
The Organizational Ombudsman as Change Agent

Marsha L. Wagner

Though the organizational ombudsman's role may sometimes be regarded as only a facilitator of individual problem solving, in fact the ombudsperson is ideally situated within the organization to make recommendations for systemic change, based on patterns of complaint brought to the office. Indeed, the ombuds is obligated to take steps to prevent future recurrence of a problem, as well as to resolve the problem at hand. Furthermore, because of the ombuds' broad understanding of the organizational culture, the needs of its leaders and other stakeholders, the ombuds office — in addition to being a vital component of the organization's conflict management system — may also participate in designing, evaluating and improving the entire dispute resolution system for the organization.

The practice and functions of an ombudsman in an organization are not well understood. The term “ombudsman” is so variously defined, and sometimes applied with such flexibility, that professional associations such as The Ombudsman Association and the University and College Ombuds Association have in the 1990s placed high priority on articulating standards of practice.¹ The current American Bar Association's Administrative Law Section Ombudsman Committee has recently assumed the assignment of drafting a functional definition of the ombudsman. But even with these efforts to clarify the ombuds function, the organizational ombudsman's role as a change agent is sometimes overlooked.

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In a recent speech before the American Bar Association's Section of Administrative Law and Regulatory Practice, Larry B. Hill (1997) distinguishes between "real ombudsmen" who conduct "thorough and dispassionate investigation[s] searching for points of law and proper procedure. . .," concluding with a recommendation that they try to enforce with "whatever political powers they have available" (p. 7), and organizational ombudsmen who are inclined rather to help "particular individuals in the short term" (p. 6). That is, an individual with a complaint merely serves as the catalyst for public ombudsmen's full-blown investigations, according to Hill, while helping the individual complainant is the purpose and goal-in-itself of organizational ombudsmen, whom Hill categorizes as "simply mediators."

Hill's contrast between "real" and "wannabe" ombudsmen is both exaggerated and misleading; it also obscures many of the basic standards and practices of organizational ombudspeople. Most organizational ombuds function under a dual mandate: to help resolve the particular concern brought to the ombuds office, *and* — if the case involves any unfortunate oversights, difficulties, or wrongdoing — to address the organizational conditions with recommendations for change to try to ensure that such a situation will not recur.

The Variety of Ombuds Cases

To be sure, some concerns brought to the organizational ombuds office are entirely idiosyncratic or depend on a unique interpersonal interaction unlikely ever to be repeated. Some individuals complain of an outcome that is unwelcome to them but entirely justifiable within the organization — such as an unavoidable, one-time computer glitch leading to an erroneous payroll overpayment that the company demands to be repaid.

However, the majority of concerns that come to the attention of an organizational ombudsman do carry with them not only an alleged individual or systemic lapse or offense but the potential that such an action or approach or inadequacy could be repeated, and thus could affect others. The organizational ombudsman has an obligation to look within each complaint for the possibility of a recurrence or pattern and to take steps to change the structure in order to prevent a similar problem in the future.

In my own practice, data indicate that approximately 20 percent of cases are resolved through a remedy or reconciliation addressed only to the immediate and unique conditions reported in that case, and no system change is indicated.

Example: Co-workers sharing an office space have a conflict because Adam² eats lunch at his desk, loudly unwrapping waxed paper, chewing apples and celery, and slurping soda through a straw in ways that Brian finds disruptive and offensive. Ombuds uses shuttle diplomacy to reach a resolution: Adam agrees to eat in the staff lounge in the future; Brian responds with a concession

to tolerate sounds of Adam sipping coffee at his desk. The ombuds recognizes there are so many local variations to lunching patterns among various departments in this organization that no generic guidance or conflict prevention measures would be helpful or appropriate for this or other units.

On the other hand, fewer than 10 percent of cases have no resolution and also suggest no need to prevent recurrence.

Example: An employee is reluctant, for privacy reasons, to have his Social Security number or visa status listed in the payroll information system. If the payroll department requires this information and controls appropriate limited access to the database, there may be no other remedy available to this person or any other employee. In this and other cases, the ombuds may need simply to clarify that the practice is a condition of employment, to reassure the employee how general access is limited, and not recommend any systemic change.

