t want to let go of the notion that ground-up appeals for justice could be achieved through reason, persuasion, and conversation. I think what we learned from Stan in the long term is that people don’t understand the potency of the phrase, “let’s talk.”

Actually sitting down together and respectfully exchanging differences is a very potent tool that got dusted off and institutionalized. People become so angry that they are compelled to demonstrate what they are thinking even if it might confuse everybody. Social acting out can be very confusing. “What did you mean when you threw them a Molotov Cocktail at ROTC?” “Well, I’m not sure. I’ll have to get back to you on that.”

But in this case what it did was offer in the toughest of times the opportunity to say “the only way we are going to get through this is to talk”. Defining a safe place to go to talk and defining a person (function and role) who will treat you respectfully when you arrive.

Another important thing I discovered about Stan in his seminars was that in the seminars I attended Stan titled people with respect: the Mr. and Mrs. Thing going on. This allowed me to see what it did for people, and why we have tea and snacks, and why we invite people to stay too long, why we’ve taken a qualitative jump toward trying to ensure that if the world seems as if there is no place to cry out, there is a place you can go and you can do that.

I saw some of that through looking at structures but also
through modeling. The people I was talking with, when they wanted to express something they thought was important, they made sure to do it very thoughtfully. This was a time when screaming was a common medium. For good reasons people identified with a problematic incursion into Cambodia and the Vietnam War and other things and as such the ombuds worked well during that time. The ombuds incrementally served justice consistently. It came out of a process, which was very important, because the Academic Senate (UCSB’s) had defined what the job would look like.

Stanley Anderson: In part, higher education has of necessity to be vertical, passing down knowledge from elders who have mastered specialized fields. Helping students to think for themselves, however, should be horizontal. We learn from one another. That was the formula I used in seminars, and I shared in learning from the dialogue.

I was gone the year the Academic Senate adopted an Ombuds statute, but the first version was not the one that was finally put into effect. They voted to repeal the legislation establishing the Ombudsman as an officer of the Division because of student dissatisfaction with the method of selection, which restricted the office to someone who is a Senate Member. Then the Senate approved as a sense motion a Petition from students asking for an Ombuds who would not be an officer of Division and not necessarily a Senate Member. The Petition provided a two-page constitution for the Office, which has so far had only one incumbent, Geoffrey Wallace. I think John Moore must have come back to help the students draft the document, as it reflects his style—precise and right to the point. It’s a gem!

Geoffrey Wallace: What they established is a situation which there is an office to hear complaints, to mediate such complaints, or refer them to the appropriate office, may question officers of instruction and members of the division, as well as the committees, and to have access to relevant files. The ombuds may make recommendations public at their discretion; they may investigate complaints, and have some provisions for an advisory committee which still exists. The advisory committee is a strengthened mechanism because of the culture in which an ombuds works. I very quickly learned that one had to understand the culture in which they function to make an international institution work in situations that you apply it.

Stanley Anderson: Well I’m struck with the fact that this was vox populi. The version that came out was from the ranks, from the students, and I think this gave it a tremendous impetus. I think that reveals the implicit support that you have from this group. I know that you deal also with staff and with faculty, whose needs might be comparable. I chaired the Ombuds Advisory Committee for a number of years. It was a good way to keep both up with and tabs on Geoffrey Wallace.

Geoffrey Wallace: That’s right and that was very important because this was a seminar that lasted for thirty years and it had these continuous meetings. Some of the members of the ombuds committee during Stan’s chairmanship are still about. One of the members went on to Harvard and works in education. A couple of members have gone on and done great things.

Stanley Anderson: A university campus is an ideal place for an Ombuds to function. It has a stable well-staffed bureaucracy with an educated and intelligent clientele. I thought to test the premise of an Ombuds office working best where least needed and worst where most needed. So I looked into the workings of the office in emerging nations and in prisons.

My observations in Africa and elsewhere led me to the conclusion that impoverished countries did not have the infrastructure which would permit the office to thrive. An Ombuds cannot pull up the rule of law by the bootstraps. The role of an Ombuds is to root out marginal error.

