

OMBUDSMEN IN HIGHER EDUCATION: SIMILARITIES, DIVERGENCES,
AND THE RISE OF ALTERNATIVE DISPUTE RESOLUTION

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ABSTRACT

This thesis examines the historical role of ombudsmen in institutions of higher education in the United States (U.S.) and explores whether the rise of alternative dispute resolution (ADR) has significantly affected the role they play in managing conflict and disputes. It is proposed that the experiences of ombudsmen over time and the impact of ADR have pushed ombudsmen from a classical model to a systems model. The classical model emerged with the first university ombudsmen offices in the 1960s, based upon the early Swedish parliamentary ombudsman. The systems model focuses on systematic approaches to conflict management and dispute resolution in the workplace and features the ombudsman playing an active role in the design and implementation of a system.

There is a dearth of quantitative or qualitative data on ombudsmen in higher education. The need to collect data and the belief that ombudsmen in higher education are in a unique position to contribute to the future of conflict management and dispute resolution design provided motivation for this study. The approach used was to identify all ombudsmen in higher education in the U.S. and to develop and administer a survey to examine the creation of these offices and their subsequent development. The survey consisted of three parts focusing on (1) the collection of current demographic information on higher education ombudsmen offices; (2) attitudinal queries regarding the ombudsmen, focusing on their principles and beliefs; and (3) collection of demographic information on the ombudsman professional.

The survey found widespread agreement on standards of practice – independence, neutrality, impartiality, confidentiality, and informality – with many voluntarily following the standards of practice established by professional organizations, most notably the International Ombudsman Association (IOA). The

results also confirmed that most ombudsmen are taking an active role by providing advice and assistance to their institutions on the design and implementation of conflict management systems. Unexpectedly the findings showed a rapid growth in the number of ombudsmen offices. Two hundred and one practicing ombudsmen were identified representing 197 U.S. institutions of higher education, an increase over earlier published estimates of 120-150. Additionally, of the ombudsmen who responded to the survey, 42 percent said their office had been founded after the year 2000. It was revealed that these newly established offices were more likely, than their older counterparts, to have been founded because of an organizational or administrative decision and to use ADR techniques. Also unexpected was that 48 percent of the respondents had served in the ombudsman position for fewer than five years, although the average age of the ombudsmen was 56.

In general, findings support the movement away from a case-by-case and stand-alone process to a more integrated and comprehensive system for ombudsmen in U.S. higher education. Results show that ombudsmen are taking an active role in designing conflict management and dispute resolution systems, instead of just filling a function within them. Ombudsmen in higher education were pioneers in dispute resolution and in the future they should lead the way in the design and implementation of conflict management and dispute resolution systems.

BIOGRAPHICAL SKETCH

Mary Jane (Hotelling) Newhart was born and raised in Ithaca, New York. She received an A.O.S. in business management and administration from Bryant & Stratton Business Institute in 1985. She received a B.S. in May 2001 and an M.S. in August 2007 from the ILR School at Cornell University.

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Mary Jane lives in Trumansburg, NY with her husband Ken, and their three children Corinne, Brian, and John.

Dedicated to the Memory of Alice Hanson Cook
Cornell University's first Ombudsman

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PREFACE

The initial idea for my thesis came from a newspaper clipping sent to me by Cornell's Assistant Ombudsman, Danilee Poppensiek. The clipping entitled, "Intimidation at Columbia," was about a dispute at Columbia University over allegations of intimidation of students in the Middle East Studies Program. The *New York Times* editorial expressed the opinion that Columbia had botched the handling of the student complaints, pointing to a faculty committee's report that cited the frustration of students who felt they had no place to register complaints about what they considered abusive treatment and that the University had no clear mechanism to handle such grievances. The editorial was also critical of a University appointed panel that looked into the issue, feeling the composition of it ensured skepticism and that its mandate was too limited.

The attached note from Danilee questioned whether an ombudsman with a different charge might have been useful. Marsha Wagner, Columbia's Ombudsman, is very well known in the field and has been an active researcher not only of the ombudsman profession, but in the fields of alternative dispute resolution (ADR) and conflict management systems. This questioning of her charge exposed a disagreement within the profession, between those ombudsmen who are influenced by the classical model and are leery of being directly active in administration, for fear of losing the appearance and practice of neutrality and confidentiality, and those who embraced the ADR movement and advocate direct involvement with the administration in designing and implementing conflict management systems. I became interested in how to better define the dispute, determining if there had been a divergence in practice, and what role ADR may have played. It became evident very early in my research that I would have to go back to "the beginning" and examine the formation of these offices, their mission, and mandates and then move forward in time

to examine adaptations, divergences, and the effects of ADR on ombudsmen in higher education.

CHAPTER ONE

THE OMBUDSMAN PROFESSION IN HIGHER EDUCATION

Introduction

This thesis examines the historical role of ombudsmen in institutions of higher education in the United States (U.S.) and explores whether the rise of alternative dispute resolution (ADR) has significantly affected the role they play in managing conflict and disputes. It is proposed that the experiences of ombudsmen over time combined with the impact of ADR have pushed ombudsmen from a classical model to a systems model. The classical model refers to the practices of the first university ombudsmen in the 1960s, which were based upon the early Swedish parliamentary ombudsman. The systems model focuses on integrative and systematic approaches to conflict management and dispute resolution in the workplace and features the ombudsman playing an active role in the design and implementation of a system.

There is an absence of empirical data on ombudsmen in higher education, including basic demographic information on how many there are, who they serve, and where they are located. The need to collect and analyze data, along with the belief that ombudsmen in higher education are in a unique position to contribute to the future of conflict management and dispute resolution design provided motivation for this thesis. The approach used was to identify all ombudsmen in higher education in the U.S. and to develop and administer a survey which allowed for the collection of current demographic information on ombudsmen offices and the ombudsmen professional, along with attitudinal queries, focusing on their principles and beliefs. Collection and analysis of the survey data would reveal if ombudsmen adhered to standards of practice for the profession and which standards are being followed. Additionally, by examining the collective experience of the ombudsmen, their

standards of practice, and the effects of ADR, we can determine if these factors have pushed ombudsmen to a systems model.

The first higher education ombudsmen offices were formed during the civil rights and political movements of the 1960s and 70s. They were given broad autonomy to resolve disputes, air complaints, and give the community a voice in campus governance. They acted as neutral third parties, tied neither to the campus administration nor to the activists who demanded change. The practitioners appointed as ombudsmen were often academics, individuals who felt strongly about academic freedom and whose tenured positions allowed them to publicly criticize the governance of their institutions. Over time, these offices became an integral part of their campuses. The ombudsmen practitioners gained experience and knowledge, and they began to study the profession, conduct research and join professional societies.

Over the next several decades, the field of negotiation, dispute resolution, and conflict management burgeoned. A new term was coined in the 1970s; ADR for alternative dispute resolution, and the ombudsman function became identified as a type of third-party dispute resolution that was encompassed by this concept and as a mechanism for use in conflict resolution management systems.

Although recognized as a component of alternative dispute resolution, the ombudsman in higher education is a unique entity. The idea blossomed during a time of social unrest and political activism; offices were created to be autonomous and independent from the governing structures of the university and to provide a voice for the campus community. These offices were influenced by the traditions of academic freedom and they were guided by the classical ombudsman model introduced a century earlier.

The question is - has the collected experience of the last several decades, coupled with the influence of the ADR movement, altered the way in which higher education ombudsmen operate their offices and provide services to their clientele?

To understand the possible changes one first has to understand the creation and evolution of these offices. This thesis discusses the creation of the ombudsman function, its first appearance in North America and in American institutions of higher learning, and the growth and functions of those offices. It also discusses the appearance of alternative dispute resolution, mediation, and conflict management and the role that higher education ombudsman offices have played in this emerging field.

Ombudsman, Ombuds or Ombudsperson?

There are many different forms of the word Ombudsman. Mary P. Rowe¹, founder of the Corporate Ombudsman Association, found that practitioners in the field have differing viewpoints, with some preferring the gender neutral term, ombudsperson, while others prefer abbreviating the term and referring to the practitioner as an ombud or ombuds. Another descriptive approach is to focus on the office as an entity, using ombuds office or ombuds practitioner. Yet another group shun these abbreviations and adjectives and insist on the traditional and historically accurate term, ombudsman. Rowe determined that in the end, it is a matter of personal preference and taste (Rowe, 1991).

The University and College Ombuds Association (UCOA) recognized all varieties of the name and used a broad definition for a college or university ombudsman function as someone who is “authorized by an institution of higher education to confidentially receive complaints, concerns or inquiries about alleged acts, omissions, improprieties, and/or broader systemic problems within the

¹ Mary P. Rowe is the founder of the Corporate Ombudsman Association. She is the Massachusetts Institute of Technology (MIT) Ombudsperson and Adjunct Professor of Negotiation and Conflict Management at the MIT Sloan School of Management.

ombudsman's defined jurisdiction and to listen, offer options, facilitate resolutions, informally investigate or otherwise examine these issues independently and impartially” (UCOA, 2000).

For the purposes of my thesis, I will use the term that reflects the classical concept, ombudsman.² The goal of this chapter is to introduce readers to the ombudsman concept and follow its evolution in institutions of higher education in the United States.

The Beginning

According to the United States Ombudsman Association (USOA), Sweden was the first nation to officially establish such a position. In 1809, the Swedish parliament appointed an ombudsman to protect individual rights against government excesses (USOA, 2007). Much has been written about these early ombudsmen, but in her recent article on the European Ombudsman, Anne Peters provides a well-written and thorough “nutshell” overview of Ombudsman history.

The term "Ombudsman" comes from Swedish "ombud," meaning "representative." In Sweden, in 1713, the institution of the "King's Highest Ombudsman" was established as an organ of the executive in a monarchic State. In 1908, a parliamentary Ombudsman of Sweden, acting on behalf of the parliament, was established as an instrument of horizontal checks and balances between the legislative and the executive branch. In a third mutation after World War II, the institution was conceived as a representative of the citizens, thereby serving no longer solely the rule of law, but the democratic principle as well (Peters, 2005).

² The correct plural usage of the term ombudsman generated much consternation and debate during the writing of this thesis. I chose to use ombudsmen, as both the Oxford English dictionary and Webster's New Encyclopedic Dictionary identify the plural as ombudsmen.

This model was also quickly adopted by Finland, but the rest of the world did not embrace the institution until the last forty years (Robertson, 1995). The first ombudsman position in United States (U.S.) government was established in 1967 by the state of Hawaii. A year earlier, Eastern Montana College was the first educational institution in the U.S. to appoint an ombudsman and, in 1967, Michigan State University became the first major American university to establish an ombudsman office (Stieber, 1982). Although these educational institutions adopted the word ombudsman, technically, under the Swedish model, an ombudsman is created by statute. Carolyn Stieber³, former UCOA President, argues that adaptations of the ombudsman model did not follow the Darwinian principles of adaptive evolution, nor was the Swedish formulation, “the classical mode,” faithfully followed either (Stieber, 2000). Therefore all intra-institutional practitioners, including those in higher education, are quasi-ombudsman, only resembling in some degree the classic model. However, in common practice and parlance in the U.S., it would appear this distinction between the classic and quasi ombudsman has been lost (Rowe, 2000). Instead, we opt for a broader characterization as evidenced by the UCOA definition.

In fact, there are few places in the world where one will find a greater number of ombudsman adaptations than in the U.S. We have been slow to adopt the concept into governmental structures, yet it is being used in a growing number of large corporations and institutions of higher education. Michael Mills⁴, noted ombudsman and past president of the USOA, believes this proliferation of the term ombudsman

³ In addition to being the former president of the University and College Ombudsman Association, Carolyn Stieber served on the board of directors of SPIDR (Society of Professionals in Dispute Resolution) and belongs to the United States Ombudsman Association and the International Ombudsman Association. She has authored a number of articles on ombudsmen and is an emeritus faculty member in political science at Michigan State University, where she was ombudsman for 17 years.

⁴ Michael Mills is the Ombudsman, Office of the Mayor, for the City of Portland, Oregon. He has served as the vice-president and past president of the United States Ombudsman Association and the co-president, northwest chapter of the International Society for Professionals in Dispute Resolution.

outside of governmental entities can lead the general public to become confused over the true concept of an ombudsman (Mills, 1995). Rowe, by contrast, believes that the distinction is not necessary because the term is growing into a generic word whose definition encompasses many variations (Rowe, 2000).

The differences also extend to those who assume the title, ombudsman. Unlike their Swedish counterparts, most early higher education ombudsmen were not selected based on skills and training, but instead on a combination of personal characteristics, including integrity, fairness, and knowledge of the institution. Many of the first university ombudsmen made up the job as they went along, defining their roles and the limits of their power and responsibility. It is for these reasons that the practice of ombudsmen varies considerably from one office to the next (Gadlin, 2000). However, most offices were formed under the same political and social pressures, albeit differing triggering events may have contributed to their creation. They also were headed by academics, individuals strongly influenced by the ideals of academic freedom.

As the number of these offices increased over the last few decades, these practitioners sought one another out, creating professional organizations focused on the ombudsman function. The largest was UCOA, which established position descriptions, standards of practice, and a statement on ethical principles. In July 2005, UCOA merged with The Ombudsman Association (TOA) to form the International Ombudsman Association (IOA). Today the IOA is the largest international association of professional organizational ombudsman practitioners in the world, representing over 500 members from the U.S. and across the globe (IOA, 2007).

It is clear the ombudsman profession has developed rapidly over the last several decades and that institutions of higher learning were at the forefront in establishing offices, but how did the ombudsman concept take hold? To understand,

one has to look back at the earliest offices and consider the political and social environment of the time.

1960s

During the 1960s the academic world in the U.S. provided a particularly fertile environment for the acceptance of the ombudsman concept. This was a period of tremendous unrest and social turmoil. The idea of a fair and unbiased neutral who could offer a voice to the people, was outside of the official chain of command, and offered an alternative to violence was very appealing. As this interest grew, a number of popular as well as scholarly articles about ombudsmen began to appear (Rowat, 1964; Gelhorn, 1967). It was a fertile ground not only for the acceptance of the ombudsman concept, but also for other new and revolutionary ideas. There was a major shift in the field of industrial relations and collective bargaining with the publishing of *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System* by Walton and McKersie. In the forward to the second edition published in 1990, Thomas Kochan credits the book with opening up the field to the work of social science and traces the impact the text had on the field. The idea that social interaction could influence negotiations held important meaning for the ombudsmen, as scholars began examining and defining the role of a neutral (Walton & McKersie, 1990).

It was easy to see the appeal, as virtually every campus of any size was traumatized by repeated demonstrations against the Vietnam War and the military draft. Students and faculty alike clamored for a voice in university governance. Stieber noted it was commonplace for police to be called upon to clear out buildings and arrest demonstrators. She found that there was a general perception of academic indifference to student concerns, with “no one in our corner” to care about system glitches or unclear rules and regulations that were arbitrarily, if not capriciously,

enforced. Those feelings of disregard and confusion frequently led to student protests. Stunned by the unrest and anxious to restore public confidence, educators were receptive to experimenting with the ombudsman concept (Stieber, 1982).

In 1967, Michigan State University became the first major university to establish an ombudsman office. The office grew out of a report on academic freedom for students at Michigan State, which had been written following several large protests. The ombudsman was a senior faculty member and reported directly to the president of the university. Following Michigan's lead, a score of ombudsman offices, primarily at large public universities, developed over the next decade and the structure that emerged at Michigan State was widely copied (Stieber, 1982).

There were variations: some ombudsmen were not faculty and some were placed at a lower level in the university organizational hierarchy. These operational variations emerged because ombudsmen offices were often created in response to the particular needs of an individual university or college. Ferdinand Ermlich, Ombudsman, State University of New York (SUNY) College at Oneonta, found that ombudsman offices were often not established at the system level in major institutions, but instead at the local unit or campus, such as the one at SUNY Oneonta. He believed it was "crucially important for any study of the ombudsman within American higher education to first understand the nature of the institution under study before one can grasp the consequences of the college or university ombudsman upon it" (Ermlich, 1993). Ermlich also felt that it was the relationship between the institution and its ombudsman that led to the often distinctive operations of individual ombudsmen offices. Most offices were recommended after intense study and review and were codified in university statute, and as such they followed guiding principles or missions.