However, there are four other types of cases — the majority (over two-thirds) of the cases in my practice — in which the disposition differs, but in all of which the organizational ombuds office has a role to play in identifying factors that might lead to future complaints and to make recommendations for preventive change:

1. Ombuds plays no active, visible role in resolution yet makes recommendations for system change (approximately 30 percent of cases).

Example: Claire is offended by the way her supervisor Donald makes jokes about the region of the U.S. she comes from, but so far she has just laughed off these hurtful comments. The ombuds coaches her on ways to ask Donald, politely but firmly, to stop making these remarks that stereotype people from her area. After rehearsing with the ombuds, she successfully conveys her feelings to Donald, who does not repeat the offense. The ombuds then adds the example of “negative characterizations of people from one region of the U.S.” to the list of ways people may offend and disrespect each other when s/he leads conflict resolution workshops, gives presentations on the functions of the ombuds office, or discusses means of improving civility and building community within the organization.

2. No change or resolution results from ombuds intervention yet ombuds suggests general measures to prevent recurrence (approximately 10 percent of cases).

Example: As an incentive to increase productivity, Eloise, a new manager, announces to the three units she supervises that she will award a bonus to all the data entry clerks in the unit with the highest number of records input during the next three months. At the end of this period, the data entry clerks with the lowest input

total complain they were disadvantaged because their office is more crowded, contains older furniture and has poorer air circulation, whereas the winning office is spacious, recently renovated, and air conditioned to a precise constant temperature. Eloise explains this bonus strategy was suggested in her “motivational management” training course, and she decides she must carry out her specific promise to reward the most productive unit; though she agrees the physical conditions are inferior in the least productive unit, she has no way to obtain funds to upgrade that space in the foreseeable future. The ombuds suggests options for Eloise to consider to improve morale among all three units, and in the future discusses with Human Resources, the Training Department, and various management groups the pros and cons of competitive bonus incentives, including how demoralizing a selective bonus system may be for those who do not receive a bonus, especially if some individuals or groups are somehow disadvantaged in the competition.

3. Ombuds facilitates a resolution and recommends general changes (20 percent of cases).

Example: A medical department’s clinical practice plan was drawn up without a clarification of whether or not a care provider on medical disability leave is still responsible for contributions to the practice’s overhead account. The university ombuds mediates a resolution involving a decreased percentage of contributions to overhead during the period that the care provider on leave is not earning clinic revenue and is only partially using or benefiting from some of the shared overhead services and resources. During this mediation process, the department realizes it should revise its practice plan to clarify how the overhead contributions will be assessed in case of any future medical leaves. The ombuds also — with discretion in timing and manner to avoid identifying the particulars of the department with the original conflict — recommends that all practice plan administrators look over their contracts to make sure that rights and responsibilities of care providers on medical leave are clear and mutually acceptable.

4. Complainant seeks alternative, especially formal, means of resolution yet ombuds recommends system change (over 10 percent of cases).

Example: An employee is discharged after having been found to have accepted and taken home, during her first year of employment, several small gifts — a digital watch, a fancy vegetable peeler, and a clock radio — from a vendor who continues to provide services and supplies to that unit. The employee claims her predecessor in this position also received small gifts (each one was under \$20 in value), and no one told her not to accept them. The supervisor claims it is general common knowledge that this practice is wrong, and the regulation is printed in the organization’s manual in the supervisor’s office. The informal organizational

ombuds, who cannot overturn a formal decision, refers the complaining employee to the formal appeal process in Human Resources, where the appeal is rejected and the termination is upheld. However, the ombuds recommends that future orientation programs for new employees include a session on business ethics and distribute copies of regulations on conflicts of interest. The ombuds also follows up in future years to make sure these values and policies are still being communicated to new employees.

The majority (over 70 percent) of ombuds cases — whether they achieve a win-win resolution or not, whether their disposition is formal or informal, whether or not the ombuds actively intervenes, and whether they are interest-based or rights-based conflicts — contain within them some sort of recommendation for more extensive or systemic change. The ombuds role is far broader than serving as “simply mediators.”

The Ombuds as Change Agent

Though the ombuds spends much time in confidential conversations with individuals, the effective ombuds is not invisible in the organization. Managers will value the ombuds function more if it provides them with useful information about early warnings, trends and patterns to help them prioritize and direct their own efforts. Moreover, one of the responsibilities of the ombuds is to address small and large institutional problems with recommendations for systemic change.

