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CALIFORNIA CAUCUS OF
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OMBUDS

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MISSION STATEMENT

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



LETTER FROM THE EDITORS

Dear Friends and Colleagues,

As the higher education sector continues to evolve, the vital work of advancing fairness has become more complex. Changes in post-secondary funding and administrative models, the casualization of the academic workforce, the growth of consumer mentalities in education, increasing student demand for the variety and depth of services that colleges and universities provide, and other recent trends profoundly impact our work. The need for ombudspersons as multi-partial advocates for fairness has perhaps never been greater.

We are pleased to present to you the third edition of our online journal. In keeping with our 27-year tradition of writing about ombuds theory and practice, beginning in 1988 with our first printing, this issue continues to connect ombudspersons to their community through original research and case studies that inform our work.

We are honored to have Tom Sebok write for *The Journal* this year. He first wrote his reflections of a first year ombuds for *The Journal* in 1990 and, on the eve of his retirement, he shares his reflections in his last year of ombudsing. To see his first article, [please click here](#).

This journal maintains its interactive design, and we are pleased to continue the Case Study feature from last year. It is our hope that this year's contributions will incite productive dialogue on the ways in which we practice and think about ombudsing. As such, articles are open to comments to encourage discussion. As always, we look forward to the fruitful discussions at Asilomar.

Finally, we encourage your continued participation, both through Journal contributions and through commentary on articles and case studies.

Thank you,

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PETE SMALL AWARD RECIPIENT 2014: VALERIE CRAIGWELL WHITE

Nominated by Susan Neff, University of Washington

The 2014 Awards Committee is pleased to recognize Valerie Craigwell-White as the 2014 Pete Small “Ombuds of the Year.” This is the highest award conferred by the California Caucus of College and University Ombuds, as it requires substantive contributions to CCCUO, demonstrated excellence in academic ombudsing, and recognition of fellow Ombuds as a leader in the field who has advanced the profession. Named for Pete Small, who in 1984 established the UC Berkeley Staff Ombudsman Office, this award recognizes the consummate colleague who shows strong support of Cal Caucus, and is seen as “raising the bar” in what we, as ombuds, expect of ourselves. Pete accomplished this through authentic acknowledgment of individuals, humanizing the academe, displaying compassion and enriching others, and it is these characteristics that the recipient of this award exemplifies.

Valerie’s significant service and leadership contributions to CCCUO are unparalleled in our recent organizational history. From her first Asilomar conference in 2010, Valerie has embraced the Cal Caucus value of engagement and service. That conference theme was “The Ecology of Ombudsing: Building Sustainable Value,” and Valerie has taken the theme fully to heart. She served on the 2011 Planning Committee, as conference co-convenor in 2012 and for CCCUO’s 40th Anniversary conference in 2013. Valerie is recognized as the driving force for organizational process improvement to build and sustain CCCUO at a level of excellence which continues today. Valerie has “raised the bar” by putting in place systems and process improvement mechanisms that have raised the standards for the CCCUO conference to assure academic soundness of our programming and conference quality. Through her service and leadership, she has made certain that the value CCCUO brings to ombuds and our professional development continues to grow sustainable ways.

Similar to Pete Small, Valerie started the ombuds program on her campus, and she has shared her expertise in support of the developing of numerous academic ombuds programs. She has promoted excellence in academic ombudsing through her leadership on conference program committee and her own presentations. Valerie is a stellar teacher, who challenges us to reflect and think critically about topics as the very heart of our work. Valerie’s work with conference programming has assuring a relevant program and space for open sharing has strengthened the learning of other ombuds. Each Asilomar participant takes this learning about academic ombudsing back to their campus or organization, and into professional dialogue at other conferences, thus contributing to professional development of the field.



The Journal of the California Caucus of College & University Ombuds

Through Valerie's work for and leadership of CCCUCO, a new generation of ombuds now understands the legacy of this conference forum where all expertise is valued. The depth of learning about academic ombudsing that can be achieved from engaging a full spectrum of practitioners, novice to expert, is profound.

Her contribution has continued consistently with a level of commitment that goes above and beyond extraordinary. Valerie is recognized by her colleagues as being integral to the rebirth of Cal Caucus; she has inspired us to reimagine our space and purpose among ombuds organizations. Through Val's leadership CCCUCO has held open a space specific for academic ombudsing – focusing on practice excellence in colleges and universities – making CCCUCO unique among professional organizations and Valerie unique among us.



ABSTRACTS

REFLECTIONS OF A *LAST* YEAR OMBUDSMAN

Tom Sebok

University of Colorado, Boulder

Boulder, Colorado

After attending my first CCCUCO conference in November of 1990, the late Ron Wilson, Ombudsman from the University of California Irvine and Editor of the CCCUCO Journal, asked me to write an article for the Journal about my first year on the job. I called that article “Reflections of a First-Year Ombudsman.” As I am planning to retire at the end of this year, in this article, I will describe some of the most significant events and challenges in my 25 year career. I am calling this one “Reflections of a Last-Year Ombudsman. I describe the importance of mentors, colleagues, and community, how one “simple” question affected my thinking about the work, persistent legal challenges, the impact of adding a faculty ombuds component to our office, my involvement in both the University and College Ombuds Association and International Ombudsman Associations, exploring the edges of ombuds practice, and the persistent problem of workplace bullying.

CHALLENGES AND SUCCESSES: STARTING AN OMBUDS OFFICE IN TROUBLED WATERS

Dusty Bates Farned

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This article chronicles the creation of a new ombuds service at a flagship state university undergoing numerous institutional changes. There were ample administrative challenges, including office funding and location, probable conflicts of interest, boundaries with existing programs within the organization, and a general lack of administrative support. These challenges migrated from extreme indifference to the new ombuds service to extreme control over its operation—including misuse of university police. In spite of these circumstances, there were also ample successes, which included assisting over one hundred and fifty visitors in the first year alone.



ARTICLES

REFLECTIONS OF A *LAST* YEAR OMBUDSMAN

Tom Sebok

University of Colorado, Boulder

Introduction

I started as Associate Ombudsman at the University of Colorado Boulder in September 1990. That November, I attended the California Caucus of College and University Ombudsmen (CCCUCO) conference at Asilomar for the first time. The following spring, the late Ron Wilson, Ombudsman from the University of California Irvine and Editor of the *Journal*, asked me to write an article about my first year as an ombudsman. In this article, I will describe some of my most significant experiences in my now 25 year career. I will also describe the impacts – positive and/or negative – of these experiences and, when possible, consider their implications for the future.

Mentors, Colleagues, and Community

As a new ombudsman with no previous ombuds experience mentors were important in my professional life. My first mentor was Constance Williams. She had been with the university since 1979 (Silver & Gold Record, 1992) and was a calm, wise, sensitive, and compassionate woman. She welcomed me and did all she could to help me learn about the culture of the University and my new role within it. Both, of course, were absolutely necessary. And both took a lot of time. In addition to her understanding of the role and the culture of the University, as an African-American woman who was a little older – and a lot wiser – than I, she also had much to teach me about diversity issues; particularly those at the intersection of privilege, oppression, race, and gender.

One specific form of encouragement I received from Constance was the opportunity to attend the 1990 CCCUCO conference at Asilomar. This was my first professional gathering as an ombudsman. I was very curious about what these new colleagues would be like and how they would act toward me. I wasn't really one of them – yet. But I liked and felt at home with them from the start. They welcomed me – especially after I played the guitar and sang at the “Creative Expressions” event. The informal atmosphere of Asilomar probably helped me feel comfortable as well. It was quickly apparent to me this was a very special group of people. But did I have “the right stuff” to legitimately *become* “one of them?” This



initial experience in a *community* of ombuds, has stayed with me for 25 years. And, as I near retirement, connections to this *community* are something I am sure I will miss.

My community of ombuds colleagues expanded when I attended the University and College Ombudsman Association (UCOA) conference in Lexington, KY in the spring of 1991. And, my pool of possible mentors did, as well. Through UCOA meetings, I met Bob Shelton from the University of Kansas, Mary Rowe from MIT, and Howard Gadlin from the University of Massachusetts, as well. And, luckily for me they often attended CCCUCO meetings, as well. I frequently called one of them with what, to me, were difficult questions. I was always impressed with how well they listened to my dilemmas and how well they were able to help me see options to move forward. And, through it all, I received at least two consistent messages from each of them: “Of course, the questions with which you are wrestling are difficult ones” and “You can do this!”

In 1992, Constance Williams was appointed Special Assistant to the Chancellor (*Silver & Gold Record*, 1992), I was appointed Director of the Ombudsman Office, and Elease Robbins, a former Educational Opportunity Program counselor, was appointed Associate Ombudsman. For me, being appointed as “Director” was scary because I only had two years’ experience as an ombudsman and it was clear to me that I was still in some unknown part of what looked like a pretty steep learning curve. And, I had very little idea of how or when I would learn enough to function confidently in this still new role, let alone serve as a mentor for others.

Fortunately, Elease’s extensive knowledge of the University of Colorado Boulder culture turned out to be valuable immediately. And, her personal and professional understanding of privilege and oppression allowed me to continue learning about this critically important topic, as well. In this way, although I was called her “supervisor,” Elease absolutely mentored *me*. We functioned as colleagues much more than we ever did as supervisor-employee. Over the next seven years we did dozens of co-mediations, and we developed and presented scores of workshop presentations together. In the office we discussed our cases - and our ombuds role - almost daily.

A “Simple” Question from Two Scholars

In the spring of 1993 two sociologists working with funding from the Hewlett Foundation on the CU Boulder campus, Guy and Heidi Burgess, invited me to participate on a panel at a conference. The question they asked me to address in my part of the presentation turned out to be a real gift: “What have you seen people do in mediation that seems to elicit either the cooperation – or the resistance – of the other party?” This seemingly simple question led me to develop two lists, which I eventually gave to disputants prior to mediation. I also wrote an article for the 1994 CCCUCO *Journal* (Sebok, 1994), and another variation called



“Preparing for Your Mediation,” in the online journal, *Mediate.com* (Sebok, 2002). That one led to emails from scholars, attorneys, and ombudspersons from around the world. The CEO of “mediate.com,” told me last year that, of the approximately 10,000 articles on mediate.com, in any given week, “Preparing for Your Mediation” is often among the top 50 most viewed (J. Melamed, personal communication, 2014). And, the article has been posted with my permission to other ombuds websites (e.g., the National Institutes of Health Office of the Ombudsman).

Persistent Legal Challenges

Between 1996 and 2013 four attempts were made by attorneys to compel my testimony and/or documents in cases involving employees or former employees. In each case, those attempts were, unsuccessful. But, taken together, they illustrate the vulnerability of organizational ombuds to legal challenges, requiring an enormous output of time and energy to resist violating confidentiality on a case-by-case basis.

In 1996 I was deposed in a lawsuit filed in Federal Court by Jennifer Miller, a former staff member in the Chancellor’s office. In my deposition, I provided an Ombuds Office brochure describing my role as “confidential” and stated (under oath) that I followed The Ombudsman Association (TOA) Standards of Practice. The Judge concluded, “. . . the complaints are protected from discovery by the ‘ombudsman privilege.’ The ombudsman privilege treats as confidential communications received during the course of an investigation in order to ensure that those communications will take place and to encourage informal dispute resolution.” Thus, I was not required to testify.