Expansion: The 1970s and 1980s

By the 1970s, only ten years after the first ombudsman office was established in the U.S., the idea had proliferated in a variety of different settings. The concept had taken hold in universities and a number of them established ombudsman offices (Stieber, 1982; Hill, 1997). The growth was encouraged by a 1971 Carnegie Commission report on coping with campus unrest that encouraged the creation of the ombudsman role to deal with student complaints and actively assist students in securing fair treatment (Carnegie, 1971). A number of university ombudsmen were appointed during these years are still active today, including Mary Rowe, Carolyn Stieber, and Robert L. Shelton at the University of Kansas. Shelton wrote of his experiences, agreeing that the ombudsman position developed as the result of internal concerns and by recognition of developments elsewhere in American institutions of higher education. Like many other universities that developed ombudsman offices, the University of Kansas had felt student pressure for change and a voice in university governance for years. Students and faculty involved in the civil rights movement were actively demanding attention and action. The 1970s activism against the Vietnam War and the pressures to facilitate meaningful institutional openness and dialogue for members of the university community also led to the establishment of the ombudsman (Shelton, 2000).

During the 1970s and 80s, ombudsmen became an integral part of many colleges and universities, quietly expanding their roles and reputations. As academics, it was only natural for them to begin researching and writing about their chosen profession. They reached out to others doing the same work and formed and joined professional organizations. They also began to collaborate with researchers and professionals studying negotiation, bargaining, and others whose interests naturally coincided.

Researchers published many critical and groundbreaking works on dispute resolution during this time. In 1981, Ury and Fisher published, *Getting to Yes*. Building on their experience teaching negotiation classes and workshops at Harvard, they opened up the field of dispute resolution beyond the walls of the classic labor-management relationship. This was followed by more groundbreaking work, including in 1984 Axelrod's, *The Evolution of Cooperation*, which explored the theory of cooperation and "Tit for Tat" strategy in negotiations. Then in 1988, Brett and Goldberg published their path-breaking work on conflict resolution system design, *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict*. In it they specifically mentioned the ombudsman as a way to ensure that people are available to assist disputants, because providing a person to turn to for help is an essential element of designing effective dispute resolution systems. They also referenced Rowe's practice in the ombudsman's office at the Massachusetts Institute of Technology (MIT), where she identified university practices that had been causing disputes and suggested changes in those practices.

The concept of alternative dispute resolution was also being explored by the U.S. legal system. The "Pound Conference," held April 7-9, 1976 in St. Paul, Minnesota (70 F.R.D. 79) is considered one of the watershed events in the history of ADR. The keynote address to the conference was given by then U.S. Supreme Court Chief Justice Warren E. Burger, who encouraged the increased exploration and use of informal dispute resolution processes (Levin & Wheeler, 1979). Harvard professor Frank Sander's speech at the conference entitled "The Causes of Popular Dissatisfaction with the Administration of Justice" articulated his observation that traditional litigation systems could only process certain kinds of disputes effectively, suggesting that the remaining types of disputes might be better addressed through other mechanisms. He outlined a screening or sorting process which would match the

case with the most appropriate form of resolution. His presentation is seen as the “big bang” moment in the history of ADR (Moffitt, 2006). Six years later, Chief Justice Burger expounded upon the ADR concept at a January 1982 midyear meeting of the American Bar Association, when he challenged his profession to make a comprehensive review of the whole subject of alternatives, with special emphasis on arbitration. Burger spoke of how Americans were increasingly turning to the courts for relief from a range of personal wrongs, pointing to the rise of the sentiment of entitlements (Burger, 1982). Burger’s speech was important because before change could take hold, attitudes had to change within the American judicial system.

Stephen L. Hayford observed that until the 1980s, "attempts by business firms to avoid litigation ...were frustrated by a longstanding hostility on the part of the courts toward any devices that infringed on their jurisdiction. The idea that every person had an inalienable right to his “day in court” held sway.” But during the 1980s, Hayford noted that a new body of case law emerged which placed great incentive on designing and implementing binding arbitration provisions in commercial contracts (Hayford, 2000). It was during this time that the acronym ADR was coined and it is recognized that ADR first emerged in the legal profession, driven by the concern over the litigation explosion (Olson, 1991). The President’s Council on Competitiveness reported that in 1989 nearly 18 million new civil cases were filed in state and federal courts; and that Federal District Court filings had almost tripled in the last thirty years – from approximately 90,000 in 1960 to more than 250,000 in 1990 (President’s Council on Competitiveness, 1991).⁵ Most scholars believe the chief contributors to

⁵ The report by the President’s Council on Competitiveness cites the *Federal Courts Study Committee: Working Papers and Subcommittee Reports*; July 1990, vol. 2. Published within that volume is a paper *Appellate Court Caseload: A Statistical Overview*, by Vincent Flanagan; Table 2 includes total federal caseloads from 1945 (100,394) to 1989 (279,288) a 178% increase. The Council’s report also cites 1990 *Federal Court Management Statistics*. Additionally, *The Management Statistics for United States Courts* provides total federal district courts filings for 1967 (103,168) and the U.S. Courts web page for

the phenomenon of litigants opting out of the civil justice system included the family law mediation movement, skyrocketing costs of business litigation, employment and tort law defendants facing huge volumes of litigation, and risks inherent in the jury system (Gordon, 2005).

This body of law continued to evolve in the late 1990s, including the Alternative Dispute Resolution Act of 1998, which extended ADR mechanisms throughout the federal district court system. Today court-based ADR programs are common and forty-five states have enacted legislation creating ADR programs (Morrill, 2005).

As the concept grew and interest increased in ADR, researchers began examining the origins and growth of the movement. Singer referred to it as “a quiet revolution in the methods Americans have available to them for dealing with conflict” (Singer, 1990). The role of the ombudsman was a natural topic for these researchers and the profession quickly became identified with the ADR movement.

1990s

During the 1990s the role and practice of ombudsmen became a focus for many researchers. Professional associations, including the UCOA, placed a high priority on articulating standards of practice. In 1995, Sir John Robertson, former Director of the International Ombudsman Institute, said, “We are in the midst of the most important and exciting decade of the twentieth century for the development of the ombudsman as an institution.” He went on to review the trends in the field, including ADR, which he believed had considerable potential to encompass a broader spectrum of disputes and that the ombudsman should be looking for opportunities to lead the way for ADR into the next century (Robertson, 1995).

Federal Court Management Statistics (<http://www.uscourts.gov/fcmstat/>) provides filings for 1992 (265,612), a 156% increase.

Arguably one of the most influential university ombudsmen today is Mary Rowe, who wrote extensively during the 1990s on ombudsmen, innovations in dispute management and resolution, and the growth of ADR procedures. In 1991, Rowe described the overall role and functions of the ombudsman as a “desirable and cost-effective element in a dispute resolution system” (Rowe, 1991). By 1997, she had expanded this concept by moving towards integrated systems for conflict management. She reviewed innovations in nonunion dispute management and resolution, citing explanations for the introduction of innovations among nonunion employers, and various options for dispute resolution procedures. She introduced the concept of the ombudsman taking an active role in effective integrated conflict management systems and discussed her own work at MIT on conflict management systems design (Rowe, 1997).

Another influential scholar during this period was Marsha L. Wagner, the Ombuds Officer at Columbia University. In a 1998 paper, she focused on the role of the ombudsman in changing a university’s conflict resolution system. She referenced the “burst of interest in organizational conflict resolution systems” seen in recent years. Wagner believes ombudsmen should play a pivotal role in initiating and implementing organizational conflict resolution system change because of their knowledge of the organization. She notes, “The ombuds is ideally located to understand how change in one part of the organization’s system might impact on other parts, and to recognize the interdependence of the components” (Wagner, 1998).

Historically, most ombudsmen have maintained neutrality and confidentiality by remaining outside the chain of command of an organization. As some university ombudsmen began to take a proactive role in initiating and implementing system change, they looked for ways to maintain this separation. Gadlin and Pino suggested the feedback process might be an important part of this function, as it can address a

particular individual or a much larger unit, including the entire organization (Gadlin & Pino, 1997). Still some practitioners worried that expanding the role of the ombudsman to include the instigation of system-wide change, even if recommendations are based on objective data and anonymous case statistics, could sacrifice the autonomy and separation from university governance crucial to the ombudsman function.

The focus on expanding the opportunities not only to resolve disputes, but to initiate and implement conflict management systems was not unique to ombudsmen. Although there is no definitive definition of a conflict management system, it differs from ADR as something more multifaceted and comprehensive. Simply put, ADR serves a function within a conflict management system. A 1998 survey of the use of ADR by the 1,000 largest U.S. corporations found that ADR processes were not secondary or disorganized, but essential elements in strategic planning designed to provide systematic, long-term change in the way corporations resolve disputes (Lipsky & Seeber, 1998).

2000 to Present

By January 2000, it was estimated that more than 150 university ombudsman offices existed in the U.S. and Canada (Stieber, 2000). As we near the end of the decade we can look back and see forty years of success and growth in the ombudsmen profession in American higher education. Offices that were created in response to the social and political unrest of the 60s are still going strong today. Although they exist separately from one another and with a great deal of autonomy, they share the basic values of the classical ombudsman concept: justice, equity, fairness and a desire to serve their communities.

The ADR movement that emerged in the 1970s grew to envelop the ombudsman profession and many ombudsmen became active participants in the

growing field of dispute resolution. Today the use of ADR has led to the development of workplace conflict management systems; building upon the idea of the ADR professional being a proactive manager, embracing the establishment of systems to manage conflict, and championing those systems to the highest level of an organization (Lipsky, Seeber & Fincher, 2003). Wagner furthered the idea of the ombudsman taking an active role in conflict management in a 2000 article that introduced the idea of an “Organizational Ombudsman as Change Agent.” She argued that the “ombudsperson is ideally situated within the organization to make recommendations for systematic change, based on patterns of complaints brought to the office” (Wagner, 2000). She also argued that “there is great potential for the ombuds to assume the role of trainer of groups, and that this is becoming an increasingly common function for the ombuds in organizations or on campuses in the 1990s” (Wagner, 2000). She noted that her position differs from Rowe’s because she focuses specifically on the role of the ombudsman not only as a part of a conflict resolution system but as a designer of such a system (Wagner, 2000).

In 2001, the Society of Professionals in Dispute Resolution (SPIDR) in cooperation with the Institute on Conflict Resolution contained guidelines for the design of conflict managements systems and offered five defining characteristics.

“Effective integrated conflict management systems share these characteristics:

1. They provide options for all types of problems and all people in the workplace, including employees, supervisors, professionals, and managers.
2. They create a culture that welcomes dissent and encourages resolution of conflict at the lowest level through direct negotiation.

3. They provide multiple access points. Employees can readily identify and access a knowledgeable person whom they trust for advice about the conflict management system.
4. They provide multiple options – both rights-based and interest-based – for addressing conflict.
5. They provide systematic support and structures that coordinate and support the multiple access points and multiple options and that integrate effective conflict management into the organization's daily operations" (Gosline, et. al., 2001).

Mary Rowe was one of the authors of the report and the short bibliography on dispute systems design, appearing in Appendix V, includes several of her publications.

The differences between Wagner and Rowe's practices highlight the many different adaptations of ombudsmen in higher education and how the growth of the ADR movement has resulted in tensions between practitioners. Some identify themselves more with the classical ombudsman model of the late 1960s and 70s, which was based on the Swedish Parliamentary model. There is a strong focus on maintaining autonomy and acting as a neutral third party. Alternatively, the UCOA definition of an ombudsman supports the idea of a systems model. Moving away from the classical definition and its relation to public governance, the focus is on the organization and the ombudsman's role. Such an approach allows for greater interaction, including a proactive approach to managing conflict in organizations. Those wedded to the classical model eschew the close working relationship with administration required for proactive system design, warning of the possible loss of autonomy most consider essential to the profession. The tension between developing models and practices for the ombudsman reflects the varying needs of each institution, but has also been influenced by the growth of the ADR movement.

The next chapter moves beyond the historical review to examine the adaptations in practice, tensions and conflict between differing models, and how ombudsmen evaluate their offices.

CHAPTER TWO
THE MODERN OMBUDSMAN:
ADAPTATIONS, CONFLICT, AND EVALUATION

Adaptations

As stated earlier, there are few places in the world where one will find a greater number of ombudsman adaptations than in the U.S. and very few of these follow the classical ombudsman model. Ombudsmen are found in government at local, state and federal levels, as well as non-governmental organizations, such as universities, corporations, and nursing homes (Anderson, 1993). These variations extend to campus ombudsmen who developed their offices independently of one another, offices designed to meet the specific needs of their educational institutions. As practitioners, some have chosen to be actively involved in the ADR movement while others have chosen to stay more closely tied to the classical model. It is unclear what effects the different adaptations had on the actual practices of the offices, as most stay true to the underlying principles of the profession by offering a neutral, third-party mechanism for resolving disputes. As Rowe noted, it is a profession in evolution and probably no one statement about ombudsmen is true for all (Rowe, 1995).

The influence of corporate ombudsmen on their campus counterparts is also unknown. Corporate ombudsmen operate in a similar manner, supplementing formal channels to resolve conflict within the organization. The tenets of confidentiality and neutrality are critical to their function. However, the clientele of the campus and corporate ombudsmen differ. While campus ombudsmen often serve a large community, including students, faculty, and employees, the corporate ombudsman function is generally intended to serve only employees. The creation of the corporate ombudsman function is often generated by risk management and compliance goals to

prevent asset loss, comply with legislation and regulations, and maintain an ethical work force. Corporate ombudsmen often serve as part of an integrated conflict management system, acting as change catalysts to help the organization identify and affect change (Redmond & Williams, 2004).

Specialized mediation and conflict resolution services on campus, outside of the ombudsman function, have also been appearing on campuses across the U.S., growing from 18 programs in 1990 to some 200 in 1999 (Warters, 2000). Examples include The Conflict Resolution Services Center at Wayne State University and the Peer Mediation Program at Bryn Mawr. However, even at colleges and universities with ADR programs in place, ombudsmen play an important role in handling conflict. They can operate as a highly visible point of service for the broad constituencies present on campuses, including students, staff, parents and faculty. The flexibility of the function allows them to provide a wide range of services, including interpretation of regulations and procedures, referrals, informal conciliation, and mediation. The basic tenets of their profession - independence, neutrality, impartiality, confidentiality, informality, and access - insures that any client who uses their service is the ultimate decision maker as to what approach, if any, he or she wants to take in an attempt to resolve the conflict (Warters, 2000). These tenets or standards of practice can be seen in the IOA Standards of Practice and the UCOA Standards of Practice (IOA, 2006 & UCOA, 2005).

Conflict

In the terms of Ury, Brett and Goldberg, ombuds practitioners can help to provide “motivation, resources, and skills” for continuous problem solving in times of change, within a dispute resolution system (Ury, Brett & Goldberg, 1988). However, it is also recognized that the ombudsman profession itself has been in conflict over differences between how the similar function described above is offered, with some

ombudsmen wanting to take an active role in designing systems, while others preferring to fill a role in the system (Gadlin, 2000).

In an attempt to investigate further, Howard Gadlin⁶, past president of the Ombudsman Association and UCOA, asked four respected university ombudsmen to participate in a symposium. He believed their differences might better illustrate the key variations and disputes. Based on their responses, he found two differing viewpoints: those who saw themselves as direct descendants of the classical ombudsman tradition, based on the Swedish model; and those who were the organizational ombudsman, seeing the investigative function of the ombudsman in a somewhat different way⁷ (Gadlin, 2000). Gadlin defined classical ombudsmen as those whose offices were established by legislation and who incorporate a traditionalist interpretation of the role by emphasizing statutory independence from governmental control, the power to investigate complaints and the authority to publish findings and recommendations. The organizational ombudsmen differ because they were not established by statute, but rather from within the governance structure of their institutions, although they also emphasized independence from managerial control (Gadlin, 2000). Gadlin's view of the classical ombudsman is softer than Mary Rowe's view of five years earlier, when she used a strict definition of the classical ombudsman as those who are created by law, appointed by legislative bodies to receive complaints about the administrative acts of government agencies, and who may have jurisdiction over agencies (Rowe, 1995).

⁶ Howard Gadlin is the ombudsman for the National Institutes of Health, past president of both The Ombudsman Association and the University and College Ombudsman Association, and a chairperson of the Coalition of Federal Ombudsman.

⁷ Gadlin found that he and Marsha Wagner of Columbia University represented the organizational ombudsman. Carolyn Stieber of Michigan State University and Frances Bauer of Western Ontario University represented the classical sensibility of the traditional model and Robert Shelton of the University of Kansas was somewhat of a hybrid.

