**The Most Serious Cases Reported by Organizational Ombuds
Data from Surveys and Interviews
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Why are Data about the Most Serious Cases (MSC) Important to Organizational Ombuds?

MSC have several important characteristics:

1) The most serious cases in an ombuds office entail high potential costs—and major gains or losses of possible benefits—for all constituents involved in these cases, including their organization. The value of the organizational ombuds (OO) office is sometimes very apparent, for constituents and the organization, after an OO helps to identify, assess, and help to manage a serious case.

   The potential savings in emotional and material costs for the constituents involved are sometimes literally immeasurable. For the employer, savings in costs in a single high-risk case—if the case is handled effectively—may more than offset all the costs of an ombuds office. (The cost savings and benefits of dealing with MSC are sometimes especially easy to see in the first years of an OO office, if the costs of certain issues are suddenly reduced, if important good ideas flow more freely, and if systemic improvements happen more easily.)

2) Most of an OO's work is shrouded by the ombuds' near-absolute commitment to confidentiality, so many people do not know what the ombuds does. But in the most serious cases, management is usually involved, and often the case is known to the various constituents who are involved and affected. The OO's role in reducing emotional and material costs—for visitors to the office and for the employer—may be visible in the MSC.

3) In addition to the fact that specific MSC may be known to those involved and to leadership, OOs can, relatively simply, keep and report generic, non-identifiable data about the MSC. Generic data do not identify *individuals* but can reflect the seriousness of certain *cases*. An ombuds usually can communicate data about the *issues*, the *complexity* of the cases, *how the OO first heard* about the cases, and *how the OO helped to get vital information where it needed to go*—in ways consonant with both organizational needs and the IOA Standards of Practice.

The "Most Serious" Issues Reported by OOs in the 2022 IOA Survey

Sexual and racial harassment, disrespectful treatment and bullying of all kinds, retaliation, unspecified ethics issues, safety issues, potential suicidal and homicidal behavior, gross negligence, research and financial misconduct, various forms of sabotage, insider threats, national security issues, and a variety of other integrity

concerns were mentioned by most OOs—along with constant concerns about actions by leadership and other managers. Some of these are rare concerns. However, allegations of identity-based disrespect and harassment, bullying, safety, and retaliation are not rare; they were among the *most frequent* MSC reported by OOs.

Any one of these issues may present very painful stresses and risks for the visitors[1] to an ombuds office and for other constituents that are affected: loss of relationships, loss of privacy, exhaustion, ill health, and retaliation. As just one example, almost half of the OOs who took the IOA survey reported having helped to save a life the preceding year. Some ombuds report on the stresses and risks reported by constituents.

In addition, any one of these issues can present multiple sources of risk to the organization—for example, health and safety risks, reputational risks, operational risks, strategic risks, compliance risks, and/or financial risks. Sometimes equally important— to visitors and other constituents, and to the organization—is the risk of losing potential benefits that may come from dealing with a concern.

Some ombuds use the categories of risk that are used by their employer, and, in their annual or quarterly reports, note the relevant types of risk attached to each type of issue they handled.

Ombuds Reported More *Complex* Cases in the 2022 Survey.

OOs report seeing more cases including: multiple issues, multi-race-and-ethnic concerns, complex gender issues, multi-generational concerns, cases across units, cases involving conflicting rules, cases that took a long time, more cases with groups, more cases with bystanders, and, in general, more "challenging" cases. OOs also reported more cases that needed consultation with compliance officers and counsel, and more cases that became the impetus for focused or system-wide responses.

Why does this matter? Other offices in an organization besides the OO deal with serious cases. However, those other offices may focus only on one serious issue even if there are many issues in a case; this sometimes is the norm for offices that deal with criminal behavior. In addition, some offices focus only on one group—for example, students—but are not able to include all the constituents who are affected by an issue. Many offices function under one set of rules but do not deal routinely with more than one set of rules and regulations. Some offices cannot easily follow up over time. In contrast, organizational ombuds, by design, can and do function well with many aspects of complexity. OOs routinely work with a team or a network of offices that may be needed in a complex case. And OOs often follow up about relevant MSC.

Dealing with complexity, by itself, adds value both to constituents and to the organization. The facts about these aspects of complexity can be collected and communicated by OOs in their reports to constituents and to their employer.

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[1] Many ombuds use the neutral term "visitor" for constituents who interact with the office.