In the spring of 1999, another attempt was made to compel my testimony in a formal hearing. This case involved a matter before an administrative law judge involving a classified staff member. And, this time, because the Office of University Counsel remained neutral about whether I should have to testify, I approached the Chancellor about securing outside counsel to assist in attempting to quash the subpoena. Boulder attorney, Allen Taggart, of Caplan and Earnest, LLC met with me and consulted with two legal experts (Sharon Levine and Chuck Howard). He presented an affidavit to the judge describing my confidential role and the rationale for it and he also explained the impartial, informal, and independent nature of the role, the voluntary nature of ombuds services for constituents, and provided an explanation of the mediation and conflict coaching functions. In the judge’s decision to quash the subpoena, she wrote:

“The arguments of the Ombudsman prevail here. Complainant sought the assistance of the Ombudsman after receiving a letter of counseling, and clearly sought to resolve a dispute regarding that letter in the course of contacting him. . . . Public policy considerations strongly favor according the activities of the ombudsman testimonial privilege. The University Ombudsman plays a crucial role in settling disputes between classified



employees and appointing authorities. The University is one of this State's largest public employers. Minimizing litigation between University employees will save public resources. Communications made to the University Ombudsman are therefore entitled to the testimonial privilege" (State of Colorado Personnel Board, May 1999).

Unfortunately, this "ombuds victory" was short-lived. While in May of 1999, Taggart was able to cite the judge's (1996) ruling in the *Miller* case, when that case was heard on appeal, in an unpublished opinion the Appeals Court judge (as cited in Howard, 2010) remarked, "It is clear that neither Colorado law nor federal law, including the decisions of this circuit, recognize an ombudsman privilege." Thus, what the administrative law judge described as "persuasive authority" could not be cited in future cases.

In addition to the challenges described above, on two occasions, attorneys from our own Office of University Counsel requested information I considered confidential. In one case, then Chancellor Richard Bynny agreed that allowing the Office of University Counsel to have confidential information when it assumed this information would help its case undermined the Ombuds Office promises of confidentiality and independence and he asked the attorney not to ask me for such information again.

In approximately 2005, attorney (and now author) Chuck Howard met on the Boulder campus with attorneys and ombuds from three campuses of the University of Colorado to discuss the ombuds role and arguments that he had used to successfully defend ombuds privilege in a number of cases. Steve Zweck-Bronner, one of the attorneys present commented to me after the meeting that he found this meeting very helpful. In 2013, I contacted Zweck-Bronner who offered to explain to one of his Boulder colleagues how and why he might avoid providing documentation from the Ombuds Office in a matter involving an employee who was suing the University. And, to his credit, the Boulder campus attorney followed Zweck-Bronner's advice and contacted the opposing counsel to say he would not be providing any documentation from the Ombuds Office about the matter being litigated.

From my point of view, helping people navigate, manage, and learn how to resolve conflicts is a difficult enough proposition – without the additional constant threat that an attorney will seek to compel testimony or documents. Clearly, organizational ombuds would benefit from having shield laws legally guaranteeing us a privilege. In Colorado we made a number of attempts to do this over the last 25 years. The last attempt was stopped by University of Colorado President Hank Brown. Brown had been appointed President following several highly publicized scandals in which the lack of transparency on the part of leaders had been seen as a real problem. It seems likely he opposed our efforts to gain a shield law because he thought it would contradict his publically-stated promise to operate "transparently." In any case, my conversation with the university "government relations" (lobbyist) staff member



who had been trying to help us was one of the most disappointing ones I ever had as an organizational ombuds.

This disappointment was amplified in the fall of 2014, when our Faculty Ombuds and I met with Managing Associate University Counsel for the Boulder campus, Charlie Sweet. Sweet, who had returned to this position after nearly a decade away, inquired about the status of efforts in Colorado to obtain a shield law for ombuds. I explained that our efforts had “failed to get off the ground.” Sweet raised concerns about the promise of Ombuds Office confidentiality – especially in light of recent controversy about Title IX. His concern was that, while professionals in other offices on campus where victims of sexual assault or sexual harassment might receive help held licenses legally guaranteeing them a confidentiality privilege, Ombuds Office staff did not. He understood that our office had long promised – and provided - confidential help for students, staff, and faculty. And, while he did not wish to undermine that, he was concerned that the lack of an ombuds privilege might mean, if compelled by a judge, Ombuds Office staff would be required to testify. Sweet recommended that Ombuds Office staff let the community know about this limitation. And, indeed, we began to convey this to visitors and workshop participants almost immediately. In addition, I conferred with several dozen colleagues at other universities and shared my findings with Sweet. Sweet recommended to the administration that the University continue to consider the Ombuds Office a confidential resource and not require that its staff members report allegations of sexual assault or sexual harassment under either Title IX or the Clery Act.

At the bottom of every page of the University of Colorado Boulder Ombuds website, the following statement appears:

The Ombuds Office is not authorized to accept notice of claims against the university. Further, as a confidential campus resource, the Ombuds Office is neither a “responsible employee” in relation to sexual harassment/misconduct nor authorized to serve as a “campus security authority” for purposes of reporting crimes on campus.

Sweet did not promise that the University would always pay for outside counsel to help ombuds avoid testimony, but he did indicate he understood this had been done successfully in the past, recognized the Ombuds Office concerns about this, and promised to consider such requests on a case-by-case basis. The Ombuds Office (and Faculty Ombuds services within the Ombuds Office) are listed on the University of Colorado Boulder Title IX webpage as “confidential resources” – with the following footnote:

**The Ombuds offices are confidential and not “responsible employees” for mandatory reporting purposes pursuant to University of Colorado-Boulder applicable policies but do not currently have a statutory privilege in Colorado. For any questions regarding the statutory privilege, please contact the Ombuds offices directly.*



Faculty Ombuds Join the Ombuds Office

In the spring of 1997, a Boulder Faculty Assembly (BFA) proposal to create a faculty ombuds position was submitted to outgoing Chancellor Roderick Park, who supported the proposal. Park passed it along to incoming Chancellor Richard Byyny, who also supported it. The number of faculty who requested our assistance remained relatively small – until we hired Bob Fink, recently retired Dean of the College of Music and Jack Kelso, a retired anthropology professor who had served as department chair and Director of the University Honor’s program. After they began, an article was written in the faculty and staff newspaper, about the new program (Ortega, 1997).

Jack Kelso served in the role for nine years and Bob Fink served for 11 years. Both made many lasting contributions and so firmly established the role that it has become unthinkable that the office would ever function without emeritus faculty members providing this function. Each brought his own distinctive style to the role. After 15 years as a dean, Fink was fairly unflappable. On one occasion he met with a faculty member he had seen previously who, despite Fink’s encouragement to use a conciliatory approach, had sent an inflammatory letter to his chair. As Fink imagined, this approach escalated the conflict. The faculty member returned and said, essentially, “Now what should I do?” Fink resisted the urge to say, “I told you so” and, instead, calmly helped this faculty member to develop a more effective option to deal with what had become an even more challenging problem. Jack Kelso sometimes used his inimitable wry wit with his visitors. After meeting numerous times with a faculty member who had seemingly endless complaints about her colleagues and about her chair, Kelso quietly smiled at her and said, “Did you ever notice who’s always in the room when these things happen?” Fortunately, the faculty member burst out laughing.

The addition of Faculty Ombuds to our office was beneficial in a number of ways. Their credibility added to our credibility with the Chancellor and other administrators. Also, they complemented us and we complemented them. In a 2013 interview, Howard Gadlin, reflecting on his own initial experience transitioning from faculty member to ombudsman observed, “. . . as a faculty member he had been really isolated from what was happening in the rest of the university. In hindsight, he said he can see what a ‘narrow perspective’ he had on things and how unaware he had been of the ways in which others view faculty (both positively and negatively)” (Sebok, 2013). But the same could be said of the staff members in the Ombuds Office when we began working with our Faculty Ombuds. It was as if someone “pulled the curtain back” and allowed us to see into the private world of faculty in a way we never had access to previously. On rare occasions we even wound up working with a student or staff member in the same case in which one of our Faculty Ombuds was assisting a faculty member. This proved mutually beneficial and was very likely a benefit to all of our visitors, as well.



Involvement in Ombuds Professional Associations: UCOA and IOA

UCOA

In 1995 I was elected to the UCOA Board and served as Secretary. In this role I felt as if I had a “green light” to pursue developing two things I believed we needed at the time: a listserv for all UCOA members and a UCOA webpage. Both of these tools improved our members’ communication with one another. The webpage was primitive by today’s standards. But it was a good start. I was actually very pleased to have the opportunity to make these contributions to our professional organization.

By 1997 the informal “Colorado Ombuds Network” volunteered to host UCOA’s annual meeting. That meant the Colorado group had to do everything to make this happen. We secured the hotel, planned the menu, advertised the conference, collected registration fees, and most importantly, planned the program. Elease Robbins and I were intensely involved in meeting with our colleagues, including, among others, Mary Lou Fenili (University of Colorado Denver), William King (Colorado State University), and Judy Jones (University of Northern Colorado) for nine months of planning before this conference. This UCOA conference theme focused directly on the topic of “diversity” and how it affected university ombuds personally and professionally. Music highlighting aspects of diversity was frequently heard throughout the conference (e.g., “It Ain’t Easy Being Green,” “What’s Goin’ On?”). Peggy McIntosh’s groundbreaking article, “Unpacking the Invisible Knapsack” was given to all conference participants. The film “The Color of Fear” was shown and guest speakers included University of Colorado Boulder historian, Patricia Nelson Limerick, Minority Arts & Sciences Program Coordinator, Alphonse Keasley, NPR commentator, journalism professor, and author of *My First White Friend*, Pat Raybon, and founding partner of CDR Associates, Christopher Moore. Numerous UCOA attendees told various Colorado Ombuds Network colleagues, “This was the best UCOA conference I ever attended.” We, of course, were thrilled.

One of my lasting memories of the 1998 UCOA conference involved an adaptation we made of the famous training film of Carl Rogers, Fritz Perls, and Albert Ellis, who all met separately with a woman named “Gloria.” The late John Wanjala arranged space and equipment for us to use to videotape five different ombuds - each meeting with the same visitor talking about the same problem. Elease Robbins’ “played” herself as an undergraduate student at Colorado State University. The situation involved an ethical dilemma for her and almost certain illegal discrimination on the part of a professor. Elease was videotaped speaking separately to: Howard Gadlin (UCLA), Bob Shelton (University of Kansas), Frances Bauer (University of Western Ontario), Ella Wheaton (University of California Berkeley), and Tim Griffin (Northern Illinois University). These colleagues were both courageous and gracious for allowing us to video record these sessions. We were



simply trying to identify similarities and differences in how experienced practitioners conducted an initial interview with the same visitor. We had no intention of conducting further research or writing an article about these observations. It was fascinating to watch our five colleagues deal with Elease and her dilemma. While the technical quality of the video was limited, this collaborative effort was one of those opportunities a community of colleagues like ours can easily create for themselves. And, two years ago I was thrilled to be able to pass a DVD copy of this recording along to a colleague, Lisa Witzler from the NIH Office of the Ombudsman, who was investigating differences in approaches among organizational ombudsmen for her dissertation research.

In 2003, the Colorado group again hosted the Denver UCOA conference in Denver, Colorado. Again, an intense amount of planning and preparation was required. And again, the group's creativity was in evidence. We welcomed participants with an opening "rap" featuring the hosts, complete with "do-rags." One featured speaker was Deborah Flick, author of *From Debate to Dialogue*, describing her experiences working with Israeli and Palestinian girls. Bob Shelton was honored by Tim Griffin. And, for the first time, we offered a "Post-Conference" activity, a two-day Transformative Mediation workshop.

IOA

In 2004, I received an invitation from John Barkat who was then the TOA President. He asked me if I would chair a new Joint UCOA-TOA task force comprised of ombuds from four sectors: academic, corporate, governmental, and non-profit agencies. He said the task was to develop a system to classify the kinds of issues with which organizational ombuds assist constituents – across sectors. I was partly interested in this because, in my own office we had tried both extremes of classifying issues: 1) naming categories in such precise terms that the largest category every year was "Other" or "Miscellaneous" and 2) using very broad categories (e.g., "workplace conflict") that made it easy to classify practically everything brought to us by staff or faculty members but, at the end of the year, told us virtually nothing about our visitors' specific problems. Surely there had to be more precise and descriptive categories we could use.

