

City of Gainesville Policy Program Preliminary Research & Analysis
Office of the Ombudsman



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TOPIC: Office of the Ombudsman
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EXECUTIVE SUMMARY

An ombudsman office serves as an independent oversight agency for municipalities to provide citizens with a confidential avenue to address complaints. The office provides options, mediation, and information investigation to resolve the complaints and concerns of citizens. An ombudsman additionally proposes policy and procedural changes when systematic issues within the municipality are identified by the office through an analysis of the complaints they receive. The ultimate goal of the creation of an ombudsman is to find the parts of government that are not working well for citizens, with an eye toward increasing government efficiency and decreasing citizen complaints to the municipality's executive and legislative branches.

An Office of the Ombudsman is thought to increase efficiency within municipalities, as their sole purpose is to address citizens' concerns regarding municipal services, as opposed to those complaints being aired directly to offices such as city commissions or mayors, who have several additional roles. The ombudsman has direct knowledge regarding city functions and resources, and is thus able to resolve complaints brought to their office or direct citizens to the correct office to resolve the concerns. **Additionally, the ombudsman is able to see trends of inefficiencies or problems within government services, and recommend policy options to a city's executive and/or legislative branches to resolve such issues.**

Ombudsmen offices can serve different functions determined by how they are set-up and what problems they aim to resolve. An ombudsman office created by the Chief Executive Officer of a municipality is generally easier to create and prompts greater cooperation between the municipality and the ombudsman, however its lack of official independence from the municipal government can lead to a lack of trust in the office by the public. Similarly, an office created by the municipal legislature can foster greater trust between citizens and the ombudsman, but can lead to greater tensions between municipal officials and the ombudsman.

Some ombudsmen programs are designed to resolve problems specific to certain agencies or programs, such as education or veterans affairs, while some address city employee concerns. **For the City of Gainesville, the most useful preliminary ombudsman office could likely handle citizen concerns regarding all city functions, rather than being devoted to a specific department or to employee issues.** The City of Gainesville additionally already has offices of the City Auditor and the Office of Equity and Inclusion to address investigative matters with regards to fraud, waste, abuse, and discrimination/employee matters.

Ultimately, many ombudsman models have been shown to bring about improvements to public policy, whether through developing more collaborative ways to resolve conflicts or recommending policy solutions for ineffective government services or programs. Ombudsmen are less common within small cities, as smaller cities generally have fewer citizen complaints and concerns than larger cities, and thus the decision to establish an ombudsman within the City of Gainesville would require a discussion of whether there is a significant need for the position.

HISTORY/BACKGROUND INFORMATION

Nationally

Ombudsmen can be found at the federal, state, and local levels of government across the United States. Federally, the Internal Revenue Service, Department of Homeland Security, Department of Education, Environmental Protection Agency, and the Food and Drug Administration all have an ombudsman. These positions hold different purposes, but the majority of the offices work to facilitate communication between the agency and the groups that agency serves.

Several states, including Hawaii, Nebraska, Alaska, Iowa, and Arizona have legislatively established ombudsmen, and several more have ombudsmen that were appointed and created by the governor of the state. In all of these offices, the role of the ombudsman is to investigate citizen complaints concerning specific acts by government agencies.

The State of Florida has no state-wide ombudsman, however it does have a Long Term Care Ombudsman, whose duty is to assist residents of nursing homes.¹

¹ <http://ombudsman.myflorida.com/>

Several cities across the United States have created ombudsman offices, however the majority of these are larger cities, such as New York City, Los Angeles, Seattle, and Detroit. This is likely due to the fact that these cities have a larger influx of citizen complaints, and their size necessitates an office dedicated to resolving these complaints. **In smaller cities, this role is generally assumed by the local legislature and executive offices, including the mayor or city manager.**

Benefits of an Ombudsman

Currently, many cities operate with degrees of administrative discretion which increase the likelihood of unresponsive administrative decisions. **An ombudsman provides an independent and impartial complaint resolution mechanism to supplement traditional means of seeking redress for problems related to city administration or city services.** They are additionally able to analyze complaints brought to the city over a longer period of time and identify any trends with these complaints, often resulting in the proposal of solutions to make city policies and programs more effective and responsive.

An ombudsman would similarly reduce the number of complaints which are brought directly to a municipal's legislative or executive branches, allowing those departments to run more effectively.

Types of Ombudsmen

There are several variations as to how municipalities create and use ombudsmen. **The primary question when creating an ombudsman office is whether the office will be created through executive action (such as through the city manager or mayor's office) or through city ordinance (through the city commission).** The choice between the executive or legislative ombudsman affects the way in which the office can operate, and additionally affects public perception of the office.