The ombuds' process of making recommendations for institutional change takes many forms. It may involve working with individuals or large groups, low or high in the chain of command. The recommendations may be communicated informally or be part of a written annual report. In fostering institutional improvements, the ombuds' role may include persuading decision makers to implement a change, or to keep it on the “front burner.” Some recommendations will, of course, be postponed or rejected, and the ombuds may need to be quite persistent, and to repeat the recommendation again in the future if conditions may have changed.³

Due to human nature, some types of complaints — one party perceives another as having been insensitive — will continue to recur. But other kinds of complaints — the service providers in a particular area are perceived as particularly rude, or there appears to be lack of awareness of, or inconsistency in enforcing, a particular policy — suggest that proactive feedback and proposed remedies could lead to constructive change and avoid repetition of the complaint. The ombuds could recommend general remedies, such as improved communications or customer service training, on the basis of only one case of unfortunate outcome or as a result of logging a pattern of complaints or discerning a “problem area.”

The Ombuds as Educator or Trainer

The ombuds can contribute to organizational change in many different ways, and these will vary within every institution. One often unrecognized func-

tion of the ombuds is that of educator or “coach,” in working with individuals or with groups.

Even in confidential sessions with one individual, the ombuds may fulfill an educative role — by explaining how a policy supports the community’s general good, or helping a party in a dispute to see the situation from the other party’s point of view, or clarifying cultural differences and perceptions. The neutral ombuds can assist through “reality testing,” by pointing out to people how they come across to others, and suggesting, for example, that if they sound less legalistic, the other party may feel less intimidated, or if they act less deferential, the other party may have a better understanding of their commitment to the issue.

The organizational ombuds may be contrasted with the classical ombuds in that the latter may focus more on a particular official policy or administrative practice, whereas the organizational ombuds takes on a coaching role, to encourage civility, to foster mutual respect and to raise awareness of skills of interpersonal communication that realize the values of the organization, such as dignity and diversity, integrity and caring. In coaching people to manage a conflict — looking over a rough draft of a letter, rehearsing a difficult conversation — the ombuds is teaching negotiation skills. The ombuds can remind people of their sources of power: if not legitimate authority based on status, their power of relationship, information, ability to propose an elegant solution. Often the ombuds offers suggested reframings (why it’s more constructive to say “our views differ” than “you are a liar”) that instruct people how to work more effectively with opponents. As a neutral observer, the ombuds can guide people in the organization to gain insight into the quality of their interactions with others and can address the climate of interaction. In giving a complainant or a respondent (or a supervisor or bystander) a range of options, the ombuds is indirectly teaching methods of conflict resolution. The ombuds can also play an instructive role in guiding people in how to apologize in a way that is unlikely to backfire or exacerbate the situation (see Wagner 1996a).

The ombuds routinely provides information about policies and procedures and gives a range of options for the caller or visitor to consider, including giving directions on where to go and whom to see, and providing strategies and support (see Rowe 1995). Whenever possible and appropriate, the ombuds encourages and empowers the visitor to use self-help to solve his or her own problem. The skills acquired through successful problem solving can be applied to any situation at any time in a person’s life. Teaching a complainant the skills to resolve conflicts also helps to prevent repeat visits, or individual dependency on the ombuds office. Over time, the accumulated one-on-one contacts with dozens, then hundreds, and eventually thousands of individuals in the organization will lead to a higher general conflict resolution skill level and wider change within the organizational culture.

Educating a decision maker or respondent to become more sensitive to diversity, or to develop problem-solving skills, may be one of the more valu-

able contributions an ombuds can make to an organization. Doing so may prevent future perceptions of bias or procedural irregularity without the adversarial climate of an adjudicative process. It may also contribute to a resolution that includes reconciliation and improved mutual understanding and respect.

The organizational ombuds is also alert to situations in working with bystanders that offer a “teachable moment.” Bystanders — peers, co-workers, third-party observers — can often play a very useful role in commenting on incivility or insensitivity and offering their colleagues suggestions for better ways to handle such situations in the future — again, without creating a polarized climate of blame and sanction. But many bystanders tend to be passive unless they are encouraged or coached to speak up in a respectful way. The ombuds’ functions include suggesting harmonious and supportive ways that colleagues can support each other in developing awareness of others’ dignity and designing inclusive, collaborative conflict resolution strategies.