I would have paid money to participate in the ongoing monthly conversations of the Uniform Reporting Categories Task Force. They were among the richest experiences of my career. And they were fun. Our ultimate goal was to develop categories but we had to first identify the wide range of issues, problems, and concerns with which we assisted constituents. Then, we had to decide how to organize them. We examined questions such as: "How can we name concerns *neutrally*?" or "From whose perspective will we categorize these problems?" If a supervisor believed the problem was "poor performance" and an employee believed it was "harassment," which would an ombuds choose? And by what



criteria would one decide? We wrote about this richly rewarding experience in the Inaugural Edition of the *Journal of the International Ombudsman Association* (Dale, et al, 2008).

When Alan Lincoln was seeking other IOA members who might be interested in helping him start a journal, I jumped at the chance. He had a vision that we needed, “. . . something that would focus on what we do and how we do it, what our issues are. . .and to start to study the profession the way other professions have been studied” (Lincoln, 2008).

In the first year he agreed to serve as editor and asked Mary Rowe and me to serve as associate editors. We discussed ideas about “what’s important enough to write about?” and “who might we invite to write about it?” And, producing something as potentially lasting and valuable as a journal for all of us was the kind of opportunity I would wish for every colleague.

One experience that really stands out for me is serving as guest co-editor - along with Laurie Patterson - to produce a “Creative Edition” of *JIOA* in 2013 (Sebok, T, and Patterson, L., 2013) For several months I couldn’t wait to open my email every morning because of all the great submissions made by IOA members. My inbox was full of art, music, short stories, photography, poetry, video clips, and more. Helping make all of this available for the world to see was both fun and gratifying.

For about five years from approximately 2007 to 2012 I was asked to help teach IOA’s professional development course, “Foundations of Organizational Ombudsman Practice” (formerly “Ombuds 101”) for new and aspiring ombuds. The old cliché about the best way to really learn is to teach certainly applied in my case. While I was involved in this work we made a video of an ombuds working with a sample case for use in the course. I played a professor whose ex-wife (played by Judi Segal) had consulted with the ombuds (played by Nick Diehl) about a problem requiring that Nick contact me. In April 2014, although I was no longer teaching the course, I agreed to serve on a panel at the end of the final day of the course. I knew the class had already viewed the training video because when I walked into the room, I was loudly booed by the participants!

At the request of my University of Colorado Denver colleague and friend, Lisa Neale, in April of 2014 I gave a keynote address at the IOA conference in Denver, CO. My address was called, “*An Ombuds’ Journey: from “Should I Stay or Should I Go” to “My Hometown.”*” I talked about why I continued in the ombuds role despite my serious doubts about whether it as a good fit for me. I also used “clickers” to engage the audience in answering questions some may have hesitated to answer publically. Judging by outstanding evaluation scores provided by participants, the keynote address seems to have been successful. For me, giving it was the thrill of a lifetime.



Exploring the Edges

One of the most enjoyable parts of my on-the-job training as an organizational ombuds has been dabbling in activities that, while related, are not necessarily mainstream practices for all organizational ombuds. Among these are Restorative Justice and conflict communication protocols.

Restorative Justice

In May of 1998, University of Colorado Boulder Police Chief Jim Fadenrecht encouraged a group of us at CU Boulder, including Andrea Goldblum, Director of the Office of Student Judicial Affairs, Amy Robertson, Director of the Office of Victim Assistance, and several members of the University of Colorado Police Department to attend a presentation about a topic about which few if any of us had ever heard: “Restorative Justice” (RJ). We learned that the focus of this “response to wrongdoing” is on identifying and repairing harm, not punishment. Attending this half-day event led us to establish what we later learned was the first Restorative Justice program at a major US college or university. Our intent was to provide a restorative alternative to sanctioning through the Office of Student Judicial Affairs. The University of Colorado Restorative Justice Program began with volunteer staff, students, and faculty members. The first facilitated “community group conference” was scheduled to occur the day of the tragic killings at nearby Columbine High School (April 20, 1999). As a result, it was postponed for a week but when it finally occurred, it was very successful. In fact, this first “conference” was reenacted in a video made to promote the program. The following year, Andrea Goldblum and I published an article about the new program in the 1999 CCCUO *Journal* (Sebok, T, & Goldblum, A, 1999).

Although the CURJ program was never housed administratively within the Ombuds Office, I devoted a great deal of time to the effort, was an active participant for the first several years, requested funding from numerous administrators, facilitated several community group conferences, and even provided informal supervision for the coordinator of the program. I made or helped make numerous conference presentations at both ombuds and student judicial affairs conferences and later wrote a book chapter (Sebok, T., 2005), as well. But, in a 2002 *Journal* article, two Canadian ombuds colleagues, Martine Conway and Gary Insley, suggested (persuasively, I thought) that an ombuds “should exercise discretion to ensure that principles of independence, impartiality, and other guides outlined in UCOA Principles (were) not violated.” (Conway, M, & Insley, G, 2002). Fairly soon after that I reduced and eventually ceased my involvement with the program. But I am very pleased to have been a part of helping to start this program.



Conflict Communication Protocols

For the past several years I have assisted departments in developing their own conflict communication protocols (norms). This is based on the work of Larry Hoover, a now retired mediator from the University of California Davis (Hoover, 2003). Groups answer a series of questions about how they want to handle conflicts that arise in their group. In the one department of 40 where a follow-up survey was done with the assistance of the Office of Planning, Budget, and Analysis, the majority of those surveyed said they were using the new protocol and they found it helpful to do so. And, anecdotally, several individuals from departments with protocols have offered unsolicited but similarly positive comments about the lasting positive effects of these efforts within their departments.

Allegations of Workplace Bullying: A Persistent Problem

Allegations of “workplace bullying” have been a persistent and challenging problem in my practice since 1990. In 2012, one colleague, Kirsi Aulin, Director of the Ombuds Office at the University of California Santa Barbara (UCSB), took a specialized training offered by Laura Crawshaw. Crawshaw is a psychologist who calls herself “The Boss Whisperer” and author of *Taming the Abrasive Manager: How to End Unnecessary Roughness in the Workplace*. Crawshaw has reported significant success in working with – and teaching others to work with – what she labelled “abrasive” managers (i.e., otherwise talented managers accused of engaging in aggressive, bullying behaviors). During a break in the training, Aulin mentioned to Crawshaw that she really admired her work but was not sure if her approach would work in higher education because, in her opinion, higher education presented a number of difficult challenges that were not present and/or nearly as impactful in most other workplaces. She explained that while there were certainly “abrasive” professors (and others) on many campuses, aspects of academic culture, including tenure and academic freedom (among others) often limited a university’s options for dealing with this (and many other) problems. Further discussion led Crawshaw and Aulin to decide to collaborate on trying to address this problem.

The initial result was a meeting that was held in 2013 on the UCSB campus including over 30 university ombuds, administrators, Human Relations staff members, and researchers. Towards the end of the two-day meeting, the group decided to call itself the Consortium on Abrasive Conduct in Higher Education (CACHE) and to continue meeting annually. It met in 2014 at the University of Denver and in 2015 at the Harvard Law School. At the 2015 meeting, I presented the group’s newly released website <http://www.cacheconsortium.org/> which anyone could view and join (for free). Joining, however, allowed “members” to submit “promising practices” they believe show promise for helping colleges and universities to deal with this problem.



In 2012, I was invited to make a presentation to the University of Colorado Boulder Staff Council about the work of the office. During the presentation I made reference to the topic of “workplace bullying” and the number cases the previous year involving staff members alleging they had this specific concern. After the meeting, I invited Staff Council members to the Ombuds Office to view an IOA webinar featuring Wayne State University Associate Professor, Loreleigh Keashly, one of the world’s leading researchers on the topic. At the conclusion, we agreed that I would invite her to the campus to speak on this topic and to conduct a workshop on a related topic – Bystander Training. In fact, she came twice; in 2013 and again in 2014.

In the summer of 2014 the Ombuds Office hired Pacifica Human Communications to undertake a separate program review. Pacifica had undertaken some of the largest “return on investment” investigations ever conducted on organizational ombuds offices. Given the small budget available for this program review, as well as data limitations of both the Ombuds Office and other University offices, Pacifica concluded it is, “. . . an extremely conservative estimate (that) the Ombuds Office returns more than \$350,000 of value to the University of Colorado Boulder.” (Pacifica Human Communications, LLC. © 2014).

Pacifica was able to offer a number of potentially valuable recommendations. Some of these recommendations are “in process” and all of them deserve serious consideration by my successor.

Transition at the End

As previously noted, I will be retiring at the end of this year. As a result we are in the process of attempting to hire my successor. The Provost will make this decision. The three remaining members of the Ombuds Office (Natasha Scholze, Jerry Hauser, and I) will be interviewing candidates who are brought to campus and we expect Provost Russ Moore will seriously consider our input. But, unfortunately, we are facing two additional challenges, as well.

We are also in need of a new Faculty Ombuds, as well. Our reliance on CU Boulder Emeritus Professors for this role has worked well in the past but it does limit the likely candidates.

In September of 2015 Jessica Kuchta-Miller left her Associate Ombuds position to assume a new position as Ombuds for Staff at Washington University in St. Louis, MO. This terrific opportunity for Jessica left the office needing to recruit a new Associate Ombuds, a new Faculty Ombuds, and a new director. Without a doubt the office will look significantly different next year at this time.



Special Thanks

Following a devastating program review of the CU Boulder Ombudsman Office in 1984, when Susan Hobson-Panico, formerly ombudsman at Colorado State University, was hired as Director, she did two things which literally changed the course of my career and my life: 1) she “righted the ship” so there would continue to be an ombuds office on campus and 2) in 1990, she invited me to apply for the Associate Ombudsman position. Without her, I might never have enjoyed such a rewarding career, met so many wise and supportive colleagues, or had the opportunity to contribute to this fascinating emerging profession.

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CHALLENGES AND SUCCESSES: STARTING AN OMBUDS OFFICE IN TROUBLED WATERS

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Introduction

An ombuds at the University of Pennsylvania, and editor of the International Ombudsman Association's *Independent Voice*, was the first to suggest I write a narrative about starting a new Ombuds service. At the time, having only been in the role for a couple months, my experience was probably not very remarkable and yet now it is perhaps too lengthy for a newsletter. There are ample takeaways from my experience, dos and don'ts, and no doubt professional listeners and problem solvers will absorb these.

After graduating law school, I was offered a position in California with the Consumer Protection Division of the Santa Monica City Attorney's Office. However, I desired a neutral, non-advocacy role, although very often neutrals are former advocates. So I accepted a mediator position in Dallas where I had spent time growing up and still had some family and friends. It was a wonderful experience, although as a contract employee it lacked regular hours and benefits.

The desire to start an Ombuds Office at a flagship state university preceded my arrival by at least a decade. An executive committee on women's issues recommended that the President's Office establish an organizational ombuds. It is unclear what led the Women's Committee to make this recommendation. While this was the administration's first acknowledgement of a proposal to establish an Ombuds Office, it was indefinitely tabled. In the following years, widespread conflict ensued regarding the school mascot and motto, which involved lawmakers and lawyers. To many, this polemical situation stemmed from broader underlying problems, and tensions continued to surface even after the matter was reportedly resolved. On the positive side, the university's direction and identity were also changing from a regional establishment to a more national, research-based institution. However, as change often does, this too created conflict.