Some ombudsmen are leery of creating closer ties to their administrations for fear of losing or appearing to lose neutrality and confidentiality. This issue was studied in a 2002 conference, “Does a Report to An Ombudsman Constitute Notice to an Entity?” From that conference, Sharan Lee Levine⁸ and Paula Aylward, outlined the issues relating to ombudsmen and notice, specifically arguing that communications to the ombudsman do not constitute notice to the entity. They point to the American Bar Association’s Standards for Establishment and Operation of Ombuds Offices (ABA, 2004) and the professional standards/guidelines established by professional ombudsman societies, such as the Ombudsman Association and the UCOA, along with routine practices of existing offices.

However, even with these concerns, conflict, and possible divergence in practice, there are still many similarities and common goals. Shelton argues that if you examine the ombudsman role as it developed from its origins in Sweden it reveals some essential elements necessary for success. These elements are not unique to Shelton and appear in much of the literature. They include: “active, significant experience within the community or organization; independence from power influences; impartiality and neutrality; investigative power to gather necessary information; community recognition of responsibility for recommendations to those in authority; and confidentiality, or privacy, in working with those who bring problems to the ombudsman” (Shelton, 2000; Rowe, 1995). Wagner would add the ability to act as an agent of change and to influence the creation of an effective conflict management system within the organization. Larry Hill, who has studied ombudsmen for several decades in many countries, states, “Whatever else an ombudsman may be, it is an additional citizen access point to the system...Ombudsmen first investigate a

⁸ Sharan Lee Levine is a partner with Levine & Levine in Kalamazoo Michigan and has represented Ombudsmen nationally on a variety of issues.

complaint carefully and dispassionately. If no injustice is revealed, the client is so informed, but if administrative fault is found, it is the ombudsman's duty to fight for the client" (Hill, 1982). Whatever their opinions of ADR, it would appear that most ombudsmen agree with Hill's statement.

The January 2000 issue of *Negotiation Journal* featured articles written by practicing ombudsmen. Stieber noted that "the pages of this journal reflect some divergence in how TOA members view their work and the principles to which their members adhere, in contrast to some of their brethren in counterpart positions, governmental or academic" (Stieber, 2000). While the divergence is recognized, equally recognized is the difficulty of evaluating the work of an ombudsman. The concerns over the ability to maintain confidentiality often results in little or no administrative management systems, files, or records. Consequently, although the divergence in work and principles is recognized, little has been done to quantify it.

Evaluation

There is a dearth of research on the growth of internal organizational dispute resolution mechanisms, who uses them, and what they accomplish (Harrison, 2004). It does appear that once an ombudsman office is established it becomes a permanent part of the campus landscape, a recognizable service for its community. There are no reliable statistics on how many ombudsmen offices, once established, have disappeared. Some ombudsmen in academe have lost support, including one at the State University of New York, Stony Brook and one at Ohio State University (Stieber, 2000 & 1982), but they are the rare exceptions.

As seen in this review of the literature, much of the ombudsmen research and evaluation is done by practicing ombudsmen who focus on their own experiences (Rowe, Wagner, Stieber). Harrison found that evaluations of ombudsmen processes come primarily from surveys and self-reports of practicing ombudsmen and focus

primarily on the number of clients seen (Harrison, 2004). Most ombudsmen advocate research to improve the ombudsman process, but it is unclear how best to proceed with such an evaluation (Wagner, 2000). John Barkat⁹ suggests that it is time to merge practice and research, in order to create a wider movement that would actively link researchers and practitioners (Barkat, 2002).

There are many obstacles to overcome. Most university and college ombudsmen have a high level of autonomy in the operation of their offices. They have developed policies, practices, and procedures that are distinctive to their own operations and that often differ from those of their contemporaries (Warters, 1998). Several, including Rowe, have described and set forth standards of practice, including: listening, providing and receiving information, reframing issues and developing options, referral, helping people help themselves in informal third-party intervention and shuttle diplomacy, looking into a problem, classic mediation, systems change, following through, and a direct approach (Rowe, 1995). Defining standards of practice and conducting surveys to determine use, may be one method. Harrison advocates additional research into the varying perspectives and goals of the ombudsman processes to yield a systematic and comprehensive view of success. However, it is recognized that the presence of competing missions, goals, and practices means that defining and measuring success is likely to be a difficult and messy process. Harrison found that ombudsmen occupy a much broader space on the continuum of third-party dispute resolution than do mediators, arbitrators, adjudicators, or counselors and that the existence of all these roles means there is no single standard for measuring success (Harrison, 2004). Most offices seem to be

⁹ John S. Barkat is the Ombudsman at Pace University and the past President of the Ombudsman Association. He is the co-chair of the Ombudsman section for the Association for Conflict Resolution and co-chairs the Ombudsman Committee of the American Bar Association's section on Dispute Resolution.

evaluated on the basis of intuition, word of mouth, and satisfied client letters.

Research that has been done to date focuses on three main areas: client use, policy changes, and cost-savings (Rowe, 2000).

I propose that to understand the effectiveness of these offices one has to first understand the individual offices in the context of the charge that created them and subsequent practices and procedures that developed. It is also necessary to gauge the involvement in and influence of the ADR movement on their practices. Finally, one must examine the fundamental components that all ombudsmen agree on, such as neutrality and confidentiality. These fundamental elements are important because the ombudsman, as an institution, has three essential elements in its favor – independence in operation, flexibility in dispute resolution, and credibility within the public and organizations subject to its jurisdiction (Robertson, 1995).

Independence is essential if individuals are to have any confidence in the ombudsman's work (Oosting, 1995). The ability to meet clients' needs by remaining flexible and open is an absolute necessity, but perhaps most important of all is credibility. The ombudsman office should be seen as accessible and trustworthy – a zero-barrier office – to the extent that it really maintains confidentiality. For this reason it should not accept notice for the employer – that is, it should not be an office of record for reports of illegal behavior (Ombudsman Association Standards of Practice, 1995). Flexibility in the services the office can provide is essential, be it a simple referral or complex mediation, along with ability to allow the client to decide how best to proceed in resolving their dispute. As neutral third parties, ombudsmen must have the authority to operate their offices and resolve disputes independent of campus governance. Those who seek them out have to be assured of confidentiality and neutrality, without credibility the ombudsmen are ineffective and their services will not be utilized by their campus constituencies.

To examine the basic principles of and adaptations in the ombudsman function, it was necessary to seek out practicing ombudsmen in higher education to collect demographic information about their offices, to query them regarding their basic principles and beliefs about their chosen profession, and to collect demographic information about the ombudsmen themselves. Analysis of the data would reveal if ombudsmen adhere to standards of practice for the profession and which standards are being followed, if a systems model has emerged, and if variables can be identified that determine which model an ombudsman will follow.

The next chapter discusses the survey that was developed and administered to examine the creation of the ombudsmen offices and their subsequent development.

CHAPTER 3

THE SURVEY: METHODS, PROCESS, AND PROCEDURES

Overview

This thesis examines the historical role of the ombudsmen in institutions of higher education in the U.S. and explores whether the rise of ADR has affected the role they play in managing conflict and disputes. The review of the literature suggests that there is no one formula or model for an ombudsman in higher education. There may be very different approaches to the same function, which can be seen in how they came into existence and how their practices developed over time. Research suggests that some identify more with the classical model and others with a systems model that reflects the influence of ADR and their role as an essential element of an integrated conflict management system.

A survey was developed and administered to examine the creation of these offices and their subsequent development, focusing on the following:

- Collection of current demographic information on higher education ombudsmen offices;
- attitudinal queries regarding the ombudsmen, focusing on their principles and beliefs; and
- collection of demographic information on the ombudsman professional.

The survey was designed to test the hypotheses that:

- The collected experience of the last several decades, coupled with the influence of the ADR movement, has altered the way in which higher education ombudsman operate their offices and provide services to their clientele; and that these factors have resulted in pushing ombudsmen to a systems model.

Identifying the Ombudsmen

In 2000, Stieber estimated that there were over 150 practicing higher education ombudsmen in the U.S. and Canada (Stieber, 2000). This is slightly higher than the estimate by McKee and Belson in 1990, which found more than 100 university and college ombudsmen in the U.S. and more than 20 in Canada's 59 degree granting institutions (McKee & Belson, 1990). Besides these broad estimates, there are no reliable figures on the number of practicing ombudsmen in U.S. institutions of higher education. The first obstacle to overcome in administering the survey was to identify those individuals and their institutions.

The UCOA defined an ombudsman as someone "authorized by an institution of higher education to confidentially receive complaints, concerns or inquires about alleged acts, omissions, improprieties, and/or broader systemic problems within the ombudsman's defined jurisdiction and to listen, offer options, facilitate resolutions, informally investigate or otherwise examine these issues independently and impartially" (UCOA, 2000). This is a broad definition, and many, if not all, institutions of higher education have individuals and offices that provide some form of conflict resolution services for their constituencies. Since the focus of the survey would be on the ombudsman function, the target response population needed to be those who identified and were familiar with the ombudsman concept. This requirement limited the survey population to those individuals and institutions that had ombudsmen or a derivative either in their working title or in the title of an office.

Not included in this group were individuals who describe their duties as serving as an ombudsman, but who lacked the independence and impartiality required in the UCOA definition and whose percentage of time devoted to the ombudsman function was minute. For example, "The Dean of Students also serves as ombudsman for students and adjudicates student discipline" (Lawrence Technological University,

2006). Also not included were networks of ombudsmen who assisted their peers or colleagues in resolving disputes informally, which are really forms of peer mediation. “All members of the University community, including students, faculty, and staff, are encouraged, when appropriate and desirable, to try to resolve issues relating to conduct they believe to be discriminatory or harassing, either alone or with the assistance of an Ombudsperson, by directly addressing any person(s) engaged(ing) in inappropriate or unwelcome behavior and requesting that the behavior stop or be modified in some mutually satisfactory way” (Division of Community Affairs, 2006). Also excluded were ombudsmen who had very narrowly limited duties and constituencies, such as the proposed State University of New York’s Transfer Ombudsman (SUNY, 2004). In addition to eliminating those whose duties were too narrow or limited, those who did not identify with the ombudsman function despite performing conflict resolution functions were excluded. For example, I excluded the Mediation Services Office at the University of California, Davis (U.C. Davis Mediation Service), which provides no-cost, informal mediation and conflict management services from a pool of trained volunteers.

Once the selection criteria were determined, the next step was to locate the ombudsmen. According to the Carnegie Foundation for the Advancement of Teaching's Classifications¹⁰ (Carnegie, 2006), the U.S. has a total 4,387 accredited post-secondary institutions. A careful examination of the websites of these institutions¹¹ using deep web research techniques¹², supplemented with the former

¹⁰ In 1970, the Carnegie Commission on Higher Education developed a classification of colleges and universities to support its program of research and policy analysis. Derived from empirical data on colleges and universities, the “Carnegie Classification” was published for use by other researchers in 1973, and subsequently updated in 1976, 1987, 1994, 2000, and 2005. The current version is available on their website (<http://www.carnegiefoundation.org/classifications>) and provides a set of tools for looking up specific institutions, listing all institutions in a particular classification category, aggregating categories within a classification, and examining points of intersection across two or more classifications.

¹¹The University of Texas at Austin provides links to regionally accredited institutions of higher education in the United States. Web U.S. Higher Education, <http://www.utexas.edu/world/univ/>.

UCOA membership list, conference attendance lists, and other sources mined from the literature review, revealed 201 practicing ombudsmen in accredited U.S. institutions of higher education.¹³ Included in these 201 are individuals who serve broad constituencies as well as those who serve narrower groups, such as only students or non-academic staff. Identification regarding how the individual was presented at each institution varied and was difficult. Some had an easily discoverable and identifiable web site, while others only received a brief reference in handbooks. Some were required by state statute, such as in Florida, which requires every state university to establish and fill the position of student ombudsman, but each university can independently decide how to meet this mandate (Florida, 2006). Although not required by statute, many of the University of California state universities have well established and active ombudsman offices. For many years, there was an active California Caucus of College and University Ombudsman, which published the *UCI Ombudsman: The Journal*, from 1988 until 1997. Also found were examples of offices and positions that were eliminated, such as the Northern Arizona University Ombudsman (Northern Arizona University) and Northeastern University, “Expressing confidence that the issue of diversity has ‘become institutionalized’ at Northeastern, President Curry this week said he has chosen not to renew the contract of university ombudsman Lewis Redding and to eliminate the position” (Northeastern Voice, 1996).

¹² Web crawlers, such as Google, do not index every page on the Internet. The pages that they recognize and index are often referred to as the surface or visible web. Pages that are invisible to the search engines, either by design or construction, are referred to as the deep or invisible web. Researchers can use techniques to “uncover” resources in the deep web. For additional information, please see Catherwood Library Question of the Month – Why doesn’t Google always find what I need? What is the Deep Web? <http://www.ilr.cornell.edu/library/research/questionofthemoth/oct06.html>.

¹³ The 201 identified ombudsmen is a significantly higher finding than those of McKee & Belson and Stieber. It was not immediately clear whether this was a real trend or simply reflects the increasing availability of data via the web. However, analysis of the survey findings (presented in Figure 4.1) show that this is a genuine trend as 42% of the respondents indicated their office had been founded in the year 2000 or later.

Using information from individual institution web sites and the Carnegie Classification database, the data below were collected on each identified ombudsman.

- control; public or private/not-for-profit*
- name of ombudsman**
- address of ombudsman**
- total enrollment*
- location; by state*

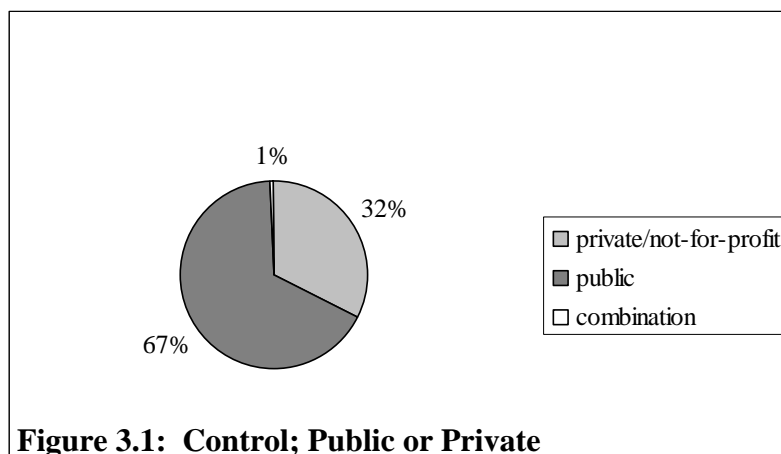
*From the Carnegie classification database and individual institutional websites.

**Confidential data, not included in published findings to protect identity of survey respondents.

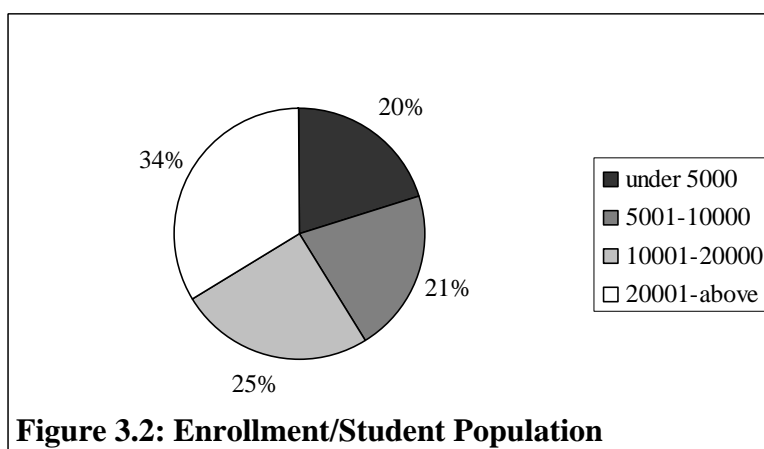
Analysis of the Data – Ombudsmen List

This process revealed a total of 201 ombudsmen. The 201 represented 197 U.S. institutions of higher education; four institutions had two or more ombudsmen serving different clientele and operating independently of each other. In these instances, separate surveys were mailed to each. Other instances of multiple ombudsmen were found, but in those instances, they did not exist independently of one another, often being housed in the same office. Additionally, nine institutions had colleges or schools with ombudsmen, but no ombudsman function at the university level. In each of these nine instances, the ombudsman performed the function for graduate students, including five at medical colleges.

Using the Carnegie classification database, 132 institutions were identified as public; 64 as private/not-for-profit; and one as a combination of public and private.