Prisons were in a different story. Because they are confined under minute surveillance around the clock, convicts have a greater need for intermediation. Otherwise, penitentiaries have remarkable structural similarities to institutions of higher learning. Both have consumers-inmates and students with substantial time to serve and a slowly revolving turnover—directly interfacing a corps of instructors and bureaucrats all subsumed under dense rule structures whose applications entail serious consequences.
The Ombudsman institution has worked very well in prisons. Initially the New Zealand Ombudsman, Sir Guy Powles, discouraged complaints from prison inmates. Though the number of complaints grew slowly at first, they actually took off and became a major aspect of the office’s workload. It was like a machine whose energy fed on its own success in righting wrong and improving administration.

**Misa Kelly:** I have a question for both Stan and Geoffrey. Both of you have contributed greatly to the field of ombudsing. Stan, when you began your studies-ombudsing was a relatively nascent industry, as it was for you Geoffrey. It was a time when the first campus ombuds offices were coming into existence. You’ve played a role in the creation of this part of history. I was wondering if the two of you had a vision for the future of ombudsing, or any comments on what you see happening within the industry right now.

**Stanley Anderson:** My vision is simply one of gradual continuous expansion. My disappointment is that it hasn’t spread more here in the United States in comparison to Canada, Australia, and Western Europe and so on. So you ask, how did it get started and how did it spread? It is sort of like a mold I guess. But then you ask why didn’t it happen? That is more difficult to respond to.

**Misa Kelly:** Do you have a sense of why it didn’t spread in America within the States?

**Stanley Anderson:** It is awfully hard to explain inaction unless there is some obvious cause. But when something doesn’t happen, it is a “what if”? You ask would this have made a difference, or would that have made a difference.

**Geoffrey Wallace:** I think it’s a difficulty because I think that a lot of the places to where it would evolve were hard targets. In other words I think with governments there was a legislative function which was similar and I think some of the legislatures were jealous. I think that it goes easier in places that think that going slow in thinking and talking is fast enough. I think that the industry would take it on and continue at about a two-month increase. Even corporations that aren’t known as being progressive have ombuds. All of these institutional expansions. The corporate ombuds are so grand now that they call themselves “The Ombuds.” They’ve accomplished being all that one can be.

I think what we will see is that there will be two types of developments. Offices that state clearly about where they came from and what they do and what they don’t do and offices that find that if you talk to people who are upset fewer of them will sue you. It could be between Laura Nader’s less charitable interpretation that some can merely cool out potential litigants, or some can actually get as much justice as you can get through reasonable means.

There is an economical interest in lessening litigation and loss.

University of California loses a hundred and three to a hundred and six million a year in payoffs. Paying people for plausible errors. That’s a big reason to mitigate maybe another fifty million in people that got happy and didn’t sue you. When I talk about an office just at one campus saving millions in one change, imagine what ten campuses do working indefinitely; the answer is tens of millions and ultimately hundreds of millions of dollars.

**Stanley Anderson:** In Canada, to pick up on a point you mentioned, the early proposals came from political parties who were out of power in their multi-party system. They lacked the clout to help constituents who complained about the bureaucracy and wanted an outside office to be empowered to look into complaints. With shifting majorities, the Ombuds institution broke through and then gathered momentum and swept across the country.

**Geoffrey Wallace:** It is an interesting point that one of the funny splinter movements for ombuds was in 1985. I noticed that the people that exposed the Iran Contra scandal, a group called the Christic Institute, had a proposal for an American Ombuds. They suggested that every developed democratic entity ought to have an independent complaint agency called an Ombuds that would do certain things. I thought it was very fascinating that someone who had hit a brick wall exposing secret governments and things like that would actually propose and have a way to make government more open.
Stanley Anderson: About open government, let me mention here another Swedish Institution, one which rivals the Ombudsman in importance. For centuries the Swedish Constitution has provided for virtually unlimited public access to government records. For example, when a letter comes into a government office, it is opened and registered and then placed on a table in the foyer where anyone can look at it. President Lyndon B. Johnson picked up on the idea and secured passage of the Freedom of Information Act. Many States have since followed suit, and have also enacted Open Meeting Laws.