In a short amount of time, quite a few senior and junior administrators resigned, retired, transferred, or were terminated for various reasons. A few others later shared that they were



considering getting out, which some eventually did. An unofficial website was created so people affiliated with the university could anonymously, yet publically, air their grievances. It was in this period of turmoil and transition that the idea for an organizational ombuds arose again, first in the Faculty Senate and subsequently in the Staff Senate and Student Senate, which all passed resolutions supporting its creation. The President's Office finally agreed, but only as a half-time, one year, pilot project. The program was relatively triumphant but not without a lot of hard work and series of administrative challenges.

A New Ombuds Search

The Ombuds Committee, as it came to be known, was tasked with searching for the new hire. It was comprised of leaders from each of the senates plus the university general counsel, whose role had recently and oddly been changed to report to the system chancellor rather than the university president. Many months later, I was informed by the president that the general counsel did not support the creation of the ombuds position, but was nevertheless picked to represent the administration on the committee.

Following a national search, three finalists were named and invited to campus to offer their vision for the new office. The other two were a former vice dean at the university's law school and the founding director of the conflict resolution center on campus. As a fairly new law school graduate, with only a couple years' experience, I did not expect to be offered the position. Still, I presented myself as someone who would devoutly follow IOA standards of practice and ethics in starting a new ombuds service. As a university ombuds, I tried to stay true to this promise.

Because the majority of the Ombuds Committee had agreed that they too wanted a program based on IOA principles, my first request was to ask the President's Office for the search committee to remain in an advisory and support capacity during the trial year. When I first met the president, I recall an overpowering handshake. The president then explained that we were raised in the same Christian denomination, but he had converted after marriage. Undoubtedly, he had deduced this connection from my curriculum vitae and the schools I had attended. After the meeting, I sent him a copy of a recent memoir by another university president who shared our connection. Although pleased with the link and hopeful it was a good first impression, I did not expect it to be the predominant subject during our first meeting, nor a model for ones to come. Our initial encounter gave me enough concern that I made three outside contacts before officially accepting.

First, I sought advice from someone who had graduated from the same dispute resolution program I had attended and who was a past IOA president. I asked for any advice on



starting a new program and expressed concern about a potential issue with *office of notice*. While the majority of the committee members were vocal in their preference for an office in compliance with IOA principles, I recalled that the general counsel had been silent. I also recall this experienced ombudsman's parting warning: "Remember, be friendly with everyone but friends with none."

The other two contacts were former insiders. One had been president of the Student Senate there, supported the creation of the Ombuds Office, and had since been elected as the youngest female state representative in the United States. She was instrumental in providing me a *who's who* and *what's what* at the organization. It was perhaps this contact that also resulted in a letter of support as university ombuds from a U.S. senator who also maintained deep university ties.

The last person to whom I reached out for advice prior to accepting the position was an old family friend who had been chancellor of that state's university system. The friend had also created an ombuds role when previously serving as university president in my hometown. They warned of an unusual amount of institutional politics there, which meant a lot considering their comparative experience. However, they also advised that money should not be an issue in starting a new program, as budgets were surprisingly overflowing because of unique and fortunate circumstances.

First Half of Pilot Project

The Ombuds Office did not come with any funds. This meant often stopping by the President's Office, especially at the beginning, to request the most basic items such as office supplies and equipment (like the president's old computer which eventually crashed and had to be rebuilt and business cards which were only issued as temporary printouts and had to be continuously refilled because so many were getting handed out). Likewise, site selection had been given to the general counsel, who chose a small space in the basement, previously allotted to them. Ombuds mail was also routed to their mailroom, to which I was not provided a key, until I had an independent box setup in the main university post office. Such obstacles were present from the start, yet I decided it was best for the program to work as much as possible within these confines during the trial period.

The first semester operated quite well and must have been mostly enjoyable because it seemed to pass quickly. I met with the president and Ombuds Committee separately every other month to provide periodic updates and receive feedback. I met with virtually every administrator on campus, a sizable feat given the multitude of colleges, departments, offices, and programs (academic and non-academic) of most universities. I also took opportunities



to tell groups about the new service, such as meeting with each of the Senates, over a hundred facilities and maintenance employees, guest lecturing for a couple law school classes (where I included brief segments on an ombuds role), and even agreeing to interview with the local newspaper to help explain that novel thing called *ombuds*. A subsequent news story, soon after I departed, was not authorized by me, but the administration. By the end of the first semester, the new Ombuds Office had already had the opportunity to work with nearly fifty visitors. These cases involved a range of issues—on par with many more established programs. In fact, as a sign of success during the first six months, I was invited as guest of honor to the Staff Senate luncheon just before the holidays.

At first, I did not realize this was something special, as I figured everybody received an invitation to the annual event. However, according to a member of the Ombuds Committee (also on Staff Senate and working in the President's Office), I was the first non-member ever invited, except the president in their *ex officio* capacity. Prior to its start, the president arrived and came straight towards me and someone who had stopped to say hello to me. "So, you go to the ombudsman to complain a lot?" the president asked. I will never forget the expression of that person, and I imagine mine looked just as stunned. Presumably joking and unbeknownst to the president, that employee had been to visit the Ombuds Office, on a couple occasions, and never came back after that. To make matters worse, around the same time, two other administrative storms also started brewing.

As one of the first outreach efforts, I had sought out the director of the Conflict Resolution Center on campus (runner-up for the ombuds position). Now, they sent an email hotly accusing and criticizing the Ombuds Office for accepting and resolving cases they had normally received and blaming this for their drastic budget cut. In truth, I wholeheartedly supported their service and by the end of the first semester had already made nearly half a dozen referrals to them. The second administrative conflict was at least wrapped in a prettier package.

Summoned to meet with the provost and their own counsel, I was asked if I would like to work with them on legal and policy research, since the ombuds job was only half-time. Although my first reaction was to be flattered and enticed with doubling my income, I replied that half-time ombuds (or even full-time for that matter) is a misnomer, especially when starting a new office. Also in my mind, this dual role would have violated IOA principles, and even if capable of separating duties, perception is just as important as reality for a neutral. Still, I asked for time to get back with a final answer because I did not want to outright reject the offer and offend the provost (second-in-command to the president) or their counsel (married to another vice president).



I scheduled a meeting with the president to provide a six month update on the pilot project. The sole topic of discussion, however, became the suggestion of the provost. The president insisted I accept what he viewed as a generous offer. Despite the obdurate insistence, I said no thank you.

Meetings with the president were always scheduled for an hour but never even came close to it, sometimes lasting as little as ten minutes. Once when I was shown in, I made the mistake of complimenting a painting in the president's office of a recognizable mountain scene from New Mexico. I then got to hear all about growing up with his mother who was an oil landscape artist. Pleasant story but I did not even get the chance to say my mom, who passed when I was in college, was also a talented painter. In another meeting where I hoped to provide an update on the new Ombuds Office, I learned all about a hiking trip the president had taken. He encountered a grizzly but accidentally sprayed himself in the face with bear spray. He went on to explain his flight got delayed—a chartered flight, he made clear. At no time did I get to share that my dad also had a great bear experience, proudly hung above his fireplace mantle. Some stories I got to hear more than once. But when the president was finished, he would always stand up, shake your hand, literally turn his back and walk away. By the time of the six month update, I had already begun bringing and leaving typed, anonymous, aggregated, update reports. I once left material on IOA principles, in hope that the president might at least read it at some point, even if he had no interest in discussing it.

Brief Reflective Period

Holidays are always too short, especially in the U.S. where employees are often afforded less time off than some. Yet, this holiday season was particularly a God-send, not only because a break was needed but because it provided the first real time to reflect on the new program. My sense was that it had been successful so far, including in the view of mid-level administration (most deans and even some vice presidents). Human Resources greatly embraced the new service, so much so that I was worried about having our roles confused. Moreover, I became concerned that if I continued to commit full-time hours for the part-time position, then at the end of the trial period there would be less justification to expand it, something that was clearly needed. I decided not to cut back on actual practice, mostly done by appointment, but to withdraw from outreach where possible.

Different Sort of Ombuds Search

Refreshed and ready to begin the second half of the ombuds pilot project, I received an email from the President's Office stating that it was time for a six month evaluation



(standard for new employees). It was actually past time. What puzzled me most, however, was a date provided for the following month to meet with the Ombuds Committee that would be conducting the evaluation. It had been stated in interviews that evaluations were to be conducted personally by the president, as he did for all direct reports. I did not respond, which was undoubtedly the wrong move.

In a couple days, two campus officers and the Chief of Police walked into the Ombuds Office. Already knowing the chief, I wondered what kind of case this was to start the new semester. I was informed that the President wanted to see me immediately. Why had he not summoned me himself? The president never once called, nor emailed, and only once visited the new Ombuds Office, at my insistence, which was the last time I ever saw him. The thought crossed my mind that a mayor who used police to retrieve city employees might be kicked out of office for misuse of public resources. Nevertheless, I obliged and scheduled a meeting.

The president was extremely cordial when we met as if he had not had police called on me. When I mentioned it, he said he was concerned for my well-being since I had not visited the president's office in the last couple weeks (if truly the reason then he should have followed standard employee emergency contact procedures) and I had not replied to an email that his secretary sent (notifying me without expressly seeking a response). Without pausing, the president said I was being "caviler." Did he mean the first weeks of the new semester, or the confidential, informal, independent, and neutral position for which I was hired? The president then repeated the evaluation procedure change.

This modification would make me the only staff member at the university to be evaluated by a committee rather than an individual (standard for faculty but not staff). In fact, even the performance evaluations of university presidents in this system were conducted by an individual, the chancellor. I wondered, if evaluated by others, would position reporting still comply with IOA principles? Not wishing to cause further obstacles for the new program, I stated I could more easily accept the modification if I was permitted to change the Ombuds Committee, namely removing the General Counsel who had unofficially taken over as committee lead. The president agreed and an *ad hoc* advisory committee for the ombuds would now become an official advisory committee for the President. Curiously, the president left the responsibility to the provost for informing the general counsel of their removal from the Ombuds Committee.

While attempting to make lemonade from lemons, the new Ombuds Committee was just as unhappy and unfamiliar with their new roles as I was. They thought of a campus-wide survey to help evaluate performance and I welcomed the idea. It took many hours and



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meetings to design, distribute, collect, and evaluate the data but in the end, approximately four hundred people within the university community completed the survey. Overall sentiment was astounding support for the new Ombuds Office.

The administration was not satisfied with the survey results and demanded that the committee conduct a traditional personnel evaluation, as difficult as that is for a position like ombuds. Again, many hours and meetings lay ahead. In fact, in merely two months, the Ombuds Committee scheduled an astounding thirteen meetings. As the final evaluation meeting finally approached, I was emailed the results and generally agreed with the committee's positive evaluation of my performance. All I had to do now was sign it (four months past the six month deadline HR had given the president).

Unfortunately, I overbooked myself that day. I was scheduled to work on another case that morning and have an early lunch with a dean to discuss yet another couple of cases. I failed to inform the Ombuds Committee until a call from the new committee chair, but I apologized and stated we would have to reschedule.

When the president heard the meeting did not take place that day, the police were dispatched to "find me." I did not realize it until arriving home later that evening, when a neighbor told me that three cops had visited my apartment. It was shocking to say the least. Not only was I being hunted down again, but now it felt even more personal.

My high tolerance for conflict reached a breaking point. I was not exactly upset with the Ombuds Committee member who informed the president of the rescheduled meeting, as I understood they had a dual role as paid assistant to the president and volunteer assistant to the ombuds. Still, I emailed them saying that, if cops were at my apartment because of the morning meeting, then I felt as if I was being harassed and did not know why. The reply was yes, university police were called when the meeting was missed, but before the President's Office had learned of rescheduling with the new committee chair. Moreover, they warned that our communication was not confidential.

A few days later at the Ombuds Office when I was preparing to leave for an IOA conference, the President's Office emailed stating they had something for me. Was it a thank you card for helping manage lots of conflicts within the university? I went by before driving to the airport and picked up the bulky envelope.