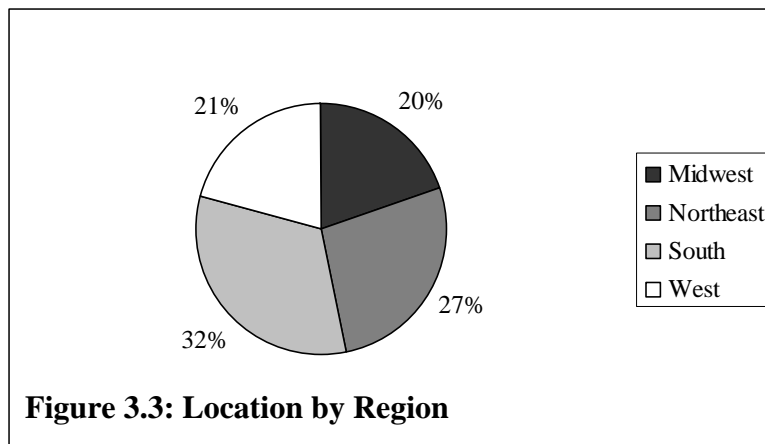
A majority of the institutions had large student populations; 67 had enrollments exceeding 20,001; 49 had enrollments between 10,001 and 20,000; 41 between 5001 and 10,000; and 40 had under 5,000 students¹⁴.



To examine the geographic location of the ombudsmen, they were sorted and coded according to the four U.S. census regions¹⁵, resulting in 64 in the South, 53 in the Northeast, 41 in the West, and 39 in the Midwest.

¹⁴ Although it is interesting to look at the size of the institution based on student enrollment, this may be misleading because it does not reflect the actual size of the ombudsman's constituency.

¹⁵ The U.S. Census Bureau delineates two sets of sub-national areas that are composed of states. This two-tiered system of areas consists of 9 census divisions nested in 4 census regions. For more information see <http://www.census.gov/popest/geographic/>.



Determining the number of ombudsmen, along with the control, enrollment, and location of their offices, gives a much clearer picture of the number of ombudsmen practicing in U.S. institutions of higher education than was previously available. Of particular interest is the increase in the number of ombudsmen to 201 from earlier estimates of 120-150. Collection of this data also allows comparison with the collected survey data to determine if a representative sample of ombudsmen were reached.

Constructing and Administering the Survey Instrument

The survey instrument was constructed in three sections with 54 questions in total (see Appendix I). The first section consists of descriptive questions, which focus on the founding of the ombudsman's office and its practices. Respondents answered 23 questions on the founding of the office, characteristics of their institution of higher education, title of the office, staffing, clientele served, reporting and oversight, the role of the office within the institution, and changes over time in its functions and procedures.

The second section used a Likert scale to judge the ombudsman's guiding principles and beliefs. Attitudinal in nature, the 21 questions ask them to characterize their own practices and experience. There are questions on independence, neutrality

and impartiality, confidentiality, informality, means of resolving disputes, and how the ombudsmen define their function.

The third and final section asks ten demographic questions to obtain background information on the ombudsman, including age, gender, ethnicity, education, appointment, professional organizations, and years in the profession.

The survey instrument was sent with a cover letter, by standard U.S. mail to the 201 identified practicing ombudsmen in October 2006. Included in the mailing was a self-addressed, stamped envelope. Respondents were directed to return the instrument by November 30, 2006. A reminder email, when the address was available, was sent November 1, 2006. Of the 201 surveys mailed, 99 surveys were returned of which 98 were valid, a response rate of 49%. The survey results were coded and the data was first entered into Excel and then SPSS for analysis.

Procedures

Frequency tables and related graphs are used to present responses to individual questions. When analysis of categorical data is concerned with more than one variable, contingency tables are used. They provide a foundation for statistical inference, where statistical tests question the relationship between the variables on the basis of the data observed. The chi-square test (χ^2) is used to test statistical significance and Cramer's V to test strength of association between two categorical variables in a contingency table. The null hypothesis H_0 assumes that there is no association between the variables, while the alternative hypothesis H_a claims that some association does exist. The alternative hypothesis does not specify the type of association, so close attention to the data is required to interpret the information provided by the test.

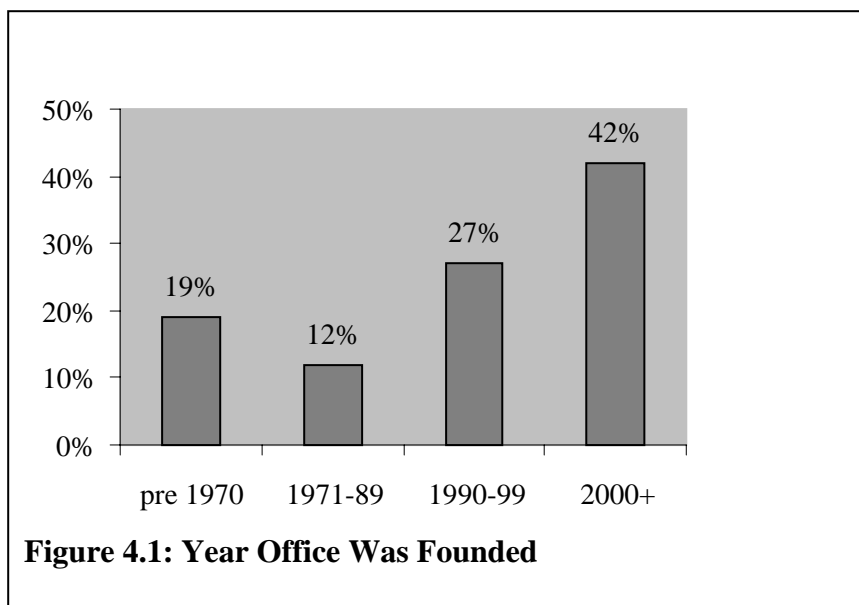
The distribution of the statistic χ^2 is chi-square with $(r-1)(c-1)$ degrees of freedom, where r represents the number of rows in the two-way table and c represents

the number of columns. The P-value for the chi-square test is $P(\chi^2 \geq x^2)$, the probability of observing a value at least as extreme as the test statistic for a chi-square distribution with $(r-1)(c-1)$ degrees of freedom. Generally, a probability of .05 or less is considered to be significant. Phi and Cramer's V is used to examine the association between two categorical variables. Phi is used for 2 x 2 tables and Cramer's V is used for larger tables in which the number of both rows and columns is greater than two. Cramer's V ranges from -1 to 1, with 0 indicating no relationship and -1 or 1 indicating a perfect relationship.

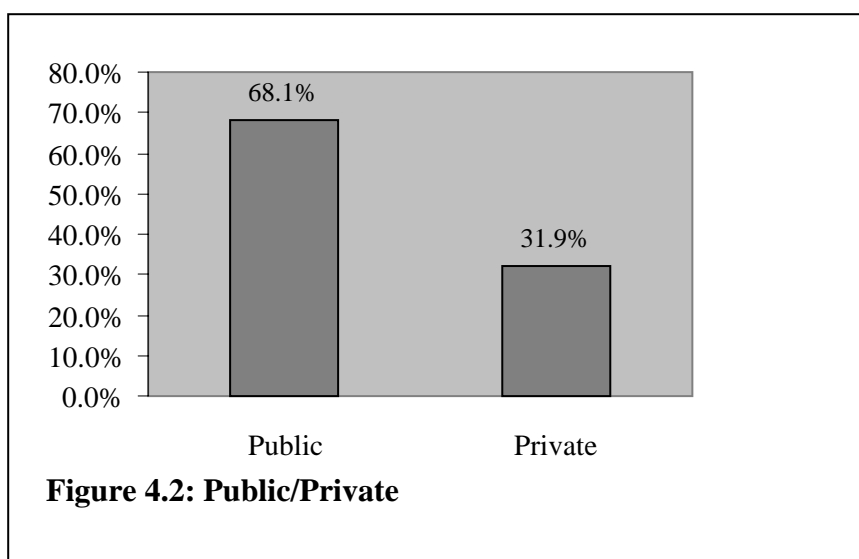
CHAPTER 4
THE SURVEY: RESULTS

Section 1: Your Office – Founding and Practice

Two authoritative sources (Stieber, 2000 and McKee & Bleson, 1990) estimated the number of practicing ombudsmen in the U.S. and Canada at approximately 120-150. In finding the ombudsmen for the survey as described previously, 201 were identified as practicing in U.S. institutions of higher education. This finding suggests that either the prior estimates were incorrect or that the number of ombudsmen has grown significantly since 2000; from approximately 150 to 201 – a 34% increase in seven years. The survey findings support the hypothesis that the number of ombudsmen has grown significantly. Figure 4.1 illustrates that of the 91 respondents who answered the query, “When was your office founded?” 53 or 58% of respondents indicated their offices were founded prior to 2000 and 38 or 42% of the respondents indicated their office had been founded in 2000 or later. This also indicates the survey reached a representative sample of ombudsmen.



Additionally, of the 201 identified practicing ombudsmen, the Carnegie Classification database identified 132 or 67% of institutions as public; 64 or 33% as private; and 1 as a combination of public and private (refer to Figure 3.1). As Figure 4.2 shows, of the 72 respondents who answered the query, “Is your educational institution public or private?” 49 or 68.1% responded that their institutions were public and 23 or 31.9% responded that their institutions were private - again, indicating a representative sample was obtained.



We know that the first higher education ombudsmen offices were formed during the civil rights and political movements of the 1960s and 70s, often in response to student protests and demands. When asked if there “was a precipitating event that led to the founding of their office”, as shown in Figure 4.3, of the 97 who responded 32 (33%) said yes, 47 (48%) said no, and 18 (19%) did not know. This was followed-up with a query asking those who responded positively to describe the event. These event types were then re-coded by type of event, as shown in Table 4.1. Of the 31 responses, the majority replied both student unrest and protests (38.7%) or result of climate study, task force, consultant recommendation, or other organizational/administrative decisions (45.2%).

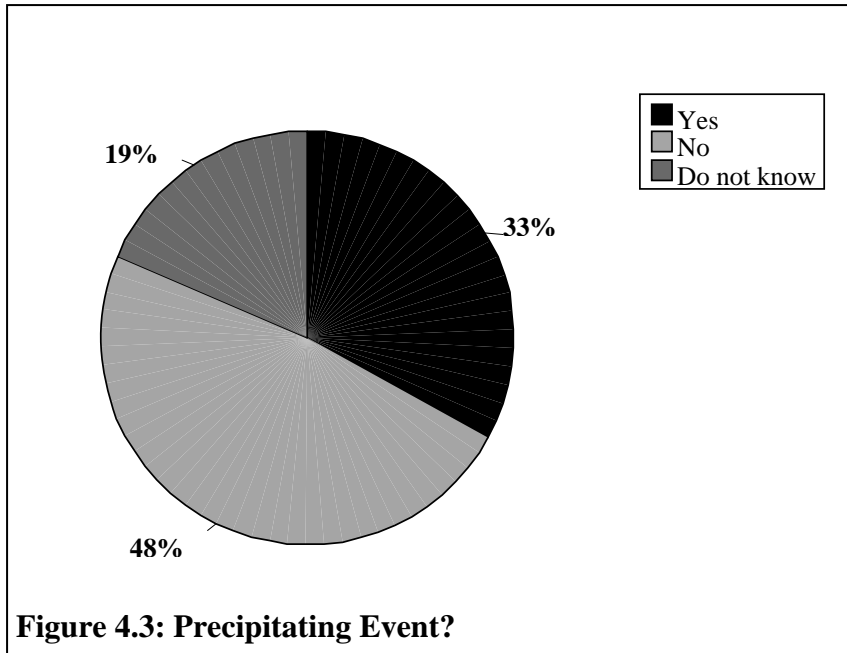


Table 4.1: Founding Event Type

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Student unrest	12	12.2	38.7	38.7
	Statute/mandate	2	2.0	6.5	45.2
	Admin./org. decision	14	14.3	45.2	90.3
	Harass/discrimination	2	2.0	6.5	96.8
	Crime	1	1.0	3.2	100.0
	Total	31	31.6	100.0	
Missing	System	67	68.4		
Total		98	100.0		

College and university ombudsmen receive their authorization from their institution. Ideally, this authorization would come from the highest level possible. As shown in Table 4.2, when asked if the creation, purpose and/or guidelines of their office were codified in university statute and/or regulations, a slight majority (54.9%) answered that they were not.

Table 4.2: Codified in University Statute and/or Regulations

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	37	37.8	40.7	40.7
	No	50	51.0	54.9	95.6
	Do not know	4	4.1	4.4	100.0
	Total	91	92.9	100.0	
Missing	System	7	7.1		
Total		98	100.0		

As discussed previously, there are many different forms of the word ombudsman and practitioners in the field have differing viewpoints as to the most appropriate form. As illustrated in Table 4.3, the findings of this survey reveal these many differing viewpoints, finding only a slight preference for ombud or ombuds (35.7%) over ombudsman (28.6%) and ombudsperson (21.4%); see Appendix II for a listing of other identified titles.

Table 4.3: Title of the Office

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Ombud/ombuds	35	35.7	35.7	35.7
	Ombudsman	28	28.6	28.6	64.3
	Ombudsperson	21	21.4	21.4	85.7
	Other	14	14.3	14.3	100.0
	Total	98	100.0	100.0	

The respondents were also queried on whether the title of their office had been changed since the office was founded. Table 4.4 shows that 65.3% of the 96 respondents indicated the title of their office had been changed. Of those who responded yes, 26 provided the previous title and why it was changed. Twenty of those had changed the title from ombudsman to a gender neutral term, ombuds or ombudsperson. See Appendix III for a complete listing.

Table 4.4: Has the title changed since the office was created?

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	32	32.7	32.7	32.7
No	64	65.3	65.3	98.0
Do not know	2	2.0	2.0	100.0
Total	98	100.0	100.0	

The query, “How many full-time equivalent employees work in your office?” received a variety of responses, ranging from zero to six. The responses were recoded to indicate offices with less than three full time employees or more than three. As Figure 4.4 reflects, the majority of ombudsman’s offices are small operations with 95% of the 96 respondents indicating they had less than three full time employees.

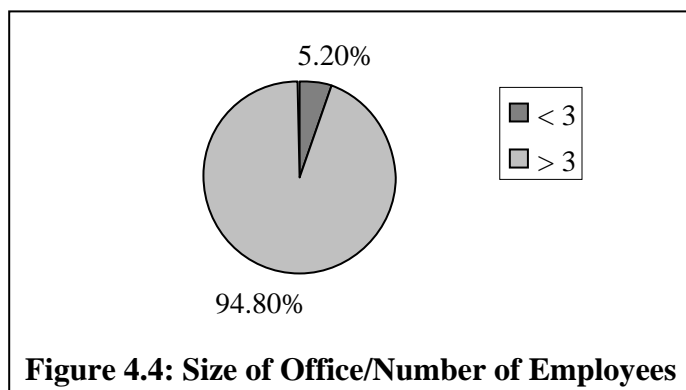


Figure 4.4: Size of Office/Number of Employees

There is some indication of growth in existing offices, as indicated in Table 4.5, with 22.3% responding that the number of staff working in their office has increased over time. This is an encouraging result that may reflect both usage and commitment to the ombudsman concept.

Table 4.5: Has the number of staff working in your office changed over time?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Increased	21	21.4	22.3	22.3
	Decreased	7	7.1	7.4	29.8
	Remained Same	66	67.3	70.2	100.0
	Total	94	95.9	100.0	
Missing	System	4	4.1		
Total		98	100.0		

Early ombudsmen offices, such as the one at Michigan State, had their ombudsmen report directly to the president of the university. In the IOA's Ombudsman Standards of Practice, the IOA recommends that the "ombudsman report to the highest possible level of the organization and operate independent of ordinary line and staff members" (IOA, 2007). As Table 4.6 illustrates, this survey found that the majority (35.7%) report to the president; however, a significant number also report to a provost (17.3%) or a vice president (23.5%). See Appendix IV for full titles.

Table 4.6: To whom does your Office report?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	President	35	35.7	35.7	35.7
	Counsel	1	1.0	1.0	36.7
	Provost	17	17.3	17.3	54.1
	Vice President	23	23.5	23.5	77.6
	Dean	8	8.2	8.2	85.7
	Other	14	14.3	14.3	100.0
	Total	98	100.0	100.0	

When asked "whom does your Office serve?" a variety of responses were given (see Table 4.7) with the majority (34.7%), indicating they serve the entire community. The next highest response was 21.4%, who serve students, faculty, and staff; the remaining respondents serve one or two constituencies.