From Whom did OOs First Hear About Their Most Serious Cases in the 2022 Survey?

We asked ombuds to consider their five most serious cases and to check all the "first sources of information" that applied to those five cases.

Ombuds indicated hearing first about their most serious cases from a dozen different sources—a wide catchment which indicates the breadth of outreach and trust in the OO office. This point is important to all constituents, including their employers. The Ombuds Office is a rare (sometimes unique) office that can hear about any work-related concern from every demographic and geographic source in the organization—from every person, in every role and unit they serve. Ombuds add value to constituents and to the organization by the breadth of their vision in an organization. For example, an OO may pick up issues that are new or insufficiently recognized by putting together bits of information from many different sources.

Hearing first from the *complainant* was reported by almost all ombuds, for at least one case. Hearing first from a *peer or bystander* was reported by a third of the OOs, for at least one case. Hearing first from a *supervisor* in at least one case was reported by nearly two-fifths of OOs—and from a *senior officer* by a fifth of OOs, for at least one case. *HR* was reported by almost a fifth of all OOs as the first source for at least one case. And a (self-described) apparent *perpetrator* was mentioned by almost a tenth of ombuds for at least one case. This IOA survey and previous surveys have also reported hearing first, in an aggregated fifth of their MSC, from *counseling, health care, employee assistance programs, security or police, other sources within the organization, and sources outside the organization.*

Some ombuds communicate generic data of this sort, about the breadth of their service, in their reports to constituent groups and to their organizations.

Many Options Were Used to Get Information About MSC to Management.

Data from IOA surveys and numerous anecdotes indicate that many OOs dealt with one or more situations each year that the ombuds considered as an "*imminent* risk of serious harm." This point is sometimes a matter of concern to employers and their counsel and compliance offices: what do ombuds do, when they hear about serious—perhaps illegal or criminal—behavior?

Survey responses indicate that OOs are able to practice effectively, both within their conflict management and risk management systems *and* within the IOA Standards of Practice. One way they do this is by offering options to their visitors until an option is chosen. With respect to at least one in five cases involving the most serious issues, OOs reported using many different options in 2020 to get information to appropriate recipient(s):

Five-sixths of the ombuds reported having received permission from a constituent to use or transmit information—without identifying the source. An OO might find a way to convey information to the appropriate manager while shielding the source and also avoiding having the ombuds become a party to the case. For example, many ombuds undertake effective generic communications in such cases so that the *issues* in the case get addressed without identifying *complainants.*[2]

In another example, a constituent might write a detailed anonymous letter of concern addressed to a relevant manager, double-seal it, and slip it under the OO's door. The OO could then take the letter to the addressee, noting that the letter had not been opened or read by the ombuds.

Four fifths of the ombuds reported that they helped their constituent to act directly—to find and use an effective way to get the information to the right person. Examples include helping the constituent to assemble the needed information, talk with a line manager or compliance officer, use a hotline, send a detailed report to several relevant authorities, or join with other constituents in sending a factual letter about shared concerns.

Nearly two-thirds reported that they had received permission to use information from a constituent, identifying the source. Examples include an OO then talking with an appropriate manager—identifying the source with permission.

Nearly half reported that they had found some other specific way of communicating critical information—a way that had not been identified on the survey—to an appropriate recipient. As an example, from an interview with an OO, one constituent chose, after long discussion, the option of contacting a trusted former manager. The former manager in turn spoke off the record with an old friend currently in senior management. That senior officer in turn immediately looked into the situation while protecting the source.

More than a quarter of the ombuds reported that they found an effective way for a compliance office to find the information for itself. As an example, the OO might use a specific kind of generic approach[3]. In this approach, the ombuds would alert the relevant compliance office. OOs would provide sufficient, but anonymous, information that would help compliance officers—unobtrusively and effectively—to look for and review evidence in an apparently routine safety inspection, security review, financial audit, or other "spot check."

An eighth of the ombuds reported that they had breached confidentiality in one or more very serious cases*,* presumably having found no other reasonable option. (In three percent of all responses—which may represent a third of the cases where the OO reported breaching confidentiality—the OOs reported that they were *required* to report the concern.) In these cases of breaching confidentiality, the OO may have perceived

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[2] "Consider Generic Options When Complainants and Bystanders Are Fearful." Rowe, Mary. MIT Sloan Working Paper 6259-21. Cambridge, MA: MIT Sloan School of Management, February 2021.