The first document I pulled out was a copy of a cell phone bill. I had requested a mobile phone early on as I thought it might be helpful in light of the half-time status of the project. I was informed I could either use a university cell phone or use my own and be reimbursed



for usage. The latter would have required me to submit a monthly call log. As it turned out, however, both options compromised confidentiality. Highlighted on the invoice were multiple calls to a number from a different area code with a note attached saying the phone was for work purposes only.

In fact, that number belonged to an employee who had recently been placed on involuntary administrative leave. They had contacted the Ombuds Office to discuss options but were afraid to meet in person. Despite not being accused of anything unethical or violent (performance justification), they said they had been escorted to their vehicle by university police and provided a letter from the general counsel warning them to stay off campus pending further notice. This had not taken into account the fact that their young children also attended primary school on university property, a problem to which the Ombuds Office was eventually able to help facilitate a solution. Yet, concerning at that moment was realization that calls to and from the ombuds was being monitored.

The smaller document in the envelope was no less worrisome. It was an official letter of reprimand, first and only, stating that the ombuds did not maintain regular office hours, therefore justifying the use of university police to find the ombuds. In fact, strictly-kept general hours posted outside the Ombuds Office were spread throughout the week to be most accessible to visitors and in total accounted for half the hours in the workweek (which seemed like a lot, especially considering the significant additional time needed for private consultations and public outreach when possible). More than a reprimand, the letter from the president read like a response to an informal complaint (one not even sent or intended for him to see) about what felt like harassment and surveillance (after the second such occurrence).

Brief Reflective Interlude

As with the holidays, the IOA conference in Denver provided a second timely reflection. I considered a written response, a policy option routinely conveyed to others. Yet, could I adequately reply without breaching confidentiality? Would it only escalate the conflict and potentially spoil the new ombuds program? I equally considered resignation. Could quality ombuds service continue to be provided given my plummeting morale? Not to mention, I was no longer sure of the confidentiality I tried to ensure visitors to the new Ombuds Office. I did not share these troubles with others at the ombuds conference. Perhaps there were too many professional listeners and problem solvers to choose from. Still, merely being in their presence renewed my resolve.



Second Half of Pilot Project

Upon returning from the conference, I signed the reprimand letter and underlined the terms “signature is acknowledgment only.” Without providing details, I informed the President’s Office that the out-of-area calls were work related, but I began to use my own personal phone instead of the one the university had provided. I also took the opportunity to apply for two other open ombuds positions.

As far as I am aware, university police were never called on the Ombuds again, although an eerily similar situation involving the use of university police on another administrator by the President resembled my own so closely that I refused to allow the Ombuds Office to get involved (my first and only recusal). Overall, the second semester ended like the first began—I was able to mostly put aside the conflict of starting an Ombuds Office in troubled waters and focus on the day-to-day disputes for employees and students. I also consulted with the university’s in-state rival about the creation of their new Ombuds Office and again had the opportunity to guest lecture for a couple more law school classes. Most importantly, after a difficult few months for all involved, the Ombuds Committee was able to get back on good footing. In fact, the committee voted unanimously to recommend continuation of my position to the president.

If you believe herein that actual ombuds work receives too little attention, then you know exactly how I felt throughout much of the pilot project. In spite of it, the promotion and practice of the new Ombuds Office was successful. By the end of the trial year there had been a total of one hundred and eleven faculty, staff, and student visitors, plus forty-three administrators who had used the new office. Some utilized it more than once, particularly mid-level administrators who routinely encountered issues above and below them. Besides types and trends in issues, during the first year I also tracked and shared the amount of cases that required multiple meetings, services provided by the Ombuds Office including referrals to and from other offices, and outcomes where known. While many outcomes are never known and ombuds do not deserve entire credit for those that are, good or bad, over fifty-five percent of cases were resolved after one or multiple consultations with the Ombuds Office in its first year. Successful resolutions included both simple and complex disputes. Indeed, the best compliment received came from a seasoned faculty leader who said it had been the “quietest” year they could ever remember.

If only I had felt the same. By the time the deadline for the one year pilot came, I was extremely careworn and ready to go to work for someone else. In fact, I had been named a finalist in both of the other ombuds positions to which I had applied—one at a long established program and another starting a new office. At the latter, I was told their



president and general counsel were the two biggest proponents of a new ombuds position, not its two biggest opponents. What a difference that must make.

However, my work at the university was unfinished. The administration had not made a final decision regarding the future of the program by the completion of the pilot project as promised. The president's assistant informed me that the president had authorized a temporary extension of the program on his way to a month long vacation during which the provost would take charge and at which time the President would like me to meet with the provost to discuss concern about the Ombuds Office providing notice to the organization. If I left then to take another position as I was planning, there was little doubt the opportunity would be seized to simply not renew the ombuds service. I was unwilling to take that chance for the many more people, confirmed by the survey results, who wanted it to remain as a place of advice and support.

As interim president, I met with the provost for the first time since I had turned down the offer to work for them. They asked whether the Ombuds Office provided notice to the university in "sensitive cases." I stated it had not been the practice per IOA principles, shared a researched opinion of frequently cited case law regarding the matter, and informed them that I had suggested a charter for the Ombuds Office, which would make it clear the Ombuds Office was not a "Campus Security Authority." The provost replied that they had already thought of many more types of cases warranting notice, besides the limited ones I discussed, and asked if I was willing to not only change my practice but also sign something saying I was obligated to notify the university in these instances. Shocked but with some wits still intact, I politely informed the provost there was no way I would knowingly assume the organization's liability. This was a far cry from interviewing when I was assured should anything go awry, the ombuds would have access to not only university counsel but also paid independent counsel.

Strangely, this was the first time I fully realized that this administration did not understand, much less support an ombuds role, and if they were going to allow it they were downright determined to control it, even if it required an occasional show of force or displacement of liability. Those smarter than me would have grasped this sooner. I drafted a letter to upper administration outlining the lack of support and shared it with the Ombuds Committee for their feedback. They were split on whether or not to submit it and again I decided it was probably best to hold off, since the decision on the future of the program had still not been made. Regardless of how the administration felt, it was difficult to deny that the pilot project had served its purpose. Upon its one year anniversary, cases continued to stream in (quite a few were starting to show up as referrals from past visitors).



Upon the president's return from his four week vacation, I submitted the first annual report for the Ombuds Office. It had already received positive review from the committee. At a dozen pages, it was longer than most. Still, administrative conflicts were not directly addressed and instead focus was maintained on the many outreach efforts and cases of the first year.

The first meeting to discuss the annual report with the president was canceled without notice. I thought, if only an ombuds had the power to use university police to bring someone in for questioning. When we finally met on the final day of the extended contract, the president said a decision had at last been made to continue the program on a permanent basis, made full rather than half-time, that he had received nothing but positive feedback regarding my job performance (which sounded odd coming from him), and that my contract could be extended again, but to expect changes in the position description regarding *office of notice*. The position description upon hiring did not mention IOA principles, and despite attempts to get it included or have it referenced by charter after being hired, it never was. Without hesitation, I said "thank you for extending the program and making the ombuds role full-time," and then rejected the contract extension and position changes. At half an hour, this was the most the president had ever met with me. When we shook hands for the final time, I noticed his grip was less over-the-top than ever before.

Final Reflective Period

It was difficult to leave behind new friends in the area, although I believe everybody could see my bags were already packed. After spending Labor Day weekend settling final affairs, I took a short vacation I had planned for over a year but had not had a chance to take. I thought then, "now is the time to write that essay about starting a new ombuds office." I had kept mostly quiet for months, trying to maintain a positive disposition for the new program. Like those who visit with an ombuds, I now feel considerably better simply having been afforded the opportunity to speak. Hopefully, others may also benefit from the sharing of my experience as it was a year of many firsts, many successes, and many challenges.

Conclusion

In postscript, I was immediately offered a position at one of my *alma maters* starting a new conflict and dispute resolution graduate program. A few months later the ombuds vacancy was advertised as full-time and permanent (but for the same salary as part-time). Following another national search, another out-of-state mediator was hired, yet according to the local newspaper, they quit before they started. When the ombuds position was relisted, it was stripped back to part-time and remained vacant. After the president announced his



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retirement, the position description was revised a third (and hopefully final) time for a full-time university ombuds for significantly increased compensation. It currently remains open.



CASE STUDY:

Josh Hillaby
Ombuds Intern, University of Alberta

A student arrives at your office and appears to be depressed and defeated. He explains to you that he is a business student and is currently enrolled in the business co-op program. He holds a temporary job placement in the marketing industry and feels that he is gaining experience that will be very valuable to him in his future career. However, he has recently been experiencing a conflict of personalities with the coordinator of the co-op office with which he must work to secure job placements, report on his progress, and receive credits for his work. He explains that meetings with his coordinator have become very tense and he feels that the conflict has escalated to a personal level as he claims that the coordinator has been verbally abusive towards him on multiple occasions. The co-op office is responsible for assigning work placements to students and he feels that he has been treated unfairly as a result of this conflict as he has seen a distinct change in the quality and relevance of the placements he has been offered since these issues began, although this cannot be confirmed.

The student decided to seek your help after one recent and particularly hostile meeting in which he claims that the coordinator threatened his future in the co-op program. The student claims that he does nothing to provoke these outbursts from the coordinator and doesn't know why he is so strongly disliked by this individual. The student claims that he always tries to avoid angering the coordinator and attempts to calm him down with little success. The topics of their arguments include instances of unprofessionalism (which the student acknowledges), the occasional negative reports from the student's employers as well as the "high maintenance" needs of the student.

The student has been very deeply affected by this conflict and has even been considering withdrawing from the co-op program despite the fact that it would mean a significant loss of credits. He fears retribution and that he will be punished if he discloses any information about what occurred during these meetings with the coordinator. He strongly believes that he has already been put at a disadvantage as a result of these issues and he worries that he could experience further prejudices. At the same time, he also wants to be sure that the institution is made aware of the behaviour of this coordinator and wants to ensure that other students do not experience the same problems in the future.

The student asks you about the possible benefits and consequences that could result from making a complaint against the co-op coordinator. He would also like to hear any other general advice you could offer.

1. How would you help the student understand the need to prioritize his goals?
2. What questions would you ask to try to evaluate the student's role in this conflict?



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3. What advice could you provide for ways that the student can avoid conflict in future meetings with the coordinator?
4. Would you suggest the student make his concerns known to the faculty and the institution? How would you suggest he do so?



BOOK REVIEW

NUANCED RESOLUTION: A REVIEW OF BERNARD MAYER'S *CONFLICT PARADOX*

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We ombudsmen often find ourselves unpacking conflict conundrums that masquerade as deceptively simple problems. The puzzles we unravel are often embedded within the disputes we seek to manage; we may not even be aware of these deeper puzzles until they pop up, unannounced, as we attempt to resolve a presenting dispute. For instance, we may respond to a visitor's request for a facilitated conversation with her roommate only to discover, after additional conversation, that the visitor has no intention of speaking with her roommate at all. Or we may negotiate an agreement between an employee and his supervisor, then find ourselves reacting with concern when the employee willingly agrees to be bound by provisions in the agreement that are illegal and/or unfair to the employee. In such cases we perceive a disquieting tension between the outcome and some aspect of the resolution process. Although we use our skills as conflict practitioners to mitigate problems and improve the conflict situation, we are still aware of underlying polarities that influence, and ultimately challenge, the conflict.