Table 4.7: Who does your Office serve?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Entire community	34	34.7	34.7	34.7
	Staff only	1	1.0	1.0	35.7
	Students, staff, faculty	21	21.4	21.4	57.1
	Faculty only	7	7.1	7.1	64.3
	Students only	20	20.4	20.4	84.7
	Staff, faculty	10	10.2	10.2	94.9
	Students, faculty	4	4.1	4.1	99.0
	Students, staff	1	1.0	1.0	100.0
	Total	98	100.0	100.0	

As a follow-up question, respondents were asked whether the clientele they served had narrowed, stayed the same, or broadened over time. As shown in Table 4.8, 71.9% of respondents indicated that the clientele they served has stayed the same over time, 25% said their clientele had broadened, and 3.1% said it had narrowed.

Table 4.8: Has the clientele served changed over time?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Narrowed	3	3.1	3.1	3.1
	Broadened	24	24.5	25.0	28.1
	Remained Same	69	70.4	71.9	100.0
	Total	96	98.0	100.0	
Missing	System	2	2.0		
Total		98	100.0		

One of the basic requirements for ombudsman neutrality and impartiality is that the ombudsman “holds all communications with those seeking assistance in strict confidence and takes all reasonable steps to safeguard confidentiality” (UCOA, 2006). Under this tenet, the ombudsman should not maintain records for the institution. As shown in Table 4.9, when queried regarding the keeping of records, 29.6% of survey respondents indicated they keep formal case files and 69.4% said they did not. When asked if they keep records on behalf of the institution the number who said yes dropped to 17.5% of respondents, as shown in Table 4.10.

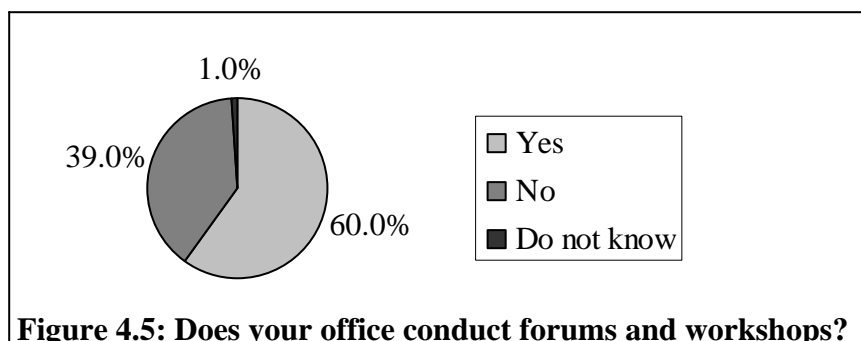
Table 4.9: Does your office maintain formal case files?

	Frequency	Percent	Valid Percent	Cumulative Percent
Yes	29	29.6	29.6	29.6
No	68	69.4	69.4	99.0
Do not know	1	1.0	1.0	100.0
Total	98	100.0	100.0	

Table 4.10: Does your office maintain records on behalf of the institution?

	Frequency	Percent	Valid Percent	Cumulative Percent
Yes	17	17.3	17.5	17.5
No	79	80.6	81.4	99.0
Do not know	1	1.0	1.0	100.0
Total	97	99.0	100.0	
Missing System	1	1.0		
Total	98	100.0		

As illustrated in Figure 4.5, when asked if their office conducted forums and workshops, 60% of the ombudsmen responded yes, 39% no, and one did not know. Those who responded affirmatively were asked to identify the topics taught; a detailed list of those responses is in Appendix V.



A new categorical variable was created to show how many respondents had offered forums or workshops on ADR. As shown in Table 4.11, of the 55 respondents, 32.7% indicated they taught ADR and 23.5% did not.

Table 4.11: Do you teach ADR or related topics?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	32	32.7	58.2	58.2
	No	23	23.5	41.8	100.0
	Total	55	56.1	100.0	
Missing	System	43	43.9		
Total		98	100.0		

Ombudsmen can act as a change catalyst in their organizations: “a significant aspect of an ombudsman’s role is helping the organization identify and affect change” (Redmond & Williams, 2004). The survey asked respondents three questions regarding their involvement in helping their college or university identify and affect change. As seen in Tables 4.12, 4.13, and 4.14, the survey found that most ombudsmen offer recommendations regarding the dispute resolution structures in their institution (93.9%), however fewer work with policy making groups (70.4%), and fewer yet provide advice and assistance on the design and implementation of conflict management systems (57.1%).

Table 4.12: Does your office offer recommendations regarding changes in policies, procedures, and dispute resolution structures to your institution?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	92	93.9	93.9	93.9
	No	6	6.1	6.1	100.0
	Total	98	100.0	100.0	

Table 4.13: Does your office work with policy-making groups at your institution?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	69	70.4	70.4	70.4
	No	28	28.6	28.6	99.0
	Do not know	1	1.0	1.0	100.0
	Total	98	100.0	100.0	

Table 4.14: Does your office provide advice and assistance to the institution on the design and implementation of conflict management systems?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	56	57.1	57.1	57.1
	No	41	41.8	41.8	99.0
	Do not know	1	1.0	1.0	100.0
	Total	98	100.0	100.0	

Section 2: Ombudsman in Action - Guiding Principles & Beliefs

Another basic tenet of the ombudsman profession, as evidenced in the literature review and in the IOA Standards of Practice, is that the ombudsman is “independent in structure, function, and appearance to the highest degree possible within the organization” (IOA, 2007). The survey included five items about the independence of the individual ombudsman by listing statements and asking the ombudsmen if they strongly disagreed, disagreed, were undecided, agreed, or strongly agreed with them.

As seen in Table 4.15, the majority of ombudsmen agreed or strongly agreed (86.7%) that they had sole discretion on how to act regarding a client’s concern and/or complaint, 10.2% disagreed or strongly disagreed.

Table 4.15: When serving in the capacity of Ombudsman, I exercise sole discretion over whether or how to act regarding an individual’s concern and/or complaint.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	2	2.0	2.0	2.0
	Disagree	8	8.2	8.2	10.2
	Undecided	3	3.1	3.1	13.3
	Agree	20	20.4	20.4	33.7
	Strongly Agree	65	66.3	66.3	100.0
	Total	98	100.0	100.0	

The concept of academic freedom is essential in higher education. Although it is usually thought as applying to teaching and research (American Association of University Professors, 1940), it can also be tied to the independence needed for the

operation of an ombudsman’s office at a university or college. As illustrated in Table 4.16, when asked if their ombudsman practice is strongly influenced by the principles of academic freedom, the majority of respondents (68.3%) said they agreed or strongly agreed, 14.2% disagreed or strongly disagreed.

Table 4.16: My Ombudsman practice is strongly influenced by the principles of academic freedom.

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Disagree	2	2.0	2.0	2.0
Disagree	12	12.2	12.2	14.3
Undecided	17	17.3	17.3	31.6
Agree	45	45.9	45.9	77.6
Strongly Agree	22	22.4	22.4	100.0
Total	98	100.0	100.0	

The need for ombudsmen to offer services effectively and independently requires they be able to critically analyze and, when needed, criticize the governance of their institution in order to resolve conflict and affect change. As shown in Table 4.17, when responding to the statement, “I can criticize the governance of my institution without fear of retribution,” only a small percentage 4.1% indicated they disagreed or strongly disagreed, 17.3% were undecided, while 78.6% indicated they agreed or strongly agreed.

Table 4.17: I can criticize the governance of my institution without fear of retribution

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Disagree	1	1.0	1.0	1.0
Disagree	3	3.1	3.1	4.1
Undecided	17	17.3	17.3	21.4
Agree	43	43.9	43.9	65.3
Strongly Agree	34	34.7	34.7	100.0
Total	98	100.0	100.0	

The ability to criticize without fear of retribution can also tied to the belief their institution is committed to maintaining the ombudsman function. When asked if

they felt their institution was committed to maintaining an ombudsman position or function, as seen in Table 4.18, an overwhelming number 89 (91.8%) agreed or strongly agreed, 7 (7.2%) were undecided, and only 1 (1%) disagreed.

Table 4.18: My institution is committed to maintaining an Ombudsman position or function.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Disagree	1	1.0	1.0	1.0
	Undecided	7	7.1	7.2	8.2
	Agree	44	44.9	45.4	53.6
	Strongly Agree	45	45.9	46.4	100.0
	Total	97	99.0	100.0	
Missing	System	1	1.0		
Total		98	100.0		

The IOA Standards of Practice (IOA, 2007) requires for independence that the ombudsman has authority to select staff and manage the office budget and expenses. As Table 4.19 illustrates, of the 73 respondents who answered the statement regarding authority over the hiring and management of staff, 54 (74%) said they agreed or strongly agreed with the statement and 14 (19.1%) disagreed or strongly disagreed. This is comparable to the responses given when asked if they had authority over the budget and operations of their office. As shown in Table 4.20, of the 92 ombudsman who responded, 70 (76.1%) said they strongly agreed or agreed and 13 (14.1%) disagreed or strongly disagreed.

Table 4.19: I have authority over the hiring and management of staff in my office.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	5	5.1	6.8	6.8
	Disagree	9	9.2	12.3	19.2
	Undecided	5	5.1	6.8	26.0
	Agree	16	16.3	21.9	47.9
	Strongly Agree	38	38.8	52.1	100.0
	Total	73	74.5	100.0	
Missing	System	25	25.5		
Total		98	100.0		

Table 4.20: I have authority over the budget and operations of my office.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	5	5.1	5.4	5.4
	Disagree	8	8.2	8.7	14.1
	Undecided	9	9.2	9.8	23.9
	Agree	25	25.5	27.2	51.1
	Strongly Agree	45	45.9	48.9	100.0
	Total	92	93.9	100.0	
Missing	System	6	6.1		
Total		98	100.0		

Another tenet of the ombudsman profession is neutrality and impartiality: “The ombudsman, as a designated neutral, remains unaligned and impartial. The ombudsman does not engage in any situation which could create a conflict of interest” (IOA, 2007). The survey asked four questions regarding neutrality and impartiality, and as above, presented them on a Likert scale from disagree strongly to agree strongly.

Access to information and individuals is essential to an ombudsman’s performance of duties. As illustrated in Table 4.21, when asked if they had access to all information and individuals in the organization, as needed and as permitted by law, 84 of 96 respondents (89.6%) said they agreed or strongly agreed; only 5 (5.2%) disagreed or strongly disagreed.

Table 4.21: When needed and as permitted by law, I have access to all information and all individuals in the organization.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	2	2.0	2.1	2.1
	Disagree	3	3.1	3.1	5.2
	Undecided	5	5.1	5.2	10.4
	Agree	42	42.9	43.8	54.2
	Strongly Agree	44	44.9	45.8	100.0
	Total	96	98.0	100.0	
Missing	System	2	2.0		
Total		98	100.0		

Surprisingly, as seen in Table 4.22, when presented with the statement asking if they were committed to maintaining impartiality, a greater number than in the previous question, 13 (14.1%) said they disagreed or strongly disagreed with 70 (76.1%) agreeing or strongly agreeing.

Table 4.22: My Ombudsman practice is strictly committed to maintaining impartiality.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	5	5.1	5.4	5.4
	Disagree	8	8.2	8.7	14.1
	Undecided	9	9.2	9.8	23.9
	Agree	25	25.5	27.2	51.1
	Strongly Agree	45	45.9	48.9	100.0
	Total	92	93.9	100.0	
Missing	System	6	6.1		
Total		98	100.0		

Overwhelmingly, as seen in Table 4.23, the respondents indicated they act as a neutral. 92 respondents (93.6%) said they agreed or strongly agreed that their practice includes serving as a neutral facilitator to resolve disputes. Only 3 (3%) disagreed or strongly disagreed with this statement.

Table 4.23: My Ombudsman practice includes serving as a neutral facilitator to resolve disputes.

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Disagree	2	2.0	2.0	2.0
Disagree	1	1.0	1.0	3.1
Undecided	3	3.1	3.1	6.1
Agree	25	25.5	25.5	31.6
Strongly Agree	67	68.4	68.4	100.0
Total	98	100.0	100.0	

In order to be impartial, an ombudsman cannot advocate on behalf of a client. Instead, ombudsmen must remain neutral, impartial and unaligned. This is not to say they can not act as a neutral facilitator to assist in resolving disputes, but neither can they act as an advocate. When asked if their practice advocates for their clients' interests, 25 (26.3%) agreed or strongly disagree and 44 (67.4%) disagreed or strongly disagreed.

Table 4.24: My Ombudsman practice advocates for our clients' interests

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Disagree	40	40.8	42.1	42.1
Disagree	24	24.5	25.3	67.4
Undecided	6	6.1	6.3	73.7
Agree	13	13.3	13.7	87.4
Strongly Agree	12	12.2	12.6	100.0
Total	95	96.9	100.0	
Missing System	3	3.1		
Total	98	100.0		

Another basic principle of the profession is confidentiality. The Ombudsman Association code of ethics speaks to its importance, "The ombudsman, as a designated neutral, has the responsibility of maintaining strict confidentiality concerning matters that are brought to his/her attention unless given permission to do otherwise. The only exception, at the sole discretion of the ombudsman, is where there appears to be imminent threat of serious harm" (Ombudsman Association, 1987). This is also echoed in the IOA's standard of practice, "The Ombudsman holds all communications

with those seeking assistance in strict confidence, and does not disclose confidential communications unless given permission to do so. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm” (IOA, 2007). As Table 4.25 illustrates, the vast majority of ombudsmen who responded to the survey agree that communications should be privileged; of the 97 responses, 89 (91.8%) agreed and only 4 (4.1%) disagreed.

Table 4.25: When serving in the capacity of Ombudsman, communications between myself and others are considered privileged.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	1	1.0	1.0	1.0
	Disagree	3	3.1	3.1	4.1
	Undecided	4	4.1	4.1	8.2
	Agree	22	22.4	22.7	30.9
	Strongly Agree	67	68.4	69.1	100.0
	Total	97	99.0	100.0	
Missing	System	1	1.0		
Total		98	100.0		

Ombudsmen function informally by providing the opportunity for their constituents to be heard, finding answers for their questions, identifying and reframing concerns, and acting as a neutral third party in resolving dispute. “The Ombudsman, as an informal resource, does not participate in any formal adjudicative or administrative procedure related to concerns brought to his/her attention” (IOA, 2007). Two questions were asked to determine the level of informality practiced by the ombudsman respondents. As seen in Table 4.26, when asked if their office provides informal means of resolving disputes, 96 (98%) agreed or strongly agreed and only 2 (2%) disagreed or strongly disagreed.

Table 4.26: My Ombudsman practice provides informal means of resolving disputes.

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Disagree	1	1.0	1.0	1.0
Disagree	1	1.0	1.0	2.0
Agree	18	18.4	18.4	20.4
Strongly Agree	78	79.6	79.6	100.0
Total	98	100.0	100.0	

When asked if their offices conduct informal complaint investigations, the number who disagreed or strongly disagreed increased to 12.4%, as shown in Table 4.27. Apparently some offices do not conduct informal complaint investigations but do engage in other informal means of dispute resolution.

Table 4.27: My Ombudsman practice conducts informal complaint investigations.

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Disagree	6	6.1	6.3	6.3
Disagree	6	6.1	6.3	12.6
Undecided	4	4.1	4.2	16.8
Agree	40	40.8	42.1	58.9
Strongly Agree	39	39.8	41.1	100.0
Total	95	96.9	100.0	
Missing System	3	3.1		
Total	98	100.0		

Informal means of resolving disputes include encouraging dialogue among the parties involved in a conflict. The following two questions asked if the ombudsman practice these forms of intervention. As seen in Tables 4.28 and 4.29, (97.9%) strongly agreed or agreed on both questions and 2 (2%) either were undecided or in one instance strongly disagreed.

Table 4.28: My Ombudsman practice fosters safe and open dialogue.

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Disagree	1	1.0	1.0	1.0
Undecided	1	1.0	1.0	2.0
Agree	21	21.4	21.4	23.5
Strongly Agree	75	76.5	76.5	100.0
Total	98	100.0	100.0	

Table 4.29: My Ombudsman practice encourages cooperative problem resolution.

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Undecided	2	2.0	2.0	2.0
Agree	29	29.6	29.6	31.6
Strongly Agree	67	68.4	68.4	100.0
Total	98	100.0	100.0	

Although there are no required standards of practice for the ombudsman profession, there are organizations that have worked to compile and publish voluntary standards, including the Ombudsman’s Association, the American Bar Association and the IOA, which have been previously cited. As seen in Table 4.30, when asked if their practices were influenced by the IOA’s Code of Ethics and Standards of Practice, 84 (88.5%) of 95 respondents agreed or strongly agreed, while only 6 (6.3%) strongly disagreed or disagreed.