There is great potential for the ombuds to assume the role of trainer of groups, and this is becoming an increasingly common function for the ombuds in organizations or on campuses in the 1990s. The ombuds can meet with the staff of a particular unit, or with a group of students in a dorm, or a research team in a department, to help resolve a group conflict or to manage a multiparty dispute. The ombuds might also train or coach a group in conflict resolution techniques or negotiation skills: some ombuds regularly meet with new middle managers in this role; upper-level managers also benefit from skill-building workshops. In some organizations, the ombuds facilitates training in specific areas, such as sexual harassment prevention, diversity awareness, or dealing with potentially disruptive or dangerous individuals and situations. Increasingly, companies and universities are establishing peer mediation programs, and the ombuds may be a core trainer of the new mediators.

The Ombuds Acting on His or Her Own Motion

One of the key professional guidelines for an ombuds involves the discretion to act on one’s own initiative.⁴ Judgments on the appropriateness of initiating action will vary with the individual, the organization, and the expected role of the ombuds within that organization. An experienced veteran ombuds might be more likely to act on his or her own motion, for example, than a novice, because of the credibility of the individual and the office that has been accumulated over the years. The greatest risk of acting on one’s own initiative is the perception that the ombuds’ neutrality is compromised by a personal agenda or some particular bias or priority.

Occasionally, an ombuds might decide to address a clear and unambiguous violation of a policy that he or she has personally observed. For example if an ombuds notices that smoking sometimes occurs in a posted no-smoking area, she or he might work with the organization’s fire safety

group, and perhaps the local managers, to improve enforcement of the regulations in that area.

An ombuds might also offer unsolicited feedback on a new policy or administrative decision, before receiving — and with the hope of preventing — complaints. For example, if the ombuds reads a newly circulated statement of regulations and feels the wording is unclear and is likely to be misunderstood, or a new guideline is inconsistent with another official procedure, he or she might contact the author and suggest clarification.

An ombuds might learn from a conference workshop or a professional publication that peer institutions are establishing some new kind of program, and on this basis the ombuds might propose to his or her home institution that a similar program could be explored — even if the ombuds has received no reported complaints in this area. The individual practitioner would need to use discretion, both about the suitability of the proposed new program for the organization, and also about the frequency of making such recommendations that do not grow out of objectively collected local data. But most organizations would not question ombuds recommendations based on objective external information — for example, a Supreme Court decision that would affect employment case law might imply some changes in internal procedures, or an economic downturn that would jeopardize the financial security of employees' families' might lead to preparations for more employee counselors.

Sometimes complainants bring a particular issue to the attention of the ombuds but the ombuds perceives a different underlying problem — not directly related to what the complainants observe — and decides to address the underlying issue as well, acting on his or her own initiative, if this would not breach the complainants' confidentiality or the ombuds' neutrality. This function could be considered part of the ombuds' responsibility to serve as an advocate for fair process or a flexible means of making the organization a safer place for the entire community. For example, students might bring allegations about sexual misconduct or sexual assault to the ombuds office, but the ombuds might perceive that in all these cases alcohol abuse was apparently a factor, even if the students wish to separate these concerns. The ombuds might, on his or her own motion, look into the question of how effectively underage drinking regulations are being enforced. Or, support staff ombuds office visitors might complain about a supervisor who is perceived to allocate certain resources based on favoritism, but the ombuds might perceive *in addition* that these subordinate staff have exacerbated the conflict by their style of response. After facilitating a remedy to the actual or perceived favoritism, the ombuds could recommend training for all staff at that level in collaborative conflict resolution skills, or in respectful "managing upward." Similarly, if an individual employee complains that a specific manager has not adhered to stated deadlines in a disciplinary hearing process, the ombuds might both help to expedite that particular process and *also* address with all managers the importance, in the interests of justice and

perceived fairness, of following published guidelines, even if there has not (yet) been a pattern of complaints to the ombuds' office concerning delays in disciplinary procedures.

In all these indirect means of making suggestions or recommendations for change, the hallmark of ombuds practice should be neutrality.