An executive ombudsman is accountable to the Chief Executive Officer of the municipality, and is not fully independent of the government. Through this structure, the Chief Executive could have full control over the appointment of the ombudsman, or the local legislature could be given some say over the appointment/approval process of the ombudsman, but the office would not be an independent legislative agency. **There are several advantages and disadvantages to this structure, with the primary advantage being that it is significantly easier to create, as it does not require the creation of any city ordinance.** Additionally, public officials see the office as more of a benefit than a liability when it is created in this manner, which makes conflict between the ombudsman and the city less likely and provides the ombudsman with more access to city resources and officials.

However, there are disadvantages to this structure. First, the office can be perceived as being biased towards the government, and the office can be more subject to political motives when it is not established in the most neutral and independent manner possible. Additionally, there is less assurance that the office will exist through changes in political leadership, as the office is susceptible to the support of the executive. Similarly, when the office is not officially codified different officials may want the office to function in different ways, such as reporting problems directly to them or allowing the ombudsman to conduct an investigation first, which can lead to unclear processes and goals. Finally, executively created ombudsmen generally are not given subpoena powers, but rather the city manager/mayor has

to grant the power for each individual investigation. This can mean that public employees are unaware of the benefits or importance of responding to the office.

A legislative ombudsman, meanwhile, is considered the classic ombudsman structure, as it is an independent legislative agency with general jurisdiction over all executive administrative agencies. The advantages and disadvantages to this structure are essentially the opposite of the executive ombudsman. **This office is more difficult to create, and can similarly lead to more conflict between city officials and the office, as the city sees the ombudsman as a liability more so than a benefit. However, the public generally has more trust in the legislative ombudsman as an independent institution, and the codification of the office in an ordinance makes the structure and purpose of the office more concrete.** Due to the fact that the legislative model has fewer long-term disadvantages, several cities have started under the executive model and transitioned to the legislative model.²

City of Gainesville

If the City of Gainesville chooses to follow the executive ombudsman model, the ombudsman could be accountable to the Mayor, the City Manager, City Clerk, or the City Auditor. The city's charter would prevent the City Commission from creating an Office of the Ombudsman that reported directly to the body. **There have been discussions in the City of Gainesville regarding the creation of either a volunteer Board of Ethics or an Office of the Inspector General.** While either of these positions could theoretically overlap with the position of an ombudsman, **the functions of an ombudsman would be better carried out in a paid, institutionalized position so that the office has sufficient awareness of Gainesville programs and functions.**

It should be noted that the City of Gainesville already has offices of the City Auditor and the Office of Equity and Inclusion to address investigative matters with regards to fraud, waste, abuse and discrimination/employee matters.

PRELIMINARY RESEARCH AND FINDINGS

Coral Gables, Florida

The City of Coral Gables, Florida, has an executively created Ombudsman for Residents and Small Business Owners. **Similar to the City of Gainesville, Coral Gables has a weak mayor system, and so the Ombudsman falls under control of the City Manager's office.** Prior to the formation of this office, citizens would go to either the City Manager or the City Commission with their questions and concerns regarding the city. Antonio Silio, the current Coral Gables Ombudsman, believes that establishing the ombudsman office in their city has helped to alleviate some of the extra responsibilities of the Coral Gables City Manager and City Commission, thus freeing up time for those offices to focus on more urgent matters.

² <https://www.usombudsman.org/municipal-government-ombudsman/>

The role of this office is to assist residents and small business owners with questions or concerns dealing with permit or permit applications, building codes, special requirements, and any other administrative process. The goal of this position is to facilitate and find solutions for residents and small business owners attempting to navigate city functions and local bureaucracy.³

Coral Gables is an example of a fairly small city ombudsman office, as Silio is the only employee in his office, and he believes his role is slightly different than that of a larger city. For one, larger cities tend to adopt the legislative ombudsman system, rather than the executive system that Coral Gables has implemented. **Additionally, while ombudsmen in larger cities might focus primarily on institutional inefficiencies or citizen complaints about city functions, Silio has found that his smaller office allows him to focus more on helping residents and small business owners navigate the city systems, rather than only helping to resolve complaints.**

Silio advises any city interested in creating an ombudsman position to ensure that the individual filling the role has the full backing of whoever that individual reports to, whether that is the City Manager, City Commission, or another department, so that citizens know that they can trust the office to fulfill their duties. Additionally, Silio recommends that whoever is appointed to the position has extensive knowledge of the city system and departments, so that the individual will be able to assist residents as efficiently as possible.