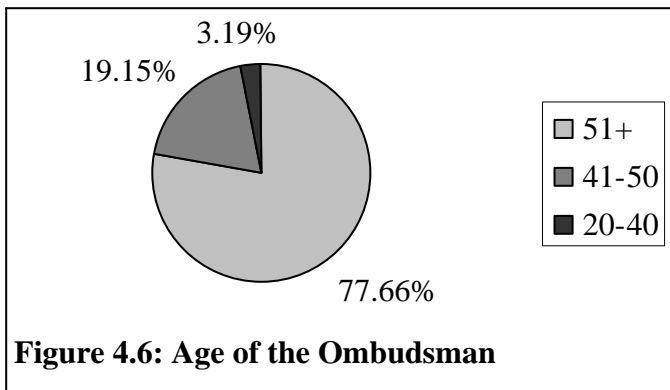
Table 4.30: My Ombudsman practice is strongly influenced by the Code of Ethics and Standards of Practice of the International Ombuds Association and/or the former University and College Ombuds Association.

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Disagree	2	2.0	2.1	2.1
Disagree	4	4.1	4.2	6.3
Undecided	5	5.1	5.3	11.6
Agree	22	22.4	23.2	34.7
Strongly Agree	62	63.3	65.3	100.0
Total	95	96.9	100.0	
Missing System	3	3.1		
Total	98	100.0		

Section 3: Demographic Information – Your Personal Background

The third section of the survey asked ten demographic questions to obtain background information on the ombudsman, including age, gender, ethnicity, education, appointment, professional organizations, and years in the profession.

Of the 94 who responded, the average age was 56 and the majority of respondents (78%) were over the age of 51, see Figure 3.8.



As shown in Figure 4.6 the majority of ombudsmen who responded had also served in the position for less than 10 years.

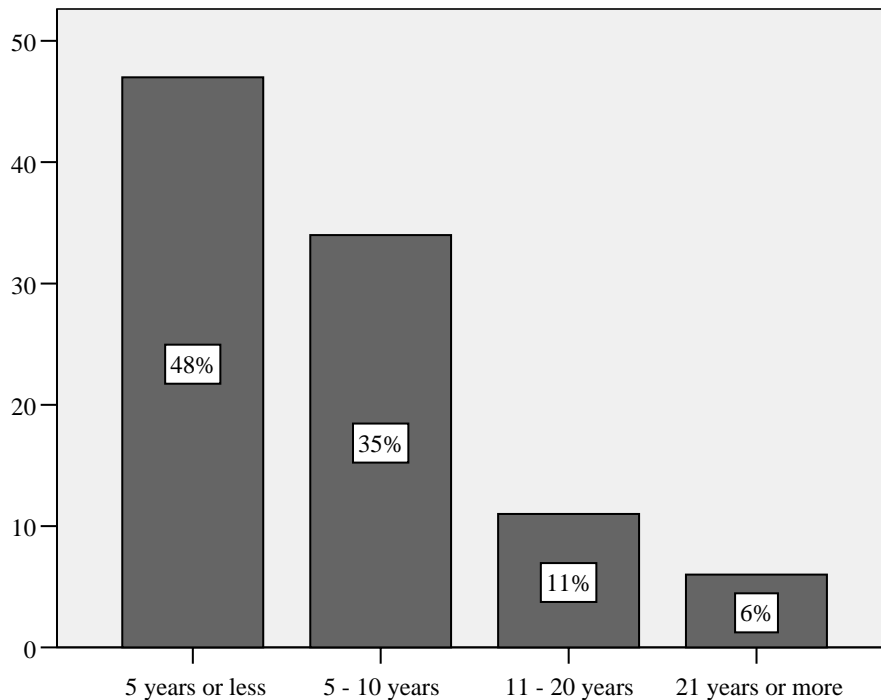
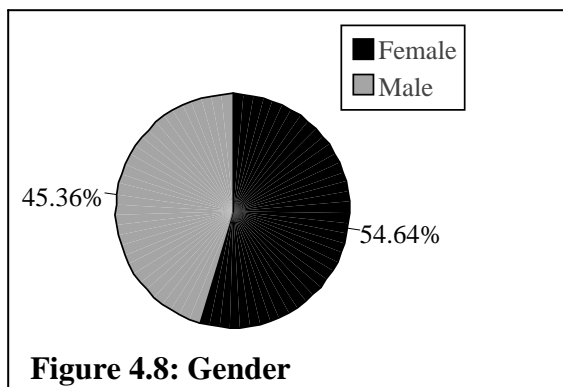


Figure 4.7: Ombudsman – Length of Service

As shown in Figure 4.8, of the 97 respondents who answered the query on gender, 53 were female and 44 were male.



When asked “what is your race or ethnicity,” as seen in Table 4.31, 78 of the 98 respondents answered European-North American/White (Non-Hispanic); the next largest group was African-North American or Black (Non-Hispanic) with 10 of the 98 respondents.

Table 4.31: Ethnicity

Ethnicity	Frequency	Percent	Valid Percent	Cumulative Percent
European-North American/White (Non-Hispanic)	78	79.6	79.6	79.6
African-North American or Black (Non-Hispanic)	10	10.2	10.2	89.8
European-North American/White (Hispanic)	4	4.1	4.1	93.9
African-North American or Black (Hispanic)	1	1.0	1.0	94.9
Asian, Pacific Islander, or Indian Subcontinent	2	2.0	2.0	96.9
Multi-Ethnic	3	3.1	3.1	100.0
Total	98	100.0	100.0	

When asked “what is the highest degree you have completed,” the most frequent response was master’s degree (37 of 96 respondents) followed closely by doctorate (36 of 96 respondents).

Table 4.32: Highest Degree Completed

	Frequency	Percent	Valid Percent	Cumulative Percent
Bachelors Degree (BA, BS, AB)	10	10.2	10.4	10.4
Masters Degree (MA, MS, MBA)	37	37.8	38.5	49.0
Law Degree (JD)	7	7.1	7.3	56.3
Medical Degree (MD, DDS, DVM)	2	2.0	2.1	58.3
Doctorate (PhD)	36	36.7	37.5	95.8
Associates (AA)	1	1.0	1.0	96.9
Masters & Law Degree	2	2.0	2.1	99.0
Law Degree & Doctorate	1	1.0	1.0	100.0
Total	96	98.0	100.0	
Missing System	2	2.0		
Total	98	100.0		

Respondents were asked to identify the professional organizations they belong to among the following six: American Arbitration Association, American Association of University Professors, Association for Conflict Resolution; International Ombudsman Association, National Academy of Arbitrators, and the United States Ombudsman Association. As seen in Table 4.33, 67 respondents answered the query, but note the table represents multiple answers. The majority of respondents belong to the International Ombudsman Association (IOA) – 75%.

Table 4.33: Membership in Professional Organizations

Organization	Frequency	Percent	Valid Percent	Cumulative Percent
American Arbitration Association	2	2.3	2.3	2.3
American Association of University Professors	4	4.5	4.5	6.8
Association for Conflict Resolution	10	11.4	11.4	18.2
International Ombudsman Association	66	75.0	75.0	93.2
United States Ombudsman Association	6	6.8	6.8	100.0
Total	88	100.0	100.0	

Of the 69 who responded to this query on professional organizations, 13 belonged to two organizations and 3 belonged to three organizations (see Appendix VI for details).

CHAPTER FIVE

INTERPRETATIONS

The survey data was collected to learn about the ombudsmen and their practices and to test the hypotheses that: (1) The collected experience of the last several decades, coupled with the influence of the ADR movement, has altered the way in which higher education ombudsmen operate their offices and provide services to their clientele; and (2) that these factors have resulted in ombudsmen adhering to standards of practice and have pushed ombudsmen to a systems model.

Changes Over Time

One important finding has been the explosive growth of higher education ombudsmen offices in the last seven years, from approximately 150 to 201 – a 34 % increase. Table 5.1 reports that the majority of these new ombudsmen are in public institutions. However, the public/private ratio has been consistent over time, with the number of public institutions with ombudsmen outnumbering the private two-to-one.

Table 5.1 - Year Founded * Public v. Private

		Public	Private	Total
Year	pre 1970	10	2	12
	1971-89	5	1	6
	1990-99	10	6	16
	2000+	20	13	33
Total		45	22	67

201 ombudsmen represent approximately 4.5% of the 4,387 accredited post-secondary institutions in the U.S. Even if the current growth rate continues, it would still be twenty years before 10% have established an ombudsman function. As seen previously, there is indication of growth in existing offices, with the number of staff working in existing offices increasing and the clientele expanding (see Tables 4.5 & 4.8). Coupled with the finding that 91.8% of the ombudsmen feel their institution is

committed to maintaining the function, these are encouraging results that reflect both usage and commitment to the ombudsman concept.

The results of the survey supported the hypothesis that ombudsmen have many and varied viewpoints as to the correct term for the ombudsman function. Cross-tabulating the year of founding and title, Table 5.2 shows a fairly consistent frequency of titles across the years, with a slight preference for ombudsman in offices founded pre-1970 (35.3%) than those after 2000+ (28.9%). The chi-square test supports the lack of significant finding and there is little relationship between when the office was founded and its title, as evidenced by the Cramer's V coefficient of .109, see Table 5.3.

Table 5.2: Year Founded * Title of the Office

		Title				Total
		Ombud/ Ombuds	Ombudsman	Ombudsperson	Other	
Pre 1970	Count	6	6	2	3	17
	% within yr	35.3%	35.3%	11.8%	17.6%	100.0%
1971- 1989	Count	4	4	1	2	11
	% within yr	36.4%	36.4%	9.1%	18.2%	100.0%
1990- 1999	Count	9	6	7	3	25
	% within yr	36.0%	24.0%	28.0%	12.0%	100.0%
2000+	Count	15	11	7	5	38
	% within yr	39.5%	28.9%	18.4%	13.2%	100.0%
Total	Count	34	27	17	13	91
	% within yr	37.4%	29.7%	18.7%	14.3%	100.0%

Table 5.3: Chi-Square Test & Symmetric Measures - Year Founded * Title of the Office

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	3.222(a)	9	.955
Likelihood Ratio	3.245	9	.954
Linear-by-Linear Association	.040	1	.841
N of Valid Cases	91		

a 8 cells (50.0%) have expected count less than 5. The minimum expected count is 1.57.

	Value	Approx. Sig.
Nominal by Nominal Phi	.188	.955
Cramer's V	.109	.955
N of Valid Cases	91	

a Not assuming the null hypothesis.

b Using the asymptotic standard error assuming the null hypothesis.

From the survey results, we know that 65.3% of the respondents indicated the title of their office had been changed. Looking only at those whose offices were founded pre 1970 and who changed the title, 11 changed the title from ombudsman to a gender neutral term: five to ombuds and six to ombudsperson. Although there does seem to be a growing preference for ombuds/ombudsperson, the results are not strong enough to predict a trend towards those titles.

Table 5.4: Year Founded * Title Change

			Title Change		Total
			Yes	No	
Year	Pre 1970	Count	11	6	17
		% within year	64.7%	35.3%	100.0%
	1971-89	Count	6	5	11
		% within year	54.5%	45.5%	100.0%
	1990-99	Count	9	16	25
		% within year	36.0%	64.0%	100.0%
	2000+	Count	5	33	38
		% within year	13.2%	86.8%	100.0%
Total		Count	31	60	91
		% within year	34.1%	65.9%	100.0%

Table 5.5: Chi-Square Tests & Symmetric Measures – Year Founded * Title Change

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	16.597(a)	3	.001
Likelihood Ratio	17.252	3	.001
Linear-by-Linear Association	16.068	1	.000
N of Valid Cases	91		

a 1 cells (12.5%) have expected count less than 5. The minimum expected count is 3.75.

	Value	Approx. Sig.
Nominal by Phi	.427	.001
Nominal by Cramer's V	.427	.001
N of Valid Cases	91	

a Not assuming the null hypothesis.

b Using the asymptotic standard error assuming the null hypothesis.

Comparing the number of female ombudsman to overall gender equity in higher education, where women hold only 24 percent of full professor positions in the U.S. (West & Curtis 2006), women appear to be well represented. As shown in Table 5.6, gender compared to length of service showed no significant differences between the sexes.

Table 5.6: Gender * Length of Service

			Length of Service				Total
			5 or less	5-20	11-20	21 +	
Gender	Female	Count	27	16	6	4	53
		% within length	57.4%	47.1%	54.5%	80.0%	54.6%
	Male	Count	20	18	5	1	44
		% within length	42.6%	52.9%	45.5%	20.0%	45.4%
Total		Count	47	34	11	5	97
		% within length	100.0%	100.0%	100.0%	100.0%	100.0%

However, as shown in Table 5.7, when looking at ombudsmen who hold faculty appointments, female ombudsmen are less likely to hold faculty appointments than males, with 17 (42.5%) of women holding faculty appointments compared to 23 (57.5%) men. The chi square test shows a value of .044, a significant result showing a relationship between gender and faculty appointment.

Table 5.7: Gender * Faculty Appointment

			Faculty Appointment		Total
			Yes	No	
Gender	Female	Count	17	36	53
		% within faculty appt.	42.5%	63.2%	54.6%
	Male	Count	23	21	44
		% within faculty appt.	57.5%	36.8%	45.4%
Total	Count		40	57	97
	% within faculty appt.		100.0%	100.0%	100.0%

Table 5.8: Chi-Square Tests – Gender * Faculty Appointment

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	4.047(b)	1	.044		
Continuity Correction(a)	3.257	1	.071		
Likelihood Ratio	4.061	1	.044		
Fisher's Exact Test				.062	.035
Linear-by-Linear Association	4.005	1	.045		
N of Valid Cases	97				

To gauge the impact of ADR on how ombudsmen operate their offices the survey asked respondents if their practice employed ADR techniques, giving transformative mediation as an example. As illustrated in Table 5.9, of 95 respondents (63.1%) agreed or strongly agreed, 18 (18.9%) were undecided, and 17 (17.9%) disagreed or strongly disagreed.

Table 5.9: My Ombudsman practice employs the use of transformative mediation and/or other alternative dispute resolution techniques.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Disagree	7	7.1	7.4	7.4
	Disagree	10	10.2	10.5	17.9
	Undecided	18	18.4	18.9	36.8
	Agree	37	37.8	38.9	75.8
	Strongly Agree	23	23.5	24.2	100.0
	Total	95	96.9	100.0	
Missing	System	3	3.1		
Total		98	100.0		

Cross tabulating the year the office was founded with the use of ADR, see Table 5.10, it appears that those ombudsmen offices founded after 2000 are more likely to agree or strongly agree that they use ADR (73.7%) than those founded pre 1970 (43.8%).

However, looking at the chi-square test and Cramer's V in Table 5.11, the significance and relationship is not strong.

Table 5.10: Year Founded * ADR

ADR		Year				Total
		Pre 1970	1971-89	1990-99	2000+	
Strongly Disagree	Count	2	2	2	1	7
	% within year	12.5%	18.2%	8.7%	2.6%	8.0%
Disagree	Count	4	0	1	3	8
	% within year	25.0%	.0%	4.3%	7.9%	9.1%
Undecided	Count	3	2	6	6	17
	% within year	18.8%	18.2%	26.1%	15.8%	19.3%
Agree	Count	5	4	6	19	34
	% within year	31.3%	36.4%	26.1%	50.0%	38.6%
Strongly Agree	Count	2	3	8	9	22
	% within year	12.5%	27.3%	34.8%	23.7%	25.0%
Total	Count	16	11	23	38	88
	% within year	100.0%	100.0%	100.0%	100.0%	100.0%

Table 5.11: Chi-Square Tests & Symmetric Measures - Year Founded * ADR

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	14.493(a)	12	.270
Likelihood Ratio	14.330	12	.280
Linear-by-Linear Association	4.661	1	.031
N of Valid Cases	88		

a 14 cells (70.0%) have expected count less than 5. The minimum expected count is .88.

		Value	Approx. Sig.
Nominal by Nominal	Phi	.406	.270
	Cramer's V	.234	.270
N of Valid Cases		88	

a Not assuming the null hypothesis.

b Using the asymptotic standard error assuming the null hypothesis.

With 63.1% of ombudsmen offices strongly agreeing or agreeing that they employ ADR techniques, it is clear the movement has had an effect on the operations of ombudsmen offices. These results support the hypothesis that ombudsmen in institutions of higher education in the U.S. have been influenced by the ADR movement and have adopted ADR techniques into their practice. It should also be noted that many of the methods used in ADR, including acting as a neutral and informality, have long been part of an ombudsman's standard practice. These practices have become more formal and recognized, as seen in the IOA and Ombudsman Association's Standards of Practice.