Feedback and Recommendations in Response to Case Data

In most situations, an ombuds provides information and recommendations to members of the institution on the basis of data that have been brought to the ombuds' office. Basing ombudsman recommendations for system change on the objective data of anonymous case statistics is an important means of insuring neutrality (see Gadlin and Pino 1997). This feedback process may address a particular individual or a much larger unit, including the entire organization.

In addition to the coaching and educational roles of the ombuds in working with individuals on a case-by-case basis, the ombuds also has a responsibility to identify problem areas and observe trends, and to take steps to try to assure that appropriate improvements are made.

Sometimes ombuds data indicate repeated complaints about a particular individual's behavior. Some situations of individual or institutional wrongdoing are more appropriately addressed through formal channels; in cases where adverse administrative action is a possibility, the source of evidence is not the ombuds office, but rather the primary parties, original documents, or other direct sources. But if an informal process might be suitable, working with a "repeat offender" is another opportunity for the ombuds to pursue education, addressing a potentially damaging situation at an early stage, coaching for mutually agreeable, interest-based resolutions, and encouraging a style of collaborative problem solving.

Many ombuds' job descriptions or "terms of reference" indicate a responsibility of the ombuds to bring problem areas to the attention of senior managers who can then address them in a timely and appropriate way. Sometimes the most valuable contribution an ombuds can make to an organization is the "early warning." This may take the form of a "heads up" to alert a service provider or a supervisor of a budding concern that could be constructively addressed at an early stage. The ombuds' recommendation might be quite tentative or minimalist: "You may wish to consult your front-line staff or your direct reports about morale or behavior or procedures in a certain area." Many problems can be most effectively remedied at the lowest possible level, which is where the ombuds would begin to address most problem areas except in rare serious cases, such as allegations of fraud or embezzlement, where the immediate securing of evidence is a concern.

Most ombuds have an institutional obligation to make periodic reports of the categories of concern reported to their offices.⁵ A periodic report is an opportunity for reporting trends that might indicate institutional change that some view as positive and others view as negative (complaints about tasks

added to a job description, for example, might indicate that the number of employees should be increased, or might indicate that not all members of the company have yet accepted the necessary budgetary changes that necessitate “doing more with less”). Emphasizing ombuds neutrality, such reports often focus on trends that indicate areas of improvement as well as developing problem areas. Commendations for a decrease in complaints about particular concerns are a part of many ombuds’ official reports, and may guide managers in staying on constructive paths.

Many annual reports also include “Recommendations for Change.” Distribution of a written annual report with attached recommendations for system change is one highly visible way for the ombuds to act as a change agent. However, a written report by an independent neutral, with no administrative authority to initiate or implement system change, is rarely sufficient. After analyzing data, identifying patterns and trends, and creating recommended remedies to improve problem areas or prevent recurrence of snags or mistreatment, the ombuds needs to motivate constructive action on the parts of those who do have the power to initiate and implement change. This can be done by working with individuals, groups, governing bodies, and-or key players in top leadership positions.

One method of persuading managers to buy into system change is for the ombuds to present the data that help to identify the concern, and perhaps guide the process of searching for remedies, encouraging the decision makers to come up with their own information sources and remedies — and then to follow up with reminders about implementation, if necessary. The ombuds can apply the same neutral technique used with individual complainants or respondents to this process, by leading administrators in a process of brainstorming possible solutions and assessing the advantages and disadvantages of each of the suggestions among a range of options. The unique role of the ombuds as change agent is highlighted by the practice of many organizational ombuds not to serve on committees that recommend or write policy, or respond administratively to problems, or determine strategic planning for the organization, but rather to serve only in a consulting or advisory role, not voting or otherwise directly participating in decision making.

Another approach involves building consensus. The ombuds may discuss a problem area identified in ombuds office data on categories of concern with a number of decision makers to identify which individuals have the time or inclination to “own” and follow through with a solution process. The ombuds may also go step-by-step up the chain of command to evaluate the feasibility of implementing some recommended systemic change, to garner support, and to modify the recommendations as appropriate.⁶ Making recommendations for system change, as well as discussing, piloting, or adjusting these recommendations, and following up on implementation, may be quite time-consuming. It is not surprising that some ombuds spend one-third or one-half of their time working on system change.

