The UCLA Ombuds Office
A Resource for Potential Whistleblowers

Ethics in Patient Oriented Research
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Tom Kosakowski
Ombudsperson for the UCLA Center for Health Sciences
The Ombuds and the Whistleblower

- Management consultant Randall Craig says that blowing the whistle could have serious ramifications for your own career, as well as those you implicate. Before doing anything, he says, "make sure you've got your facts straight." Generally, there are three options available: ignore it, confront the person, or report the behavior. If employees choose to become a whistle blower, Craig recommends they use confidential hotline or consult a workplace ombuds. (Edmonton Journal, “Think before you blow the whistle,” Aug. 5, 2008)

- According to the Government Accountability Project, a whistleblower advocacy group, the Sarbanes-Oxley Act is failing to protecting corporate whistleblowers. According to data from the Department of Labor, it has ruled in favor of whistleblowers in fewer than 2% of the complaints filed since 2002. (Joanna Chung, Financial Times of London, “US Law "Fails to Protect" Corporate Whistleblowers,” Sep. 9, 2008.)
Short History of Ombuds

- The first ombudsman was appointed by the king of Sweden in 1809 to voice citizen’s concerns.
- The first university ombuds office was established at Michigan State University in 1967. UCLA was an early adopter and followed in 1969.
- There are two primary kinds of ombuds: advocate (or classical) ombuds and organizational ombuds. Universities generally employ organizational variety; there are almost 300 at present.
Definition of an Organizational Ombuds

“An organizational ombudsman is a confidential and informal information resource, communications channel, complaint-handler and dispute-resolver, and a person who helps an organization work for change.”

Mary P. Rowe, “Options, Functions and Skills; What an organizational ombudsman might want to know,” 1995.
An Alternate Definition

“This has to be one of the more ominous sounding job titles out there – possibly because it starts with the same two letters as ‘ominous,’ but also because if you need an ombudsman, it probably means some dank, smelly excrement has hit the fan. Whenever you’ve got a potentially explosive and litigious conflict between two entities, these guys are called in to be the middlemen, the mediators, and the last stop on the train to Lawsuit City. They attempt to resolve conflicts between private citizens and the government, disgruntled students and their university, or between an employee and his or her soul-sucking employer. Fired unfairly? Expelled without due process? Denied federal benefits? Tell it to the ombudsman. * * * We’ll put this on a list, along with ‘airline counter employee’ and ‘DMV clerk,’ of Jobs for Masochists Only.”

Mental_Floss Magazine, 9/8/08
The Office of Ombuds Services is a place where members of the UCLA community—students, faculty, staff and administrators—can go for assistance in resolving conflicts, disputes or complaints on an informal basis. In order to afford visitors the greatest freedom in using its services, the Office is independent, neutral and confidential.
## Conflict Resolution Spectrum

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>Ombuds Assistance</th>
<th>Facilitation/ Mediation</th>
<th>Arbitration/ Grievance</th>
<th>Litigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Formality</td>
<td>Informal/Voluntary</td>
<td>Informal/Voluntary</td>
<td>Formal/Mandatory</td>
<td>Formal/Mandatory</td>
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<tr>
<td>- Focus</td>
<td>Identify Options</td>
<td>Explore Interests</td>
<td>Contested Issues</td>
<td>Legal Standards</td>
</tr>
<tr>
<td>- Process Control</td>
<td>Visitor</td>
<td>Mediator &amp; parties</td>
<td>Arbitrator</td>
<td>Judge</td>
</tr>
<tr>
<td>- Outcome</td>
<td>Understanding</td>
<td>Mutual agreement</td>
<td>Binding decision</td>
<td>Judgment</td>
</tr>
<tr>
<td>- Relationships</td>
<td>Often preserved</td>
<td>Often preserved</td>
<td>Rarely preserved</td>
<td>Never preserved</td>
</tr>
<tr>
<td>- Cost/Duration</td>
<td>Free/Quick</td>
<td>Free/Quick</td>
<td>Moderate</td>
<td>High/Protracted</td>
</tr>
<tr>
<td>- Privacy</td>
<td>Confidential</td>
<td>Mostly confidential</td>
<td>Limited disclosure</td>
<td>Public</td>
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Range of Ombuds’ Services

- Listening
- Clarifying
- Informing
- Referring
- Coaching
- Facilitating
- Mediating
Outside the Ombuds’ Scope

- Receiving formal complaints
- Assigning blame or culpability
- Deciding outcome of dispute
- Enforcing agreements
- Providing legal or psychological advice
Ombuds Ethical Tenets

- Confidentiality
- Neutrality
- Informality
- Independence

International Ombudsman Association, Code of Ethics and Standards of Practice
Confidentiality

- General Rule: The Ombuds Office does disclose any information provided in confidence, except to address an imminent risk of serious harm.