We can see that there has been change in the way in which higher education ombudsmen operate their offices over the last several decades. The traditional name of ombudsman has expanded to include new variations, including non-gender specific variations, such as ombuds and ombudsperson. We see some growth in the number of staff working in the offices, although they are still very small operations on the whole. Growth is also seen in the expansion of the clientele the offices serve. Ombudsmen have also expanded their practice to include ADR techniques, particularly those whose offices were founded in the last decade.

Basic Principles and Standards of Practice

While ombudsmen may disagree on the title, they do appear to agree on the underlying principles of the profession. When queried about independence, neutrality, impartiality, confidentiality, and informality the vast majority agreed with the importance of these concepts.

- As a measure of independence, approximately 90% said they had “access to all information and individuals in the organization, as needed and as permitted by law.”

- Overwhelmingly, the respondents indicated they act as a neutral with 94% agreeing that their practice includes “serving as a neutral facilitator to resolve disputes.”
- 76% agreed that they were “committed to maintaining impartiality.”
- Confidentiality was also important to the ombudsman with 92% agreeing that it was an important function and 98% agreeing that their office practice “fosters safe and open dialogue.”
- When asked about informality, 98% said their office provided informal means of resolving disputes.

These elements are also present in the standards established by UCOA and later IOA. Not surprisingly, 89% of 95 respondents agreed that their practices were influenced by the Code of Ethics and Standards of Practice of the IOA or the former UCOA. These elements are also reflected in the basic values of the classical ombudsman concept: justice, equity, and fairness and a desire to serve their communities by acting as a neutral third-party in resolving disputes. Where the fundamental differences in practice between ombudsmen in higher education appear is in the role they play in developing and implementing systems of conflict resolution at their institutions.

Has a Systems Model Emerged?

In system design, ombudsman is a popular option (Lipsky, Seeber, Fincher 2003). As such, the establishment of the office is driven by organizational and administrative choice. As seen earlier, when asked “did a precipitating event led to the founding of your office,” 38.7% said student unrest or protests led to their founding and 45.2% said it was the result of climate study, task force, consultant recommendation, or other organizational/administrative decision.

From the review of the literature, we know that higher education ombudsmen offices formed during the civil rights and political movements of the 1960s and 70s in response to student unrest and protests. This is supported by the data, as shown in Table 5.12: those offices founded pre 1970 were more likely to have been created because of student unrest (58.3%) than because of an organizational or administrative decision (14.3%). Offices founded after 2000 were more likely to have been founded because of an organizational or administrative decision (64.3%) than student unrest or protests (16.7%). The chi-square value was significant and the Cramer's V test yielded a coefficient of .577, indicating a strong relationship between year founded and event type. This is a good indication that the expansion of the number of ombudsman offices is being generated by administrative and organizational decisions, likely as part of a broader emphasis on managing conflict within the organization.

Table 5.12: Event Type * Year Founded

Event		Year				Total
		pre 1970	1971-89	1990-99	2000+	
Student unrest - protests	Count	7	3	0	2	12
	% within event	58.3%	25.0%	.0%	16.7%	100.0%
Statute/ Mandate	Count	0	0	2	0	2
	% within event	.0%	.0%	100.0%	.0%	100.0%
Organizational, Admin. Decis.	Count	2	0	3	9	14
	% within event	14.3%	.0%	21.4%	64.3%	100.0%
Harassment/ Discrimination	Count	0	0	2	0	2
	% within event	.0%	.0%	100.0%	.0%	100.0%
Crime	Count	0	0	1	0	1
	% within event	.0%	.0%	100.0%	.0%	100.0%
Total	Count	9	3	8	11	31
	% within event	29.0%	9.7%	25.8%	35.5%	100.0%

Table 5.13: Chi-Square Tests & Symmetric Measures – Year Founded * Event Type

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	30.910(a)	12	.002
Likelihood Ratio	32.731	12	.001
Linear-by-Linear Association	8.330	1	.004
N of Valid Cases	31		

a 20 cells (100.0%) have expected count less than 5. The minimum expected count is .10.

	Value	Approx. Sig.
Nominal by Nominal Phi	.999	.002
Cramer's V	.577	.002
N of Valid Cases	31	

a Not assuming the null hypothesis.

b Using the asymptotic standard error assuming the null hypothesis.

Another essential role of ombudsmen as part of a system to manage conflict is that they are active in providing system and administrative improvements to the organization. As illustrated in Table 5.14, when asked if they provide such recommendations, 89.6% of the 96 respondents agreed or strongly agreed, while only 10.4% were undecided or strongly disagreed. Additionally, as seen in Table 5.15, over half the ombudsmen (57.1%) said they provide advice and assistance on the design and implementation of conflict management systems.

Table 5.14: I provide University administrators with recommendations for system and administrative improvements.

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Disagree	5	5.1	5.2	5.2
Undecided	5	5.1	5.2	10.4
Agree	43	43.9	44.8	55.2
Strongly Agree	43	43.9	44.8	100.0
Total	96	98.0	100.0	
Missing System	2	2.0		
Total	98	100.0		

Table 5.15: Does your office provide advice and assistance to the institution on the design and implementation of conflict management systems?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	56	57.1	57.1	57.1
	No	41	41.8	41.8	99.0
	Do not know	1	1.0	1.0	100.0
	Total	98	100.0	100.0	

The growing number of ombudsmen offices founded in the last seven years, coupled with the fact that creation of these offices is being driven by an organizational or administrative decision, support the hypothesis that a systems model has emerged for ombudsman offices in institutions of higher education. Additionally, the majority of ombudsmen also see their role as providing university administrators with recommendations for system and administrative improvements. This represents a movement away from a case-by-case and stand-alone processes to a more comprehensive and integrative system. This movement is further supported by the 57% of ombudsmen who said they provide advice and assistance to the institution on the design and implementation of conflict management systems. This indicates that an increasing number of ombudsmen are taking an active role in designing the systems, instead of just filling a role within it.

We can see that the experience of the ombudsmen coupled with the influence of ADR has pushed them to a systems model. The next step was to identify those variables that determine which model an ombudsman would most likely follow.

As seen in Tables 5.16 and 5.17, there is no significant relationship between the year the office was founded and how ombudsmen view their role in providing university administrators with recommendations for system and administrative improvements.

Table 5.16: Provide Advice and Assistance * Year Founded

Year		Advice/Assistance Systems			Total
		Yes	No	Do not know	
Pre 1970	Count	8	9	0	17
	% within year	47.1%	52.9%	.0%	100.0%
1971-1989	Count	9	2	0	11
	% within year	81.8%	18.2%	.0%	100.0%
1990-1999	Count	13	12	0	25
	% within year	52.0%	48.0%	.0%	100.0%
2000+	Count	23	14	1	38
	% within year	60.5%	36.8%	2.6%	100.0%
Total	Count	53	37	1	91
	% within year	58.2%	40.7%	1.1%	100.0%

Table 5.17: Chi-Square Tests & Symmetric Measures – Provide Advice and Assistance * Year Founded

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	5.476(a)	6	.484
Likelihood Ratio	6.031	6	.420
Linear-by-Linear Association	.032	1	.858
N of Valid Cases	91		

a 5 cells (41.7%) have expected count less than 5. The minimum expected count is .12.

		Value	Approx. Sig.
Nominal by Nominal	Phi	.245	.484
Nominal by Nominal	Cramer's V	.173	.484
N of Valid Cases		91	

a Not assuming the null hypothesis.

b Using the asymptotic standard error assuming the null hypothesis.

The data was then examined to determine if the age of the ombudsman influenced the model they preferred. As seen in Table 5.18, those ages 50 and younger have a slightly greater tendency to provide advice and assistance to the institution on the design and implementation of conflict management systems.

Table 5.18: Age * Provide Advice and Assistance

		Advice/Assistance Systems			Total
Age		Yes	No	Do not know	
51+	Count	41	31	1	73
	% within age	56.2%	42.5%	1.4%	100.0%
40-50	Count	12	6	0	18
	% within age	66.7%	33.3%	.0%	100.0%
20-40	Count	2	1	0	3
	% within age	66.7%	33.3%	.0%	100.0%
Total	Count	55	38	1	94
	% within age	58.5%	40.4%	1.1%	100.0%

Table 5.19: Chi-Square Tests & Symmetric Measures - Age * Provide Advice and Assistance

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	.932(a)	4	.920
Likelihood Ratio	1.156	4	.885
Linear-by-Linear Association	.764	1	.382
N of Valid Cases	94		

a 5 cells (55.6%) have expected count less than 5. The minimum expected count is .03.

		Value	Approx. Sig.
Nominal by Nominal	Phi	.100	.920
	Cramer's V	.070	.920
N of Valid Cases		94	

a Not assuming the null hypothesis.

b Using the asymptotic standard error assuming the null hypothesis.

Comparing the gender of the ombudsman, found that males tend to agree more than females that they have a role in providing advice and assistance to the institution on the design and implementation of conflict management systems, see Table 5.20.

Table 5.20: Gender & Provide Advice and Assistance

		Advice/Assistance Systems			Total
gender		Yes	No	Do not know	1.00
Female	Count	26	26	1	53
	% within gender	49.1%	49.1%	1.9%	100.0%
Male	Count	29	15	0	44
	% within gender	65.9%	34.1%	.0%	100.0%
Total	Count	55	41	1	97
	% within gender	56.7%	42.3%	1.0%	100.0%

Table 5.21: Chi-Square Tests & Symmetric Measures - Gender & Provide Advice and Assistance

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	3.308(a)	2	.191
Likelihood Ratio	3.701	2	.157
Linear-by-Linear Association	3.125	1	.077
N of Valid Cases	97		

a 2 cells (33.3%) have expected count less than 5. The minimum expected count is .45.

		Value	Asymp. Std. Error(a)	Approx. T(b)	Approx. Sig.
Interval by Interval	Pearson's R	-.180	.097	-1.788	.077(c)
Ordinal by Ordinal	Spearman Correlation	-.175	.099	-1.734	.086(c)
N of Valid Cases		97			

a Not assuming the null hypothesis.

b Using the asymptotic standard error assuming the null hypothesis.

c Based on normal approximation.

Of particular interest is that those ombudsmen who hold faculty appointments are less likely to provide advice and assistance to the institution on the design and implementation of conflict management systems, as seen in Table 5.22.

Table 5.22: Faculty Appointment * Provide Advice and Assistance

Faculty Appt.		Advice/Assistance Systems			Total 1.00
		Yes	No	Do not know	
Yes	Count	16	24	0	40
	% within facappt	40.0%	60.0%	.0%	100.0%
No	Count	39	17	1	57
	% within facappt	68.4%	29.8%	1.8%	100.0%
Total	Count	55	41	1	97
	% within facappt	56.7%	42.3%	1.0%	100.0%

**Table 5.23: Chi-Square Tests & Symmetric Measures - Faculty Appointment *
Provide Advice and Assistance**

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	9.114(a)	2	.010
Likelihood Ratio	9.513	2	.009
Linear-by-Linear Association	6.186	1	.013
N of Valid Cases	97		

a 2 cells (33.3%) have expected count less than 5. The minimum expected count is .41.

	Value	Approx. Sig.
Nominal by Nominal Phi	.307	.010
Cramer's V	.307	.010
N of Valid Cases	97	

a Not assuming the null hypothesis.

b Using the asymptotic standard error assuming the null hypothesis.

In addition to correlating specific demographic characteristics of the ombudsmen to their role in designing and implementing conflict resolution systems at their institution, the attitudinal queries focusing on their principles and beliefs were cross-tabulated to determine if a pattern existed. Surprisingly, few strong relational patterns were found. The question “My Ombudsman practice employs the use of transformative mediation and/or other alternative dispute resolution techniques” was recoded to reflect those who answered positively (agree and strongly agree) and those who answered negatively (do not know, disagree, strongly disagree). The same recoding was done for the question, “Does your office provide advice and assistance to the institution on the design and implementation of conflict management systems?” As seen in Table 5.24, respondents were significantly likely to respond similarly to both questions.

Table 5.24: ADR Techniques * Provide Advice and Assistance

ADR Tech.		Advice & Asst.		Total
		Yes	No	
Yes	Count	42	18	60
	% within ADR	70.0%	30.0%	100.0%
No	Count	13	22	35
	% within ADR	37.1%	62.9%	100.0%
Total	Count	55	40	95
	% within ADR	57.9%	42.1%	100.0%

Table 5.25: Chi-Square Tests - ADR Techniques * Provide Advice and Assistance

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	9.790(b)	1	.002		
Continuity Correction(a)	8.488	1	.004		
Likelihood Ratio	9.836	1	.002		
Fisher's Exact Test				.002	.002
Linear-by-Linear Association	9.687	1	.002		
N of Valid Cases	95				

a Computed only for a 2x2 table

b 0 cells (.0%) have expected count less than 5. The minimum expected count is 14.74.

It is clear that those who embrace ADR techniques are more likely to adopt a systems model for their practice. This lends additional support to the hypothesis that ADR has pushed ombudsmen towards a systems model.

CHAPTER 6

CONCLUSION

In her autobiography, Alice Cook, Cornell University's first Ombudsman, noted that when she assumed the position she felt "strongly challenged and only marginally prepared." Despite these challenges, she established an effective office that was committed to confidentiality and neutrality - one that relied on methods of persuasion, fact-finding, and conciliation to resolve disputes brought to the office by members of the campus community. These basic tenets are still adhered to today, and as seen in the survey results, are almost universally agreed upon by ombudsmen in higher education.

The landscape for these ombudsmen has changed since the first offices were established nearly fifty years ago. With the rise of ADR, the ombudsmen function has been labeled and accepted as a method of dispute resolution. Some ombudsmen resist the labeling of their profession, in part because they fear a loss of identity that could compromise their autonomy and neutrality; but also because many, like Alice Cook, were not trained as dispute resolution professionals but instead were drawn to the job because they possessed institutional knowledge, a desire to help their community, and a belief that social justice and democracy belonged in the workplace. The survey findings prove, thus far, that those ombudsmen who have adopted ADR practices have not sacrificed the autonomy and separation from university governance crucial to their function. Those who provided advice and assistance to their institution on the design and implementation of conflict management systems and those who did not responded almost identically to queries on autonomy and independence, with both reporting high levels of each attribute. Ombudsmen should always proceed cautiously, but they have much to offer their institutions in their efforts to manage conflict.

Ombudsmen should also not shy away from having their profession recognized as a form of dispute resolution. ADR emerged in the 1980s as a result of the litigation explosion, and during this same period researchers published critical and groundbreaking works on dispute resolution. This scholarly research - examining the influence of social interaction on negotiations, exploring the theory of cooperation, and introducing alternatives to resolving disputes was important to the ADR movement. These scholars proved that a neutral third-party could effectively resolve conflict outside of traditional litigation and ombudsmen illustrated their argument. Indeed, the success of ombudsmen contributed to the acceptance of ADR. As pioneers in the field of dispute resolution, they have the ability and responsibility to contribute to the future of workplace dispute resolution.

They have combined the best attributes of the classical Swedish parliamentary model with practices developed and honed from years of experience. Without judgmental or punitive authority, they depend on the reliability of their persuasive powers. Their constituents must trust and believe in them and their institution must support them. This can be contrasted with most early ADR court-based programs, which were conducted by attorneys and whose constituents were often compelled to use them as an alternative to litigation. In fact, ombudsmen in higher education were selected not for their legal expertise, but on the basis of institutional knowledge and personal characteristics. However, given the rapid growth of the profession and the corresponding increase in the number of formal dispute resolution training programs, it is unclear if the same selection process will be used in the future. Also unknown is the impact of the average age of ombudsmen. With the majority over the age of 51, the graying of the profession could change the makeup of those serving. However, the majority of those surveyed had also served in the position for less than ten years and it

may be that the profession attracts those in the latter stages of their careers.

Additional study will be needed to follow the evolution of these positions.

Another focus of future study should be on the explosive growth of the number of ombudsman offices in higher education, a 34% increase in the last seven years. The data collected indicates that the expansion was generated by administrative and organizational decisions, likely as part of a broader emphasis on managing conflict within the organization. Who these new ombudsmen are and how they operate their offices should be a focus of future study. It remains to be seen if these new offices will be as successful as their predecessors; their success or failure will have an important impact on the future of the profession.