The Ombuds as System Change Designer

Finally, the ombuds may participate in dispute resolution systems design — including the ombuds office role as part of this system — for the organization.⁷ The experienced ombuds' deep knowledge of the organization and its culture is essential for the ability to help translate recommendations for change into action and implementation. It is becoming increasingly common for an organization to contract with an outside consultant to evaluate and design a system for conflict management within the organization. The process is generally initiated by the highest levels of senior management, and the system design experts then generally meet with the various levels of leadership or stakeholders within the organization to develop "buy in" to the change process.⁸ In many ways, however, the organizational ombuds is better prepared and better situated to recommend system design than an outside expert. The ideal means of fostering an organization's full-fledged dispute system design change might be a partnership between the organizational ombuds and a consultant designer. But the ombuds alone can fulfill many of the roles of the dispute system designer; the ombuds' knowledge and understanding of the organization may be deeper, and benefiting from the expertise of an internal ombuds is extremely cost-effective (see Wagner 1998).

There are many advantages to be gained from the insights of an internal organizational ombuds in the process of organizational dispute resolution system design. First of all, the ombuds is a complaint handler at the center of the organization, hearing from anyone of any rank who has a concern about the organization. Thus, the ombuds understands the population, and knows what is bothering people at all levels. The ombuds also perceives what this community desires and accepts as satisfactory outcomes. From the accumulated hours and hours of attentive listening, the ombuds is aware of the texture and tone of the concerns, as well as the general categories.

Secondly, the ombuds not only has access to information about organizational culture but also keeps the database of aggregate anonymous categories of concern which is the basis for making recommendations for change. In terms of dispute system design, the ombuds' data indicate which aspects of the current grievance procedures or communication channels are perceived as frustrating, unresponsive, unfair, or otherwise ineffective. The data may identify problem areas, low credibility, or distrust of certain parts of the structure in place. The ombuds knows which kinds of complaints may go awry due to gaps in the current system. Thus, the ombuds is in an ideal position to make recommendations for change in the interest-based and rights-based options for handling disputes and to suggest how to develop a more suitable system.

Outsiders are generally expert in their knowledge of procedurally correct and legally appropriate procedures. What the ombuds can add is a

knowledge of the variety of needs that must be met by the members of the organization in order for them to accept and benefit from a new dispute system. The interest-based components of the system — the informal resources, the coaching for direct approaches, the flexible and custom-designed avenues to particular resolutions for unique situations — are the areas in which the ombuds' experience can make perhaps the strongest contribution. And these are the components that may be most frequently used within an organization, but most often under-emphasized or omitted from "expert consultant" designed conflict management systems.

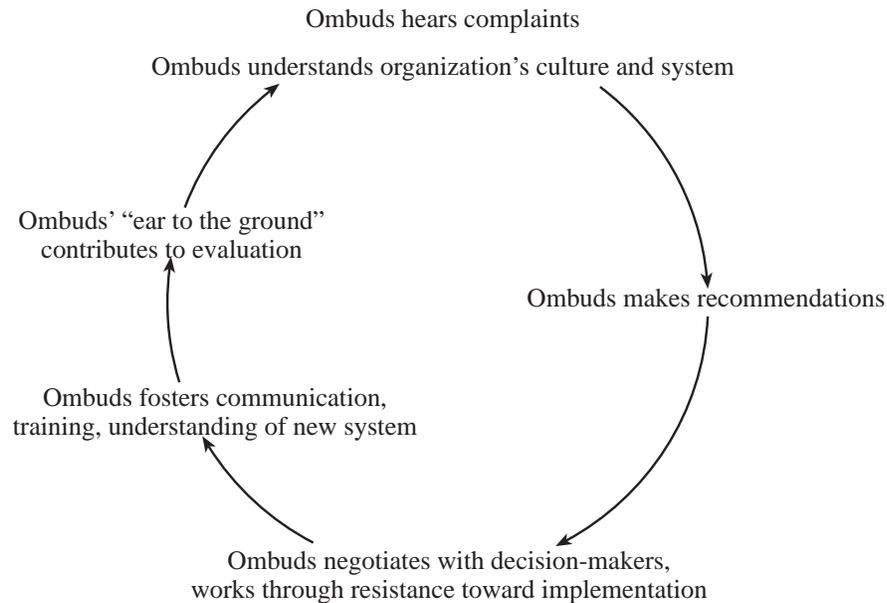
Thirdly, the ombuds is intimately familiar with the structure and culture of the organization, and from interactions with decision makers at all levels has familiarity with individuals' tolerance for change, the comfortable pace and style of change for that organization, the effective and ineffective means of promoting change. Based on this understanding of the feasibility of change in that organization, the ombuds can function as a skilled negotiator to promote communication about and overcome resistance to change.⁹ Because the ombuds is not a decision maker, his or her function may be to float "trial balloons," or suggest options for changes in the conflict resolution system. Later, the ombuds may also provide feedback to decision-makers on the implementation process of the new system.