I view Open Record laws; much used by the media, as the telescopes of governmental transparency, and Ombuds offices as the microscope. The former provides a sound factual basis for policy-making and the latter a sound factual basis for revision.

Geoffrey Wallace: It is interesting because part of transparency is being able to know what is out there and then being able to talk about it. It is almost like there are two important qualities. One is knowing what ought to be on the table and the other the ability to read it when you get there.

Stanley Anderson: I think politicians more often know what not to talk about than what they ought to talk about.

Geoffrey Wallace: Transparency has ombuds ahead of the curve in terms of suggesting that people should be open to talking about what goes on because everyone in ombudsing focuses on the role of confidentiality without the role of open conversation. One of the things peculiar to the University is how much potential claritive exchange one can have given that faculties are supposed to be collaboratively run entities. So we should be very collaboratively intelligent.

Stanley Anderson: I found that if you try to open up that kind of an approach to someone you should just say “Can we talk?” It is funny what that does to people, because they don’t want to just say no.

Geoffrey Wallace: Well, our time is up here today. I’d like to close by articulating that it has been delightful to discuss with Stanley Anderson the last forty years of ombudsing and ombudsrey.

Endnotes

1 The first oral history collected was that of Don Hartsock. At present the project is on hold until funds are available to continue.

2 Stanley V. Anderson, LL.B., Ph.D., is professor emeritus at the University of California at Santa Barbara. His areas are public law, international law, and Scandinavian studies.

3 Geoffrey Wallace, Ph.D. (sociology), retired as University Ombuds at the University of California at Santa Barbara in 2004, a position he had held since 1970, when UCSB established an ombuds office. Before working as an academic ombuds, Dr. Wallace handled complaints in the Western region of the United States for then-Secretary of the Interior Walter Hickel.

4 Kelly interprets Wallace’s meaning of “soft justice” as dispute resolution (e.g. ombudsing, mediation, facilitation) rather than the traditional field of law.

5 Dr. Ivany was Anglican Dean of Edmonton before replacing George McClellan as Ombudsman for Alberta. Ivany served in this position 1974-1984. He also served as Executive Director of the International Ombudsman Institute.

6 Dr. Wallace kept a tea set on a table in the reception area of the ombuds office. Cookies were most often provided, and tea with snacks were at times served to those who visited the office, creating an ambiance much appreciated by visitors. At times individuals would come to the office merely to sit when upset about a conflict. In the words of a faculty visitor, “This is one place I can come that is soothing and enables me to catch my bearings.”

7 This is a reference to the title of The Ombudsman Association, now known as The International Ombudsman Association.
Dear Colleagues:

You are invited to submit an article (or articles) for publication in this journal. Ombuds in business, governmental agencies, industry, private practice, academia and other work environments are encouraged to respond to this request. We desire to have the broadest representation of articles from authors that we can attract. Through the written word we are able to preserve your ideas and contributions for future ombuds to read.

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The Journal of the California Caucus of College and University Ombuds, published annually, features articles that promote, advance, and celebrate the profession of ombudsing. To that end, the editors encourage writers to submit articles that focus on any aspect of ombudsing: practice, research, education, legislation, or management.

Prospective writers who may have doubts or hesitations about their contributions are welcome to seek consultation and assistance from the editors or any member of the editorial board. Such help can be available at any stage of writing—from initial concept to late stages of editing. A telephone call or e-mail is all that is needed to initiate a cooperative writing process.

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Book-Review Guidelines

The editor welcomes reviews of recent books relating to the practice of ombudsing, with particular application to institutions of higher education. Books that deal primarily with ombudsing in other types of organizations may occasionally be suitable; a query to the co-editor in advance of undertaking the review of such a book is recommended. The following guidelines apply to all reviews:

1. Stay within a maximum of 1500 words.

2. Orient the reader to the thesis or major purpose of the book.

3. Adopt an argumentative and evaluative stance near the beginning of the review and make that stance a thread throughout the review.