These underlying polarities are the subject of *The Conflict Paradox: Seven Dilemmas at the Core of Disputes* (Jossey-Bass 2015), a new book by Bernard Mayer, professor of Dispute Resolution at Creighton's Weiner Institute and well-known author of *The Dynamics of Conflict* and *Beyond Neutrality*. Mayer has written previously about the layered and intricate complexities of mediation practice. *The Conflict Paradox*, however, is different because it is a provocative deconstruction of the conflict resolution process itself. The book does so by analyzing what Mayer sees as a series of dichotomies inherent within both how we perceive conflict, and the processes used to resolve conflict. Mayer examines seven basic paradoxes, or "contradictory realities" (p. 268) that reside within conflict; disputes are felt as tensions between: 1) being **competitive or cooperative**; 2) approaching the dispute from either an **optimistic or realistic** vantage point; 3) the competing desires to **avoid or engage** the conflict; 4) holding to **principles or** seeking to **compromise**; 5) engaging the conflict through one's **emotions or** through one's **logic**; 6) **neutrality or advocacy** of just outcomes; and 7) the freedom of **autonomy or** the need to be in **community**.



Mayer uses examples from practice and behavioral psychology to expand on these ideas. For example, in the section of the book on *Avoidance and Engagement*, Mayer makes the point that we all decide when and when not to engage a problem; sometimes we do this deliberately and sometimes we unconsciously drift to one polarity or the other. In either case, our decisions will have behavioral manifestations: our “avoidant” behaviors insulate us from engaging the conflict while our “engaging” behaviors deepen our conflict involvement (p. 100). There will also be emotional and psychological manifestations of our avoiding and engaging behaviors that impact how we see the dispute, and contribute to a “conflict paradox” within it (p. 108).

To illustrate his concepts more concretely Mayer includes many practice examples that resonate with the reader. He relates a story from his past in which he and several friends at a New York youth center would get together for a monthly poker game. All the friends, except for John, were at the same level of poker competence. John, the lowest paid member of their group, was a very bad poker player. He also was the only member of their group with a family to support and without a college degree. John routinely lost more money at these games than anyone else, money he could not afford to lose. Attempts to help him improve his game were fruitless. The friends increasingly felt they were simply taking away John’s money, and the situation became painful for them. The group also felt, however, John would be hurt if they discussed their concerns with him. They attempted to resolve the problem by holding their poker games without telling John about them. As might be expected, after some time John asked when the next game would be scheduled. The friends avoided answering him, and soon they stopped meeting for poker. They never discussed their actions with John, and when John got another job some months later they eventually lost contact with him.

Mayer notes that “to the extent we do not deal with someone about the issues or conflicts we have with them, we put boundaries around how close or genuine our connections with them can be (p. 101).” The group’s avoidant behaviors may have sprung from “kind” motives; the impact, however, was not kind. Once the group made a decision not to talk with John about the issue, they also began to make decisions limiting the quality of their relationship: specifically, how truthful and genuine they could be with him. Moreover, the group did not manage to disengage from the conflict. The interlocking relationship between the behavioral and emotional aspects of avoidance, on the one hand, and of engagement, on the other, contribute to an “avoidance – engagement” conflict paradox. The more the group sought to sidestep the conflict through avoidant behaviors, the more they actually spotlighted the conflict by escalating the emotional significance of their actions. Similar to directing someone *not* to think of something, expending energy on not confronting a problem makes that problem more important, and potentially all consuming, than it would be otherwise. Although the group never spoke with Jim about the problem, the conflict



remained a central component of their relationship. The relationship eventually evaporated as the group experienced both diminished connection between its members and unspoken, but ever-present conflict.

The example cited above is only one of many equally insightful case examples included in *The Conflict Paradox*. One of the strengths of the book is the writing; Mayer has the rare ability to write clearly and simply about abstract concepts. He uses case studies to illustrate his point in a way that makes the book accessible to theoretician and practitioner alike. Moreover, with his clear language and use of case examples, Mayer helps his readers – whether disputants or practitioners - understand how contradictory impulses toward principle/compromise or autonomy/community relate to other conflict situations. I found, for example, that the above “poker night case study” and the “avoidance-engagement” paradox had implications for a spectrum of diversity-related disputes. In that case members of the group did not engage the problem, in part, because they were conscious of their differences in social class (they feared John would react negatively to their belief he couldn’t afford to lose money). This is similar to other conflicts many of us have encountered wherein disputants opt to disengage from the conflict, and ultimately from relationship, when dealing with someone they view as being significantly different from themselves. A white supervisor, for example, may not bring up a performance issue with his Latina employee because he fears he will be called “racist.” In such a case, as in Mayer’s case example, the problem is magnified precisely because it is not addressed.

It must be noted that many of Mayer’s observations in *The Conflict Paradox* are not new. The tension between the desire to compete and/or cooperate when resolving conflict has been written about by numerous mediation scholars (often when explaining the difference between integrative and distributive mediation). Likewise, Mayer’s discussion of the neutrality-advocacy dichotomy in conflict resolution (e.g., “I need to be neutral but I need to level the playing field between the parties”) has been written about many times by others; Mayer himself also wrote about it previously in *Beyond Neutrality*. Nevertheless, he has the ability to frame these dichotomies, old and new, as part of an ongoing process that helps us develop a sophisticated understanding of conflict.

Mayer references psychological concepts as grounding for many of his observations. Significantly, early in *The Conflict Paradox* he discusses Piaget’s theories on human development: in order to mature cognitively one must both assimilate new, unfamiliar, information and accommodate one’s thinking to that new information (p.12). There is a polarity in this process; a child matures cognitively when information is understood, challenged, and recast through a back-and-forth collision of contrasting ideas. In addition, this process of cognitive assimilation and accommodation requires that the child hold multiple and conflicting realities in order for growth to occur.



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Mayer draws an analogy between this behavioral progression and conflict resolution. He writes “in a sense, this is what all effective conflict intervention is about – developing a greater capacity to accept the truth in seemingly contradictory realities, needs, and points of view” (p. 13). He is correct. *The Paradox of Conflict* eloquently makes the point that holding and considering the contrasting polarities within conflict expands our capacity to understand and resolve complex disputes. It helps us to grow and understand different perspectives.



OP-ED

TO MITIGATE TITLE IX RISK, DESIGNATE CAMPUS OMBUDS AS CONFIDENTIAL RESOURCE

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Campus sexual violence is a serious problem that has garnered significant attention in recent years. The numbers are grim. On Monday, September 21, 2015, the Association of American Universities released findings from the largest survey conducted to date about college sexual violence. The report revealed that nearly one in four women have been sexually assaulted while in college. Over the years, the United States Department of Education Office of Civil Rights (“OCR”) has issued several “Dear Colleague Letters” to help colleges and universities understand their role in handling sexual violence and assault pursuant to Title IX, the gender-equity law enacted by Congress in 1972. Generally, these letters have served as significant guidance documents to clarify Title IX regulations and university responsibilities. A letter issued on April 4, 2011, however, signaled a shift by the Department. Amid growing concerns about widespread—yet underreported—campus sexual violence, the April 4, 2011 Dear Colleague Letter emphasized OCR’s new focus on addressing sexual misconduct and holding colleges and universities accountable to providing all students with an educational environment free from discrimination.

The April 4, 2011 Dear Colleague Letter required that educational institutions change their policies and practices related to the investigation and resolution of sexual assault and harassment complaints or lose federal funding. Some of the requirements outlined in the Dear Colleague Letter had been addressed before by OCR. Some requirements, however, were new and other requirements expanded prior guidance. In particular, one requirement increased the scope of sexual harassment and assault reporting and broadened the range of institution employees with an obligation to report. OCR explained that a school would be on notice (and potentially be held liable) for sexual harassment if a “responsible employee”—as defined by OCR’s 2001 Revised Sexual Harassment Guidance—knew of the harassment. Of note, the letter (read together with prior guidance) seems to suggest that universities have discretion to identify not only who on campus are considered to be “responsible employees” but also “confidential resources.”



With increased scrutiny by OCR, schools around the United States have struggled with how to interpret what is required of them under Title IX. Part of the struggle pertains to the broadened scope of reporting and how schools are to define who has a duty to report incidents of sexual harassment and assault. For organizational ombuds in higher education institutions, the struggle is palpable. That is, like mental health counselors, ombuds serve as a confidential resource to the campus community. Unlike mental health counselors, though, ombuds have no testimonial privilege—or legal protection from compelled disclosure. OCR has identified mental health counselors, victim assistance staff and pastoral counselors as exempt from reporting but has remained silent about ombuds programs. Consequently, some administrators, concerned about liability, have questioned whether an ombuds who learns about sexual misconduct from a visitor should (or even can), under Title IX, be designated as a confidential campus resource, exempt from reporting.

Designating campus ombuds as a responsible employee rather than as a confidential resource erodes the purpose of such an office. Ombuds have neither the responsibility nor the authority to redress the harm of sexual violence and assault. Instead, ombuds help all constituency groups on campus by confidentially informing those who visit of available resources, explaining relevant policies and procedures, and exploring possible options for next steps and potential resolution. Ombuds are committed to the principles of fairness and equity in process for everyone, including complainants and alleged perpetrators/respondents. Campus communities must be safe for and provide all students with an educational environment free from discrimination. To ensure the safety of and educational opportunities for all, administrators should designate campus ombuds as confidential resources and then clearly articulate this to all constituency groups.

When the White House Task Force to Protect Students from Sexual Assault issued its “2014 Not Alone Report”, it included a call to increase the number of confidential campus resources available to complainants. With the number of law suits now being initiated by respondents against universities for their handling of Title IX investigations, arguably there is a greater need for confidential resources for respondents as well. Unlike other confidential resources, ombuds are uniquely positioned to serve as a confidential resource for all constituency groups on campus. By clearly and consistently communicating the role and limitations of the ombuds—and carefully managing this message campus wide, university counsel and administrators can mitigate the risk that ombuds might pose to the institution and, in turn, ensure that all on campus have a safe place for guidance and support during a time when they may feel the most uncertain about where to go for help.



CCCUCO CONFERENCE HIGHLIGHTS 2014

A RESTORATIVE JUSTICE APPROACH TO REBUILD CIVILITY AND RESPECT ON CAMPUS

Tom Sebok
University of Colorado, Boulder

Natalie Sharpe
University of Alberta

There is an ongoing debate in the Restorative Justice (RJ) world on how far the “restorative justice tent” can be expanded before the concept becomes too diluted.¹ Howard Zehr says there is no “blueprint”; RJ builds from the “bottom up”, through community dialogue and experimentation (to assess needs, resources, and tailor to cultural and other considerations).² Can universities move incrementally toward exploring a wider practice of RJ for dealing with disputes and harm?

At a CCCUCO Asilomar workshop in 2014, Tom Sebok and Natalie Sharpe explored the potential for RJ’s expansion in the university community to resolve a wider range of academic and power conflicts. The goals of the session were to: define RJ and examine its basic principles; to examine the elements of the RJ process as it began at University of Colorado, Boulder; to explore the values that RJ process brings to the community. They explored how these RJ principles could be applied in a case of research lab conflict.

¹ Sharpe, S. (2004) pp. 17 - 31

² Zehr, H. (2015) pp. 8-9

What is Restorative Justice? In the university world, discipline is focused on what rules have been broken, who broke the rule, and identifying the appropriate sanction. RJ, however, focuses on who is hurt, what is needed to repair the harm, and who is obligated to do the repair.³ Harm extends beyond the immediate victim to their community and damages to interpersonal relationships. The offender acknowledges s/he is the cause of the harm and wants to make redress. RJ reinforces educational goals; it is a voluntary process where the offender learns how his/her behavior harmed the parties(s). By listening and learning about the harm he/she caused, the process moves away from blaming and shaming, to stimulate positive change in the offender’s behavior. The offender is responsible for repairing harm(s) to restore trust and make the community whole again. The process takes time to allow for a deeper examination into why the behavior occurred, and how it harmed. The focus throughout the process is an ethic of care to nurture all participants; it is more holistic in scope

³ *ibid*: 19-20



than any other judicial process and reinforces educational goals and community values.