One of the functions of the ombuds office is to provide information about organizational policies and procedures. The ombuds is thus in an ideal position to explain the characteristics and processes of the new system to potential users, and well as hearing their reactions to it. In the role of trainer or educator, the ombuds can foster communication about the new system, provide training and increase general awareness and understanding to all members of the community. The ombuds is often consulted not only by complainants but also by respondents or managers who are unsure of their responsibilities when new procedures are implemented.

Finally, every dispute resolution system design needs to provide for "continuous improvement."¹⁰ Costantino and Merchant (1996) offer an entire chapter on how to *measure* the effectiveness of a new conflict management program.¹¹ The ombuds already has a built-in role to hear ongoing complaints about the direct or indirect, intended or unintended consequences of the new or changed conflict resolution system. Ideally situated to gain insights into the developing process, the ombuds can use neutral quantitative and qualitative data to indicate the level of acceptance of the changes. Asking for feedback not only indicates that the organization cares about its own procedures, but also elicits suggestions for more improvements. Additional aggregate anonymous data from the ombuds will indicate the response to the new option.

Mary Rowe (1991: 360) calls this evolutionary process "steady systems change to meet changing needs." Thus the follow-up process may surface new complaints that lead to new recommendations in the ongoing cycle of evaluation and improvement, as shown in Figure One.

Figure One
Change Agent Functions of the Ombuds



In the ombuds' understanding of the texture of complaints and also in the periodic reports, the ombuds will continue to be an ongoing player in contributing to the continuous evaluation and development of the organization's dispute resolution system.

The Organizational Ombuds Redefined

Given the many ways that the organizational ombuds contributes to system change — in showing individuals how to create responsible win-win options, alerting managers to developing problem areas, surfacing areas of concern in data reporting, as a trainer or designer of dispute resolution system improvements — it is surprising that ombudspeople could be characterized as, in Larry Hill's words, "simply mediators."

Mediation is of course one of the functions of an organizational ombuds. A fundamental part of the mission is to work with each individual complainant, or primary parties in a dispute, to craft an elegant — and often unique — resolution to each particular situation, one that will be satisfactory and sustainable for those individuals in that specific situation. But it is equally significant that the organizational ombuds contributes to system change, in terms of prevention of future unfairness or providing better means of early intervention and effective remediation.

In his 1997 essay, Larry Hill cites his own 1974 functional definition of the mission of the “real ombudsman”:

The institution’s mission is

- to generate complaints against government administration,
- to use its extensive powers of investigation in performing a postdecision administrative audit,
- to form judgments which criticize or vindicate administrators, and
- to report publicly its findings and recommendation
- but not to change administrative decisions.¹²

This definition of the public sector ombuds is not entirely satisfactory, but it is useful for making a point about underlying commonality. Hill’s language emphasizes the public, formal, judgmental aspects of government ombuds. A comparison with an intentionally parallel functional definition of the organizational ombuds indicates some significant differences but also many fundamental similarities:

The organizational ombudsman’s mission is

- to provide a confidential and neutral resource for receiving and offering options for resolving complaints within the organization,
- to use its extensive access to all parts of the organization and its moral authority to provide information and - with permission - look into situations or intervene as a third party to resolve disputes,
- to gather anonymous aggregate data that indicate areas of organizational improvement or problems,
- and to report these trends in periodic summaries with recommendations for organizational systemic change,
- but not to change administrative decisions.

Though the public sector ombuds emphasizes “investigation,” “audit,” and “criticize or vindicate,” its role is still not to change individual administrative decisions. The organizational ombuds function offers more individual and systemic problem solving and its procedures are less judgmental and more informal. Although the organizational ombuds is not a formal fact-finder, his or her role is also to identify areas in need of change or improvement, to report these indications to the organization, but not to change individual administrative decisions.