[3] Ibid.

an imminent risk. This could happen when the OO judges that the issue is an emergency, such as a potential suicide or homicide. In such a case, OOs might report to line or staff managers in a way that made the source identifiable.

From analysis of the "most serious case" responses in the 2016, 2018, 2020, and 2022 surveys and numerous conversations with senior OOs, we learned that ombuds are in fact willing to breach the important standard of confidentiality in the very rare cases where the OO judges that a situation warrants this action. However, the survey data also indicate that ombuds who took the survey were able to offer multiple options to MSC constituents—for information to get where it was needed—without compromising the confidentiality of their constituents.

Some ombuds have noted the various methods of communication used in their most serious cases as part of their reports to constituents and employers.

Additional Ways of Assessing the Seriousness of Cases

Many organizational ombuds might point out that almost all their cases might be "serious" to somebody. And many OOs are careful to point out that their own sense of "seriousness" is not the only definition that matters in the work of an ombuds office. Many OOs work closely with their employers and constituent groups to understand the "seriousness" parameters that matter in each organization. Many OOs might point out that "seriousness" will always depend on context—and that each OO might pick up on some aspect of a case in a somewhat different way.

From the IOA survey and in various interviews with organizational ombuds, we indeed note that different OOs describe "seriousness" in several ways. For example, cases that challenge the OO's adherence to professional impartiality, neutrality, and independence are reported to be more common. This fact alone may be seen as "serious."

And, in interviews, we learned that for some OOs, the concept of "seriousness" brings to mind difficult cases that are particularly challenging. We heard comments like:

- "This case was way outside the norm."
- "I could see the potential of serious harm for a number of different people and my organization."
- "The scale of this case was impinging on the mental health and careers of many."
- "I felt for a long time I was not able to have an input; the people and resources who should have been acting were not doing so. I felt this case was a real threat even to my service as an OO."

Some ombuds keep generic (non-identifiable) data about the number of constituents affected by each issue. For example, a particular case might have affected one person, a few people, a unit, a division, the whole organization—or also people beyond the organization. Some OOs keep generic data about cases that directly relate to a specific aspect of the organizational mission (for example, childhood education) or a current

organizational commitment (for example diversity, equity, inclusion, and belonging). Some OOs classify all cases that include allegations about apparently criminal behavior as MSC. Some keep generic data about cases that last more than a year.

One OO told of tallying the number of cases where constituents brought in good new ideas. Several OOs note cases which result in clear net benefits that are easily assessed.

In our ongoing research about the value of organizational ombuds and how to communicate that value to constituents and organizations, we discovered different ways of understanding the Most Serious Cases. We also discovered some unifying points that are important for illustrating the value of an OO both to those they serve and to ombuds practitioners themselves: Constituents and organizations do care about the cases ombuds define as serious. And organizational ombuds have no difficulty in describing the cases they see as serious.

The Issues Named in the Most Serious Cases in 2021

(Percentages are the proportion of ombuds surveyed who reported one or more MSC involving this issue in 2021)

83.70%		Leadership/managerial/supervisory decisions or actions
83.50%		Disrespectful treatment or exclusion based on reasons other than social identity or identities
76.90%		Retaliation
76.50%		Harassment, bullying or abuse apparently unrelated to the recipient's social identity or identities
69.40%		Disrespectful treatment or exclusion based on distrust, contempt, or polarization (political, ideological)
66.90%		Harassment, bullying, or abuse related to the recipient's social identity or identities
66.70%		Performance evaluations or grades
65.80%		Suicide concerns
65.40%		Ethics
62.30%		Safety related to COVID
60.40%		Flexibility in work arrangements related to COVID
58.90%		Return-to-work/school related to COVID
57.90%		Workload, unrelated to COVID
57.60%		Promotion/demotion/transfer
56.30%		Suggestions for improvement
56.00%		Work/life balance related to COVID
55.10%		Layoffs, reorganizations, firings

54.90%		Scientific/research misconduct
50.00%		Deliberate interference with the integrity of the work/sabotage
49.60%		Whistleblowing
47.30%		Interim/replacement appointments
45.20%		Safety, unrelated to COVID
43.10%		Gross negligence
43.00%		Excellence/rigor in analytic work
42.90%		Benefits
41.70%		Waste/fraud/abuse
40.20%		Financial misconduct
34.40%		Intellectual Property/non-compete
29.70%		Insider threat
25.00%		National security
23.80%		Homicide concerns