Sebok showed how the University of Colorado – Boulder RJ program functioned initially⁴. This is the first RJ program on a North American university campus; it provides an alternative way to deal with problems like vandalism and other student transgressions on campus (e.g. residences) and surrounding Boulder community. Sebok recounted his role as a RJ facilitator at the Boulder campus. He described the community group conferencing (CGC) format where everyone sits in a circle. Sebok explained how the offender is moved from an isolated sanction that teaches nothing about community values, to an inclusive CGC environment that involves those affected by the harm.

Sebok as the facilitator introduces the parties and states that the purpose is not to judge people's character. This is an open and caring process with no arbiter to sanction a sentence. Rather, the parties go back to the time of the incident and explore what they were doing and thinking. This is important for the offender who might say that s/he was not thinking about the consequences, including how many others would experience the harm. An important part of the process is that the offender understands this is not about making

⁴ Restorative Justice Program University of Colorado – Boulder (Video 2000)

excuses to one's community; it is about being accountable when learning about the impact of one's negative behavior on others. The process includes one support person for the offender and another one for the victim. These individuals are typically mentors, friends, or family members. Finally, the process includes affected community members who also have a role to play in the healing process. The importance of community cannot be understated, as members may feel harmed by damage to the reputation, or to the safety and well-being of their community.

A CGC is powerful in the way it is facilitated; it is conducted with respectful language, it is safe, everyone is face-to-face; they see each other as fellow humans, and they can comfort each other. Everyone has a voice in the process; each speaks in turn, saying what they need to repair the harm. CGC is a learning process and helps to empower and reconnect the community.

In Sebok's view, expanding RJ principles in universities requires a major paradigm shift in the institutional culture. While universities rely on complex tribunal systems to mete out sanctions how can we persuade them to shift to thinking about rebuilding relationships at the university? To address this question, Sebok and Sharpe introduced a case of a research lab team breakdown. A promising graduate student has shifted her allegiance from one supervisor to another due to differing approaches to research and a



“personality” conflict. From that point on, the lab work environment changes from a happy, collegial team to a divided, competitive, untrusting research group. Still, years later, the student completes her degree and publishes articles. The abandoned supervisor feels the student never properly accredited others in her thesis and publications; he launches a formal complaint to have the student sanctioned by the university. A long investigation exonerates the student, whose only request is an apology from the former supervisor. But there is nothing in place to make an apology happen.

This case simulates how relationships break down in academia over competitive research, and perpetuates negative power dynamics, resulting in destructive behaviors of accusing and bullying. The potential for rebuilding relationships is difficult when traditional grievance and sanctioning processes focus on whether rules were broken or not, and follow with punishment – or nothing. The process ostracizes and alienates the lab members, adding to the dysfunction; apologies and amends to restore are rare.

Sebok said he was acutely aware of the power differences that inhibit the use of RJ to resolve these harms. However, he challenged ombuds to think outside the box instead of saying it can't work at my institution. Sebok and Sharpe opened group discussions of the case, applying the power and creativity of RJ. 1) Identify the harms: who is responsible for

repairing these harms or who might be able to? 2) What system or other barriers do you see for using a restorative approach to deal with the graduate student's case? 3) What might compel the abandoned supervisor that it is in his best interest to participate in a RJ process? 4) What would you do as an ombudsman to encourage such barriers to be seen, their impacts to be understood, and overcome, so that an RJ option might be more likely?

There remains a perception that university bureaucracies are cold and uncaring, focused on punishing rather than healing. Yet many in the university community reject this view as inevitable and yearn for a kinder, caring university. Howard Zehr says that respect is the important human value guiding RJ; the restorative tent can be expanded with respectful dialogue⁵. Ombuds can play a key role in rebuilding a culture of civility, responsibility, and respect on campuses; the dialogue has begun.

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⁵ Howard Zehr, 2004



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CAMPUS CONFLICT, COGNITIVE DISSONANCE THEORY AND THE OMBUDS:

(Or, how might this psychological mechanism play out in issues presented by our visitors).

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Cognitive Dissonance is a social-psychological construct which gives an individual "a powerful way to reduce tension whenever a person holds two cognitions (ideas, attitudes, beliefs, opinions) that are psychologically inconsistent". (Tavris and Aronson, p. 13, 2007). Cognitive Dissonance theory explains how we can justify our behaviors and still save face, especially if we have behaved in ways antithetical to our own values. As our very sense of self may be threatened by our behavior, we conveniently figure out how to rationalize it. A typical example of how this mechanism actually works follows: "I was hazed as a freshman by seniors on the football team and it was a dreadful experience". After the experience I might say to myself, "It is an honor to be chosen for the team and the hazing was completely worth it." With self-justification at work, the football player distorts his perceptions about the team in a positive direction. And further, he is then able to haze the next generation of freshmen football players comfortably.

The mechanism of self-justification could be worse than a lie, because we actually convince ourselves we did the right thing.

In this way we can protect our self-esteem and self-concept. Self-justification allows us to begin to distort the reality of the situation. For an ombuds working with a knotty conflict where both parties are deeply entrenched in their viewpoints and their own realities, it is a useful phenomenon to review and remember.

At my college, when the student editors of the campus newspaper highlighted the Pole dancing Olympics at a downtown venue, several female faculty were furious the story received so much space and ink, (large front page photos). The faculty advisor was equally furious at the faculty when he was told by the student editors they had experienced verbal abuse by these professors. He felt that the professors had attacked freedom of speech, and ultimately his very professionalism as the faculty advisor to the paper. Probably his sense of self as a thoughtful, open minded and forward thinking professor was called into question. He was unable to consider his possible educational function and role in helping the students think through their choice of story more carefully. And, he could not believe that his students might have behaved rudely and with disdain



towards the faculty, (older women of color). Likewise, the aggrieved professors refused to acknowledge they may have behaved less than civilly to the students in a public setting. And, they felt justified for their rage considering what they perceived as an insult to women on our campus with that published article.

This had become a public debate, with letters to the editor continuing for several weeks. The journalism professor sent the students to see the ombuds. In fact, the students had little interest in actual mediation or further discussion of the conflict with the professors and did not willingly come back for their second appointment. The professors were equally disinterested in further discussion directly with the students. It wasn't worth their effort to try and talk with these 'misinformed students with sexist attitudes as evidenced by the article and photos published.

So, what is the role of the ombuds when a public debate has ensued and the matter has turned both political and deeply personal? Understanding how the mechanism of Cognitive Dissonance and further self-justification operates can explain the extent of each player's emotional attachment to either side of the debate. (This particular issue had moved beyond the ombuds office before it had even reached our office, and had become

inflamed by media attention). For successful mediation all parties have to be open and want a resolution, and, have no interest in keeping the conflict candle lit. The parties have to at least consider listening to the others' points of views and experiences. Most importantly the parties should not have begun to harden their shells of self-justification for their less than respectful behavior.

The ombuds, under these difficult circumstances, can model rational behavior with good listening and mirroring skills, and show deep respect for all parties' points of views. This may help each party to feel acknowledged. The ombuds can explain options and nudge those engaged in the conflict and clinging to their 'rightness', to consider the experience of the other party. But the veracity of self-justification when Cognitive Dissonance is operating can't be underestimated. Simply being able to identify this psychological mechanism at work can yet be another useful tool during a campus conflict.

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WHY DIGNITY MATTERS: CONSIDERING ITS INFLUENCE IN THORNY DILEMMAS

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All human beings are born equal in dignity and rights.

United Nations Charter of Human Rights Preamble, 1948

Throughout my years as an ombudsperson in higher education and before that as a vice president in financial services, I had noticed there were some complicated dilemmas that remained unsettling for at least one of the parties involved. From time to time this even was the circumstance after the challenges appeared to have been resolved. There were my own cases on which I had reflected back, and there had been ones I had listened to in peer consultation sessions with other ombudspersons. Recurring questions we had asked ourselves were ones such as, “What happened? What did we miss? Was there an element we could have amplified for more satisfactory resolution?”

When an ombuds colleague from the University of Colorado mentioned attending a workshop about dignity with Donna Hicks, author of *Dignity: The Essential Role It Plays In Resolving Conflict* (2011), something felt as though it had clicked into place about a few of those previous cases. Maybe dignity was one of the missing ingredients that could have used explicit attention. I wanted to learn more, and I wanted to engage with others to explore dignity more deeply. A funny thing happened after I decided to focus on dignity: it was in the news routinely, as Spanish workers demonstrated, Greeks tried to figure out how to grapple with austerity measures, and South Carolinian families spoke about forgiveness for church murders. And work colleagues even mentioned it from time to time.



I had three learning objectives for this session:

- To explore some key concepts about dignity maintenance, violations, and restoration as they apply to ombuds work;
- To engage actively with central concepts related to dignity;
- To reflect on our personal role in dignity violations to develop self-awareness, and a few strategies to address our challenges.

So what is dignity? 193 United Nations members are bound by the United Nations Charter that includes the words with which this article opens. In her memoir *Many a Good Crusade*, US American pre-UN Charter conference delegate Virginia Gildersleeve (1954) says she was the one to insert “dignity” into the draft preamble. It’s not a stretch to imagine some of the countries might differ in exactly what dignity means in them.

Hicks defines dignity as “...an internal state of peace that comes with the

recognition and acceptance of the value and vulnerability of all living things.”

When I taught a subsequent course on dignity, I used a definition that is almost ubiquitous: it is one’s innate worth or value. It is an inherent condition, something with which a person is born, and as such cannot be removed. Later I learned that despite what’s said in documents by which member countries have agreed to abide in the United Nations, agreement about dignity is not universally regarded as defined here. Indeed, some theorists present a case for dignity, honor, and saving-face cultures that organize people’s values and beliefs about what constitutes dignity and who “has” it, or is entitled to it (Leung).

The Hicks definition of dignity cited above goes a step further to note it isn’t enough that one naturally has dignity, this quality she believes is universal. Rather, they must *feel* it. In personal correspondence with her, I asked what she had noticed about dignity beliefs in other countries and she noted that her experience has shown that while almost people believe in a basic construct of



dignity, they have different ideas about how it can be violated and restored.

Fairness, justice, and respect are concepts that relate to dignity and we spent a few minutes considering them. Indeed they sometimes are considered the same thing, or close to each other. As ombuds, it's helpful to understand the differences in an abstract sense, but equally it is important to grasp how these ideas are being used by office visitors. There isn't the space here to do an in-depth analysis of what these terms mean, but a short summary may suffice. Justice often is thought about in three ways: distributive (based variously on need, equity, and equality), procedural, and interactional (Colquitt et. al.). Most ombuds offices are structured around the central notion of ensuring fairness to the extent that is possible. Indeed, as Hicks (2011) and others note, even animals such as dogs, monkeys, and crows have demonstrated they respond poorly to unjust or unfair treatment. We are hard-wired to want fair treatment. The concepts of justice and fairness are closely related.

While cultures across nations almost universally value respect, indicators of person-to-person respect may vary across cultures. Similarly, responses to perceived respect violations can matter in varying levels of importance, and be shown in vastly different ways. I've noticed "dignity" and "respect" are quite often used together in the United States, particularly when employers and educators discuss how they want students, faculty, to be treated. For example, it's no longer unusual to hear organizations state they want all constituents "...to be treated with dignity and respect," generally without saying much about what that may mean.

Hicks identifies ten elements she notes are essential components of dignity (2011). They are acceptance of identity, inclusion, safety, acknowledgement, recognition, fairness, benefit of the doubt, understanding, independence, and accountability. In teaching about dignity in the workplace and in other parts of our lives, I have grouped those by talking about identity acceptance, belonging, and safety together; understanding and



integrity; fair treatment; and a sense of agency.

For those countries and cultures to whom dignity matters, and if one agrees that it is inherent, theorists such as Hicks maintain that it can't be destroyed, but can be violated or seriously damaged. Indeed, individuals may be prone to violate the dignity of others according to Hicks, and this can take several forms she identifies. Self-awareness is crucial in learning more about one's role in intentional and inadvertent harmful behavior.