Noted in the review of the literature was the dearth of quantitative evidence to evaluate the success of ombudsmen offices in higher education. Most have relied on anecdotal success stories and counts of the number of constituents served. Some have attempted to calculate cost savings, but this can be a complex and frustrating undertaking. An ombudsman can never know if her or his intervention prevented a costly lawsuit or the loss of a valued employee. An ombudsman's adherence to confidentiality often results in few or non-existent files and records, leaving little information to quantify. However, there are accepted standards and practices for the profession and the adherence to these standards, including confidentiality and neutrality, should serve as a measure of success. There is also the intangible public relations value of providing the campus community with a trusted, neutral third party to resolve disputes. Additionally, universities voice core values and principles for their students and their employees, such as inclusiveness, fairness, respect, and dignity. Having an ombudsman denotes a commitment by the institution to these values and offers the organization a method to integrate them into a system to resolve conflict.

It was suggested earlier that there may be a systems model for ombudsmen in U.S. higher education emerging, one that delineates itself from its corporate and public sector counterparts. Although there may be differences between them, the fundamental tenets of the profession, confidentiality and neutrality, are critical to all. Standards of practice and ethical principles are inherent in their function regardless of whom the ombudsmen serve or in which venue they practice. Campus ombudsmen must work with their counterparts outside higher education to adopt, establish and evaluate these principles and practices. Some of this work has already been accomplished, as seen in the merger of the UCOA and TOA, and the establishment of standards of practice by them. It is important that this work be continued. With 75% of respondents belonging to the IOA, it is clear the IOA is in a strong position to positively influence ombudsmen in higher education. What is unclear is how and if the profession is contributing to offices that offer dispute and mediation services, but do not identify themselves as ombudsmen. Ombudsmen have the opportunity to reach out to their counterparts who provide dispute resolutions services. The same procedures and processes that ombudsmen employ, can serve others as well. Ombudsmen in U.S. higher education are in a unique position to not only lead their profession, but other neutrals as well.

Standards of practice that can be employed by any dispute resolution professional represent a movement away from case-by-case and stand-alone processes to a more integrated and comprehensive system. We know from the survey results that a number of ombudsmen are taking an active role in designing conflict resolution systems, instead of just filling a role within them. Ombudsmen possess a unique ability and perspective to initiate and implement change, to understand the impact of this change on the organization, and to provide support for it. This involvement does not inherently mean the loss of neutrality and confidentiality. They can still remain

outside the chain of command and not sacrifice autonomy. Since they function on their persuasive powers and credibility, they are in an ideal position to champion change. Ombudsmen in higher education were pioneers in dispute resolution and in the future they should lead the way in the design and implementation of conflict resolution systems.

APPENDIX I

SURVEY: Ombudsman in Higher Education: Similarities, Divergences, and the Rise of Alternative Dispute Resolution

Section 1: Your Office – Founding and Practice

Please refer to your current position and office in answering the following set of questions.

1. When was your Office founded? _____ (Please enter year)
2. What type of educational institution is your Office part of? (Please circle ALL that apply)
 - 1) Two Year
 - 2) Four Year
 - 3) Public
 - 4) Private
 - 5) College
 - 6) University
 - 7) Community College
 - 8) Junior College
 - 9) Career, technical, or vocational/trade school
3. Was there a precipitating event that led to the founding of the Office, i.e. crisis, lawsuit, scandal, etc.? (Please circle ONE response) 1) Yes 2) No 3) Do not know
4. If yes, what was that event? _____

5. Is the creation, purpose and/or guidelines of your Office codified in University statute and/or regulations? (Please circle ONE response) 1) Yes 2) No 3) Do not know
6. What is the title of your Office? (Please circle ONE response)
 - 1) Ombud or Ombuds
 - 2) Ombudsman
 - 3) Ombudsperson
 - 4) Other – Please identify _____
7. Has this title changed since the Office was created? (Please circle ONE response) 1) Yes 2) No 3) Do not know
8. If yes, what was the title previously and why was it changed? _____

9. How many full-time equivalent employees work in your Office? (Please enter a number; prorated for part-time employees) _____
10. Of these how many are professional staff? _____
11. How many are clerical and/or administrative support? _____
12. Has the number of staff working in your Office changed over time? (Please circle ONE response) 1) Increased 2) Decreased 3) Remained Same

13. To whom does your Office report to?
(Please circle ONE response and identify title, i.e. Vice President for Academic Affairs)
- 1) President of the University
 - 2) University Counsel
 - 3) Provost: Please identify title _____
 - 4) Vice President: Please identify title _____
 - 5) Dean: Please identify title _____
 - 6) Other: Please identify title _____
14. Who does your Office serve? (Please circle ALL that apply)
- 1) Students
 - 2) Staff
 - 3) Faculty
 - 4) Parents
 - 5) Other: Please identify _____
15. Has the clientele served changed over time? (Please circle ONE response)
- 1) Narrowed
 - 2) Broadened
 - 3) Stayed the same
16. Does your Office maintain formal case files?
(Please circle ONE response) 1) Yes 2) No 3) Do not know
17. If yes, for how long are they kept? (Please circle ONE response)
- 1) Until the case is closed
 - 2) Less than one year
 - 3) One to five years
 - 4) Indefinitely
 - 5) Other: Please identify _____
18. Does your Office maintain records on behalf of the institution?
(Please circle ONE response) 1) Yes 2) No 3) Do not know
19. Does your Office conduct forums and workshops?
(Please circle ONE response) 1) Yes 2) No 3) Do not know
20. If yes, on what topic(s)? _____
-
21. Does your Office work with policy-making groups at your institution?
(Please circle ONE response) 1) Yes 2) No 3) Do not know
22. Does your Office offer recommendations regarding changes in policies, procedures, and resolution structures to your institution?
(Please circle ONE response) 1) Yes 2) No 3) Do not know
23. Does your Office provide advice and assistance to the institution on the design and implementation of conflict management systems?
(Please circle ONE response) 1) Yes 2) No 3) Do not know

Section 2: Ombudsman In Action: Guiding Principles & Beliefs

1=Strongly Disagree	2=Disagree	3=Undecided	4=Agree	5=Strongly Agree
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Using the scale above, assess the degree to which the following statements characterize your practice and experience.

- _____ 24. When serving in the capacity of Ombudsman, I exercise sole discretion over whether or how to act regarding an individual's concern and/or complaint.
- _____ 25. My Ombudsman practice is strongly influenced by the principles of academic freedom.
- _____ 26. I describe myself as a dispute resolution professional.
- _____ 27. I can criticize the governance of my institution without fear of retribution.
- _____ 28. My Ombudsman practice provides informal means of resolving disputes.
- _____ 29. I have authority over the hiring and management of staff in my Office.
- _____ 30. When needed and as permitted by law, I have access to all information and all individuals in the organization.
- _____ 31. My Ombudsman practice is strongly influenced by the Code of Ethics and Standards of Practice of The International Ombuds Association and/or the former University and College Ombuds Association.
- _____ 32. My institution is committed to maintaining an Ombudsman position or function.
- _____ 33. I provide University administrators with recommendations for systemic and administrative improvements.
- _____ 34. My Ombudsman practice conducts informal complaint investigations.
- _____ 35. My Ombudsman practice employs the use of transformative mediation and/or other alternative dispute resolution techniques.
- _____ 36. My Ombudsman practice is strictly committed to maintaining impartiality.
- _____ 37. I have authority over the budget and operations of my office.
- _____ 38. My Ombudsman practice fosters safe and open dialogue.
- _____ 39. My Ombudsman practice includes serving as a neutral facilitator to resolve disputes.
- _____ 40. My Ombudsman practice encourages cooperative problem resolution.
- _____ 41. When serving in the capacity of Ombudsman, communications between myself and others are considered privileged.
- _____ 42. My Ombudsman practice advocates for our clients' interests.
- _____ 43. My Ombudsman practice conducts formal complaint investigations.
- _____ 44. My Ombudsman practice is committed to the classical definition of an Ombudsman.

Section 3: Demographic Information - Your Personal Background

45. Date of birth: _____ (Year)
46. What is your gender? (Please circle ONE response) 1) Female 2) Male
47. What is your race or ethnicity? (Please circle ONE response)
- 1) European-North American/White (Non-Hispanic) 5) Native North American
 - 2) African-North American or Black (Non-Hispanic) 6) Asian, Pacific Islander, or Indian Subcontinent
 - 3) European-North American/White (Hispanic) 7) Multi-Ethnic
 - 4) African-North American or Black (Hispanic) 8) Other
48. What is the highest degree you have completed? (Please circle ALL that apply)
- 1) Bachelors Degree (BA, BS, AB)
 - 2) Masters Degree (MA, MS, MBA)
 - 3) Law Degree
 - 4) Medical Degree (MD, DDS, DVM)
 - 5) Doctorate
49. What year did you complete your highest degree? _____
50. Do you hold a faculty appointment? (Please circle ONE response) (1) Yes (2) No
51. If yes, is your appointment (Please circle ONE response)
- 1) Emeritus
 - 2) Continuing/Tenure
 - 3) Tenured
 - 4) Term
52. If yes, what is the field of your primary affiliation/appointment?
- _____
53. To what professional organizations do you belong to? (Please circle ALL that apply)
- 1) American Arbitration Association
 - 2) American Association of University Professors
 - 3) Association for Conflict Resolution
 - 4) International Ombudsman Association
 - 5) National Academy of Arbitrators
 - 6) United States Ombudsman Association
54. For how long have you performed the duties of Ombudsman? (Please circle ONE response)
- 1) Five years or less
 - 2) Five to 10 years
 - 3) Eleven to 20 years
 - 4) 21 years or more

Thank you for your participation! Please return this survey to:

Mary Newhart
ILR School, Cornell University
Catherwood Library
239 Ives Hall
Ithaca, NY 14853-3901

t. 607-255-2713
f. 607-255-9641
e. mjn3@cornell.edu

APPENDIX II

Other identified titles:

1. Office of Social Equity
2. Student Advocacy
3. Dean of Students Office
4. Student Life
5. Student Conflict Resolution Center
6. Office of Conflict Resolution
7. Associate Dean of Students
8. Dean of Students
9. Faculty Troubleshooter
10. Academic Support
11. Student Mediation & Conflict Resolution

APPENDIX III

If yes, what was the title previously and why was it changed? 23 Responses

1. Ombudsman to Ombuds
2. Ombudsman to Ombudsperson
3. Ombudsman to Ombudsperson - gender neutral term
4. Ombudsman to Ombudsperson - changed to be perceived as gender neutral
5. Ombudsman to Ombuds - changed at request of the then ombuds
6. Ombudsman to Ombudsperson - changed to be gender neutral
7. Ombudsman, then ombudsperson; and recently ombuds - preference of the person determined the name.
8. Changed to Ombud - more PC
9. Ombudsman's Office to Ombud - changed to make gender neutral
10. Ombudsman to Ombuds
11. Ombudsmen to Ombuds
12. Ombudsman to Ombuds - gender neutral
13. Ombudsman to Ombuds - to be gender neutral
14. Ombudsman to Ombuds - to be gender neutral
15. Student advocate to Ombuds - sounded too adversarial to all but students
16. Ombudsperson to Ombuds
17. Ombudsman to Ombuds - more politically correct, first female ombudsman
18. Ombudsman to Ombuds
19. Ombudsman to Ombuds
20. Ombudsman to common use of all varieties (ombuds, ombudsperson)

21. Ombuds to Ombudsman - ombudsman is original word to designate the function, more widely understood
22. Ombudsperson to Ombudsman - feel ombudsman is the correct term honoring its semantic origin
23. Changed to Ombudsman - changed from dual responsibility w/affirmative action to independent office

24. Student Ombudsman service to Student Conflict Resolution Center - addition of student advocate to assist with formal proceedings
25. Ombudsman to Student Advocacy - feedback was that students did not know what an ombudsman does
26. Office of the Ombudsman to Dean of Students - consolidated into a function of the new office

APPENDIX IV

To whom does your Office report to?

- 1) President of the University
 - 2) University Counsel
 - 3) Provost: Please identify title
 - 4) Vice President: Please identify title
 - 5) Dean: Please identify title
 - 6) Other: Please identify title
-
- 3) Provost: Please identify title
 1. Vice Provost for Faculty Senate
 2. Provost
 3. Academic Provost
 4. Provost & Executive Vice President
 5. Provost & Executive Vice President
 6. Provost & Executive Vice President for Academic Affairs
 7. Provost & Executive Vice President for Academic Affairs
 8. Provost & Senior Vice President
 9. Provost and Vice President for Academic Affairs
 10. Provost and Vice Chancellor for Academic Affairs
 11. Provost for Academic Affairs & Dean of Graduate School
-
- 4) Vice President: Please identify title
 - 1-11. Vice President Student Affairs
 12. Vice Chancellor for Student Services & Enrollment Management
 13. Executive Vice Chancellor
 14. Vice Chancellor for Student Affairs
 15. Vice President for Academic Affairs
 16. Vice President Student Affairs and Undergraduate Education
 17. Vice President Enrollment Management & Student Affairs
 18. Vice President for Student & International Affairs
 19. Vice President for Student Life
 20. Vice President Student Services
 21. Vice President of Enrollment & Academic Services
 22. Vice President Affirmative Action/Faculty Senate Executive Comm.
 23. Senior Vice President

- 5) Dean: Please identify title
 1. Academic Dean
 2. Dean for Medical Studies
 3. Dean of Graduate Studies
 4. Dean of Students & Association VC for Student Affairs
 5. Dean of Students
 6. Dean of Students
 7. Dean, College of Agriculture and Home Economics

- 6) Other: Please identify title
 1. Chancellor
 2. Chancellor
 3. Faculty Senate
 4. Head of Office of Campus Diversity & Equity
 5. Independent
 6. President of Graduate School
 7. University Council
 8. University Senate
 9. University Senate
 10. Vice Chancellor – Legal Affairs
 11. Members of Community (budget under President's Office)
 12. Chief Assistant to the President

APPENDIX V

Does your Office conduct forums and workshops? 97 Responses

Yes – 58

No – 38

Do not know – 1

If yes, on what topics? Detailed responses:

- ethics, interpersonal relations, conflict management, many others
- conflict resolution communication
- university policies and procedures, avoiding problems
- conflict management, mediation, policy
- university policies and procedures, avoiding problems
- diversity, harassment, discrimination
- sexual harassment
- university issues - town meetings
- role of ombudsman, diversity, how to handle problems, etc
- appeals, difficult students
- authorship, negotiation, conflict, harassment, mentorship, etc.
- role of ombudsman
- civility
- general info
- conflict resolution
- communication, change, conflict resolution
- conflict resolution, plagiarism, critical conversations
- what can the student advocate do for you; mediation; university policies/procedures
- mediation, problem solving, conflict resolution, negotiation, etc
- conflict resolution, mediation, university grievance procedures
- informational, dispute resolution oriented
- people skills, managing conflict, negotiation skills
- ombuds office, conflict resolution
- ACR, academic integrity
- occasionally on role of ombudsman; grievance procedures
- civility in the classroom, conflict management, professional etiquette, writing a conflict free syllabus
- conflict resolution
- conflict resolution
- Ethics, Alcohol Ed., etc. (based on case trends
- supervision, civility, getting along in the workplace, etc
- conflict management, customer service, FERPA, telephone etiquette, leadership
- conflict management

- proper way of treating people
- conflict management, negotiation, mediation
- information dissemination about ombudsperson issues & confidentiality
- conflict management, roommate conflict, negotiation, mediation, dealing with difficult people
- mediation, communication styles, cultural communication, conflict resolution, civility, numerous rules and regulations, from FERPA to grade appeals, shared governance system, student and/or employee rights
- office of ombudsperson, telephone response to anger
- conflict, academic topics such as academic integrity, syllabus suggestions, civility issues
- career services
- negotiation
- diversity, conflict resolution, orientation
- conflict, suicide prevention
- purpose and role of office
- conflict management/CM skills
- varies, as needed
- freshman orientation
- applying principled negotiation to workplace conflicts; intersection of conflict and diversity; conflict management for supervisors; conflict styles
- responsible conduct of research, sexual harassment
- conflict, communication, supervision
- conflict resolution, role of the ombudsman
- various, academic integrity, learning procedures, duties/function of office
- civility, sexual harassment prevention, conflict management

APPENDIX VI

Multiple Professional Organizations

Two Organizations:

American Arbitration Association & International Ombudsman Association – 1

American Association of University Professors & International Ombudsman Association – 1

American Association of University Professors & National Academy of Arbitrators - 1

Association for Conflict Resolution & International Ombudsman Association – 6

Association for Conflict Resolution & United States Ombudsman Association - 1

International Ombudsman Association & United States Ombudsman Association – 3

Three Organizations:

American Arbitration Association, Association for Conflict Resolution & International Ombudsman Association – 1

Association for Conflict Resolution, International Ombudsman Association & United States Ombudsman Association - 2

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