There are, of course, some structural differences between public sector ombuds, who are appointed by a legislative process and have legal powers to subpoena evidence, and organizational ombuds who are employees or

consultants in a company with internal terms of reference and informal access to information. But there are also structural similarities, including that both functions are independent, nonpartisan, accessible and visible to the entire community.

Finally and most importantly, both organizational and public sector ombuds have the underlying responsibility to identify points at which an organization or government and its conflict resolution system are inefficient, biased, unresponsive, unfair, untrustworthy, or otherwise inadequate, and to function as a change agent in calling attention to those areas and making recommendations for system change.

NOTES

1. Copies of these documents are available from both of these professional associations: The Ombudsman Association, PMB 265, 5521 Greenville Avenue, Suite 104, Dallas, Texas 75206, email 73772.1763@compuserve.com; University and College Ombuds Association, c/o Judi Segall, President, Office of the Campus Ombudsperson, State University of New York at Stony Brook, 114 Humanities Bldg., Stony Brook, New York 11794-5336, email JSEGALL@NOTES.CC.SUNYSB.EDU.

2. All names are fictitious, and all examples given in this essay are composites or fictitious variations on actual cases.

3. Some practical principles for working toward institutional change in a university setting are outlined, with concrete examples, in Hasenfeld (1995).

4. See The Ombudsman Association's Standards of Practice, #4: "We exercise discretion whether to act upon a concern of an individual contacting the office. An ombudsman may initiate action on a problem he or she perceives directly."

5. The form and frequency and distribution of these reports varies with each organization, but several general principles pertain. More specific data are more useful to managers but also most likely to be pinpointed to an individual case and thus threaten confidentiality. Similarly, decision makers value timely information, but the more current the report, the more likely it may be to suggest certain recent or pending situations and thus again undercut confidentiality. Likewise, more frequent reports may be convenient for update and analysis, but at the same time will include less data. It is easier to conceal individual identities when broader categories are used to identify the complainants and alleged offenders, the categories of concern, and other details.

Thus, an ombuds with an annual caseload of less than 100 might make reports only every two or three years in order to express generalities, whereas an ombuds office that handles over 1,000 complaints per year might consider annual, or even semi-annual or quarterly, reports. For suggestions on ways to balance usefulness to the organization and protecting confidentiality in the ombuds' anonymous aggregate data and reports, see Wagner (1996b).

6. See Hasenfeld (1995: 7-9) on the steps taken to reconsider Cal Tech's approach to family and worklife issues.

7. Much has been written previously to describe the overall roles and functions of the ombudsman as "a desirable and cost-effective element in a dispute resolution system," as presented by Rowe (1991: 353). See also Rowe (1997: 89-94). Please note that my position differs in that it focuses specifically on the ombuds' role not only as a part of a conflict resolution system but as a *designer* of such a system.

8. See Costantino and Merchant (1996), especially Chapter Four, "Involving the Stakeholders," (pp. 49-66), and their comments on working with stakeholders and the "design team," (pp. 117-8). See also the interview with Jennifer Lynch: "So the first step was to ascertain buy-in and commitment from both senior management and senior employee leaders" ([no author] 1997: p. 8).

9. In their path-breaking work on conflict resolution system design, Ury, Brett, and Goldberg (1988) also recommend taking extra time to involve stakeholders; see "Negotiating the Changes: Don't Recommend Changes, Negotiate Them," pp. 115 ff.

10. On "continuous improvement," see Rowe (1997: 88).

11. In Chapter 10 of Costantino and Merchant (1996), the authors describe a variety of models for the evaluation of conflict management systems, including measurements of efficiency,

effectiveness, satisfaction, service delivery and program quality (pp. 168-186). Another approach to monitoring an evolving program is exemplified by The Royal Canadian Mounted Police, who use the term “keeper of the flame” to refer to the individual in the permanent role of evaluating and promoting the functioning of the new system (see Lynch 1997).

12. In his presentation (Hill 1997), the author cites Larry B. Hill, “Institutionalization, the Ombudsman, and Bureaucracy,” *American Political Science Review* 68 (September 1974): 1075-1085. The bullets format is my variation.

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