So what can a person actually do to address dignity violations? I combined Hicks' (2011) ideas with a few of my own and they follow:

- Recognize that people matter, that they are vulnerable, and sometimes even fragile.
- Understand the effects dignity violations may have on other people.
- Notice how strong a person's sense of self-preservation may be, as we often strike from that place.

- Develop self-awareness about one's own sense of vulnerability.
- See the humanity in each visitor, and point out when you think they've encountered it in each other (checking out your assumptions, of course).
- Bring the visitors together (with their permission) and help them hear each other without interrupting or challenging the other's story, while they listen for understanding.
- Help them acknowledge—in front of each other--what the other has been through (Hicks has some very powerful examples of this).
- Use your most effective attending and facilitation skills to help create a container in which they may feel safe enough to be vulnerable. (Hicks, 2011)

When asked what I do as an ombudsperson, my first two sentences are about fairness and dignity. At work, I've declared my office a Dignity Zone and I tell visitors what that means for how I'd like to work with them. I try to keep



Hicks' Ten Essentials (2011) in my head or close by, to help me listen for how dignity is being maintained or injured. Everything is not about dignity violations, but it has proven a useful construct to have in my array of helpful constructs and strategies in my ombuds life.

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A SCANDINAVIAN TALE

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Scandinavia is a region comprised of Denmark, Norway, and Sweden. Denmark, Norway and Sweden cooperate with other countries in Europe through the European Higher Education Area established through the Bologna Process, a series of ministerial meetings and agreements named after its first meeting at the University of Bologna in 1999.

Across Scandinavia, the majority of universities are state-run and charge no tuition fees. Most students do seek educational loans for housing and food, etc.

Most universities and college universities have a student body, often named “council”, “parliament” or “union”. These councils play a political role in local student issues. There are also national student organizations, one per country, addressing issues of concern to students across that country.

The term “ombuds” started in Sweden, then to Denmark and Norway. In Scandinavia, there are a variety of ombuds: consumer, patient, children, equality and anti-discrimination etc. In Denmark, “ombuds” is a protected title.

In Sweden, the “Parliamentary Ombudsman” has existed since 1713. The majority of higher education institutions have “studentombud” for students and PhD candidates. But for two exceptions, the Studentombud is hired by the student unions. These are not to be confused with student safety representatives (“studentskyddsombud”) which are required by law.

In Denmark, the Parliamentary Ombudsman was established in 1953. In 2010, the University of Copenhagen was rocked by the Penkowa case in which a neuroscientist, whose research involved and affected several graduate students, was convicted of “deliberate scientific malpractice”. Subsequently and in 2013, a “Studenterambassadoer” was established at the University of Copenhagen, hired by and from outside the university, serving students, PhD candidates and student employees.

In Norway, the Parliamentary Ombudsman has existed since 1962. A “studentombud” had been proposed as early as 1958, but it was in 2013 that the “Studentombud” was established at the University of Oslo (UiO) at the request of the students, serving only students. The



UiO Studentombud, the first in the country, was hired by and from outside the University.

The Studentombud at the UiO is an independent support person whose task is to give students advice and assistance in cases where students have taken up, wish to or are considering taking up issues connected to their studies. The Studentombud sees that students' cases are dealt with appropriately and correctly, and that the students' rights are safeguarded. The Studentombud assists in ensuring that cases are resolved as close as possible to their point of origin, at the lowest level possible.

Working with the Studentombud is voluntary. The Studentombud advises students on alternatives, but the students choose the direction they will take for themselves. The Studentombud may offer to assist in resolving a case if the ombudsperson finds potential, but the student can decline.

The Studentombud does not represent any particular student but may be an anonymous channel for whistleblowing. The Studentombud may raise an issue as whistleblowing on her own initiative. Likewise, she may point out errors or weaknesses in the system, and address matters regarding the legal protection of students at the University on her own

initiative. The Studentombud is one of very few University bodies that has direct access to the University Board, without having to go through the administration.

In Scandinavia students and student organizations have been very important in the establishment and proliferation of ombudsperson offices in higher education. In Sweden, students have strong investment in the office, often as the ombudsperson's employer. In Denmark, the university learned from the Penkowa case that it did not treat students the way they wanted, and established the office. In Norway the first office was a result of an initiative from the Student Parliament at the University of Oslo, and in the fall of 2013 the Norwegian Student Organisation decided that "every student in Norway should have access to a "studentombud." This led to more local initiatives from student parliaments at universities and college universities around Norway on getting a studentombud at their university or college university.

Across Scandinavia, our offices are similar in the issues addressed and the populations served, our ability to address cases on our own initiative, our lack of authority to make decisions, and the public reports we provide. We differ in the length of time our offices have been in place and number of ombuds, where we are organizationally placed, the resources



The Journal of the California Caucus of College & University Ombuds

available to us, and how we handle
disciplinary cases.





WHY WE DO WHAT WE DO: INFLUENCES ON OMBUDS PRACTICE

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The goal of this session was twofold: to share the experiences of exploring influences in ombudsman practice through my doctoral research and to lead the group through an exploration of their own influences on ombudsman practice. The session was grounded in my doctoral research and the discussion questions were based upon research questions posed to organizational ombudsmen within the US academic sector during my research. Participants explored three different levels of influence: the self/individual experiences, the leadership/the culture of the organizations within which we work, and our standards of practice and code of ethics. These three levels are the three realms of influence that informed my grounded theory: there are three major influences on an organizational ombudsman's practice in US academia: self, organization and standards of practice.

After a quick discussion about three major aspects of organizational ombuds work (casework, work with leadership, and systemic-level work), we explored the three influences with the following questions:

Individual: What in your personal and professional background influences your ombuds practice? Some examples might be your personal philosophies or religious

preferences. Yesterday you identified these; now, how do they influence how you work with visitors, leadership and the system?

Organization: What influences does your organization have on your ombuds practice? Some examples might include Title IX/Clery designations, your reporting relationship, even personalities of/relationships with leadership. How do they influence how you work with visitors, leadership and the system?

Standards of Practices: How do your standards of practice or code of ethics that you adhere to influence your practice? Do you have SOPs or COEs that you adhere to? How do they influence how you work with visitors, leadership and the system?

Several themes throughout the session emerged: many reported life experiences having a major impact on their practice; many shared experiences with injustice that informed their practice; and there were notable differences in how OO's work with their leadership (i.e., the frequency of meetings).



Participants were provided the following questions from my research for use in further self-reflection:

- How did you learn the ombudsman role?
- How would you describe your practice as an ombudsman?
- Has your practice changed since you began practicing?
- Knowing that each interaction with a visitor is unique, please describe a typical initial interaction with a visitor.
- How long do you typically meet with a visitor?
- How long do you generally work with a visitor, on average (days, weeks, months, years)?
- How do you let a visitor know about your role (opening statement)?
- How do you discuss options?
- Do you ever invite the visitor to think about other perspectives might be, if so how and when?
- How do you respond to a visitor's concern for retaliation?
- How do you respond to an emotional visitor?
- How do you respond when a visitor asks for your recommendation for what to do?
- Please describe how you discuss actions with a visitor.
- Do you mediate or facilitate conversations between visitors?
- What happens when you have information that the visitor doesn't that might impact how the visitor makes an informed decision about what steps to take?
- Do you edit/review correspondence?
- How do you incorporate the 4 SOPs in your practice, particularly in discussing options and actions you might take?
- Do you engage with groups as well as individuals? (If so, how would you define a group?)
- Have you ever declined to work with an individual or ended working with an individual or group? Please describe.
- Do you report systemic issues?
- If so, to whom and how?
- How do you work with leadership?
- What influences your practice?
- What influence does your organization have on your practice?



OMBUDS IN HIGHER EDUCATION: OUR DIFFERENCES AND SIMILARITIES

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We in higher education all face similar questions and challenges. Our responses may be determined by national regulations and norms, institutional resources, by those who seek assistance and those who provide it. These factors may, in combination, may help us make sense of what we call ourselves, what we do and for whom, how we do it.

In some countries, national laws determine the office that will address student complaints. In Austria, the office of the student ombudsman is enshrined in law and located in a government ministry, and is available to all students studying at Austrian universities.⁶ In Spain, a national law decrees that every public university will have an ombudsman, although the universities may decide how the office is staffed, how ombudsmen are selected and how long they may serve.⁷ These ombudsmen may accept or decline a complaint, may attempt to resolve it informally, and may also recommend a resolution.

⁶ <http://www.hochschulombudsmann.at>

⁷ <http://www.cedu.es/>

At the same time, and in some of the same countries, individual universities voluntarily provide resources for or within their own communities. For example, one university designates its Dean of Students as the resource for all and only student complaints. Another determines that the ombuds is an informal resource for all problems from all populations. In yet another, department “Facilitators” are informal resources and an Ombudsman is a formal channel for student complaints.

Similar aims, different approaches, a variety of titles. When some 50 attendees were asked about their job titles, more than 17 titles appeared among those participants from English-predominant countries, including “ombud”, “ombuds”, “ombudsman”, “ombudsperson”, “ombuds officer”, “faculty ombudsperson”, “employee ombuds”, “scientific ombudsman”, “university ombudsman”, “associate ombud”, “associate ombuds”, “university ombuds officer”, “university ombudsperson”, “graduate ombudsperson”, “ombuds director”, “student ombuds”, and (to resounding laughter), “ombudsman extraordinaire”.



At the same time that colleges and universities go to great lengths to distinguish themselves from others within the same country and across different countries, a deep culture of collegiality permeates higher education. A long-standing tradition of collaboration and consultation persists in this competitive industry. Academics from different universities often work together on research or projects, or learn with and from one another about their areas of interest. Similarly, administrative staff consult with one another, learning from and with others of their kind in professional associations and networks, at meetings and conferences. In the absence

of regulation, Os from different countries “harmonize” their practices through education, comparison, conversation and case consultation. They explore common principles of confidentiality/privacy, informality/formality, independence, and impartiality/neutrality, and how they inform their practices. Os in higher education also identify other principles that guide their work, including but not limited to: accessibility, being present, compassion, dignity, discipline, do no harm, fairness, integrity, open mind, patience, professionalism, resourceful, respect, safety, self-determination, self-reflection, thoughtfulness, and trust.



ARTICLE SUBMISSION AND BOOK REVIEW GUIDELINES

Journal Review Guidelines

We welcome submissions to *The Journal* for publication related to the work of ombudsing. Below are our guidelines for submission. As always, the co-editors welcome your ideas and questions.

The Journal publishes articles, book reviews and case studies related to the profession of ombudsing. Prospective writers are encouraged to submit manuscripts that focus on the varied aspects of our work: practice, education, legislation, research, social media or administration. Our goals as editors and peer-reviewers is to support each writer produce the highest quality of work possible that conveys the author's voice and intent.

Each submission should be submitted to the co-editors electronically, double-spaced with one inch margins. Length of each submission should not exceed 20 pages, including references and notes. Our *Journal* abides by APA standards. Please include a title page with the authors, title, institution, email address and an abstract containing no more than 100 words.

All submissions are reviewed by at least two editorial board members. Peer review is a blind process, and reviewers may recommend acceptance, rejection (with reasons given), revisions (with specific suggestions), or resubmission. Recommendations will be sent to the author. Submissions may be edited for clarity, consistency and format.

Book Review Guidelines

Book reviews are welcomed by the editors which relate to the field of ombudsing. Book reviews should be limited to 1500 words and should clearly state the author's thesis or intent of the book. Lastly, the reviewer should assert an opinion, evaluation or stance of the book in the beginning of the review.

The editors welcome feedback and inquiries regarding submissions. You can contact them by email for feedback: [Lisa Neale](#) or [Brent Epperson](#).