- Visitor’s Consent: The Ombuds does not confirm communicating with any party or parties, or disclose any confidential information without the party’s or parties’ express permission provided in the course of discussions with the Ombuds, and at the discretion of the Ombuds.

- Privilege: The Ombuds Office asserts that there is a privilege with respect to the identity of visitors and their issues. The Ombuds Office will not willingly provide testimony with respect to any confidential communication, whether inside or outside the University.

- Notice: Communication to the Ombuds Offices shall not constitute notice to the University.
Confidentiality & Sexual Harassment

“Each location shall identify confidential resources with whom members of the University community can consult for advice and information regarding making a report of sexual harassment. These resources provide individuals who may be interested in bringing a report of sexual harassment with a safe place to discuss their concerns and learn about the procedures and potential outcomes involved. These resources shall be posted on the location’s website and prominently displayed in common areas. Confidential resources include campus ombudspersons and/or licensed counselors in employee assistance programs or student health services. Individuals who consult with confidential resources shall be advised that their discussions in these settings are not considered reports of sexual harassment and that without additional action by the individual, the discussions will not result in any action by the University to resolve their concerns.”

University of California Procedures for Responding to Reports of Sexual Harassment, Dec. 14, 2004
Confidentiality and Whistleblowing

- At UC Santa Barbara, the whistleblower policy specifically states that the Ombuds Office is confidential and not subject to the reporting requirements.

Independence

- To ensure objectivity, the Ombuds Office operates independently of usual administrative authorities, but within University policy.

- Independence is achieved primarily through organizational recognition, reporting structure, and neutrality.
Neutrality

- The Ombuds does not take sides in any conflict, dispute or issue.
- The Ombuds considers the interests and concerns of all parties involved in a situation impartially with the aim of facilitating communication and assisting the parties in reaching mutually acceptable agreements that are fair and equitable.
Informality

- The Ombuds Office is a resource for informal dispute resolution only and does not participate in any internal or external formal process.
- The Ombuds does not investigate, arbitrate, or adjudicate.
Range of Options Ombuds May Offer in Cases of Suspected Research Misconduct

- Discussing sufficiency of evidence
- Dealing with feelings about getting involved
  - Getting emotional support
  - Organizing reasons
- Evaluating risks and benefits
Range of Options (cont.)

- Obtaining additional information
  - Policies and procedures
  - Relevant culture
  - Additional resources

- Developing a plan of action

- Facilitating informal conversation

- Giving upward feedback
Case Study

- A graduate student, Gina Singh, has been working for the past two years in Professor Imhoff’s laboratory. Also working in the lab are other grad students, staff researchers and Gina Singh’s advisor, Fred Adiz.

- Last week, Fred returned Gina’s final draft of a article on her research. Although the work had been done in the lab with assistance from others, she felt she had conducted most of the experiments and written more of the paper than anyone else.
To Gina Singh’s surprise, a senior doctoral student in the lab, Steve Lopez, was listed as the second author on the latest draft of the article. Gina had expected the second authorship because Steve had seemed to be preoccupied with conference presentations and his own thesis.

Gina’s labmates told her that this is standard practice and that she would see better acknowledgment in the future.

Gina personally dislikes Steve and is convinced that he has been using lab equipment and funds for personal laptop and travel expenses in violation of university policy and the federal grant.
Seeking your advice, Gina admits she could swallow her pride about the authorship issue but strongly believes that Steve should be punished for misusing funds. She confides that she has decided to leave grad school after this semester to work in industry. She was counting on using this article to demonstrate her abilities to prospective employers.

Gina wonders whether she can use Steve’s misappropriation as leverage to become second author. Her long-time boyfriend is urging her to hire an attorney if Fred Adiz (or Professor Imhoff) refuses. Her mother says she should not make a fuss.
Case Study (cont.)

- Consultation with the Ombuds
  - Complete debriefing by student
    Student’s ethical concerns
    What relationships are important
    Possible outcomes
  - Review of applicable rules/standards
    Graduate Student Academic Rights
    Whistleblower policy
  - Consideration of other resources
Case Study (cont.)

- **Informal inquiry by Ombuds**
  - UC Whistleblower Office
  - Dean’s Office

- **Follow-up consultation with Ombuds**
  - Identification of options by Ombuds
  - Reality testing of options by student
  - Decision by student
  - Referral or intervention by Ombuds

- **Upward feedback by Ombuds**
Potential Interactions You May Have With Ombuds Office

- Consulting the Ombuds directly
- Responding to informal inquiries
- Referring individuals with concerns
Additional Resources

- *Managing Faculty Disputes*, Jane E. McCarthy (1984)
Office Locations

- **Main Office**
  Strathmore Building
  501 Westwood Plaza, Suite 105
  Phone: 310-825-7627

- **CHS Office**
  52-025 Center for Health Sciences
  Phone: 310-206-2427

- [www.Ombuds.UCLA.edu](http://www.Ombuds.UCLA.edu)