Jacksonville, Florida

The Office of Ombudsman in Jacksonville, Florida, was created through City Ordinance Sec. 24.604. **This office specifically deals with city employee complaints, rather than general citizen complaints.⁴ The office falls under the Procurement Division of the City of Jacksonville, and acts as an intermediary to promote contractual fairness, neutrality, and administrative accountability through impartial investigations and mediation of complaints.** The office offers assistance in the resolution of problems associated with post award contractual compliance issues, such as issues of payment and performance.

The Jacksonville Office of Ombudsman has several additional functions to promote these goals, including managing contract disputes involving contractors and vendors, analyzing complaints and determining recommendations, utilizing mediation to facilitate communication between disputants to guide parties toward mutual agreement, preparing settlement agreements and preparing for court proceedings, researching and writing recommendations and reports for monitored contracts, reviewing and revising policies with regard to office activities, and assisting in resolving contractual disputes.⁵

The City of Jacksonville Ombudsman shows how a municipality can use an ombudsman to specifically resolve disputes between a city and city employees, rather than using the office to resolve general citizen complaints.

³ <https://www.coralgables.com/antonio-silio>

⁴ <https://www.coj.net/departments/finance/procurement/ombudsman>

⁵ https://library.municode.com/fl/jacksonville/codes/code_of_ordinances?nodeId=TITIIIEXBR_CH24FIADDE_PT6P_RDI_S24.604OFOMFU

Portland, Oregon

The City of Portland's Office of Ombudsman is an example of an executive ombudsman, as the office was created by the Mayor of Portland. The office serves as an independent advocate for a fair, reasonable, and just City government. They respond to members of the public, businesses, and city employees to resolve complaints about services and practices. Additionally, they conduct impartial investigations and resolve problems within the government informally.⁶

The office in Portland has a relatively small permanent staff size of two officials, which they believe makes it easier to keep the office functioning in any financial climate. However, this means that the office has limited resources to resolve all the complaints brought to their office. **Thus, the office empowers citizens to resolve their own complaints by providing them with knowledge of where they can initiate the review of their complaints without direct intervention.** This allows the office to delve more deeply into policies that need reform in order to reduce the number of complaints the office and city receives. Additionally, the office is able to recommend remedial action and change in policy.

Due to the fact that Portland's Ombudsman was created through executive order by the Mayor of Portland, the office is accountable to the Chief Executive Officer (which is the mayor in Portland), and is not fully independent of the government.⁷

Anchorage, Alaska

The Municipal Ombudsman's Office in Anchorage is an independent, impartial municipal office that is empowered to investigate the acts of Municipal agencies and the Anchorage School District. **The office is available to the public and responsible to the Anchorage Assembly (legislature), and is able to recommend appropriate changes toward the goals of safeguarding the rights of persons and of promoting higher standards of competency, efficiency, and equity in the provision of municipal services.**⁸ This office was created after the City of Anchorage and the Anchorage Borough were consolidated due to citizen concerns that the new, larger government would be less responsive to their concerns.

The office was created in 1977 through municipal ordinance AO 1977-94.⁹ **Thus, the Anchorage Ombudsman is an example of a legislative ombudsman. The Anchorage Ombudsman is selected by and accountable to the local legislative assembly.** The Anchorage Ombudsman additionally was provided with subpoena powers by the local legislature.¹⁰

PRELIMINARY COST/BENEFIT ANALYSIS

⁶ <https://www.portlandoregon.gov/ombudsman/>

⁷ <https://www.usombudsman.org/municipal-government-ombudsman/>

⁸ <http://www.muni.org/departments/assembly/ombudsman/Pages/default.aspx>

⁹ <http://www.muni.org/Departments/Assembly/Ombudsman/Documents/AO%201977-094%20OCR.pdf>

¹⁰ <https://www.usombudsman.org/municipal-government-ombudsman/>

Cost

- City officials would have to respond to requests for information from Office of Ombudsman (i.e. would require additional time/resources from other city employees).
- There may be distrust between ombudsman office and city officials
- Both executive and legislative models bring about unique challenges

Benefit

- Official place for citizens to address their concerns
 - Better relations between City and citizens
- Fewer complaints would go directly to City Commission/Manager/Mayor, giving them additional time to work on their other roles
- Office which can view policy trends and recommend options for policies/programs which appear to be ineffective/unresponsive

PRELIMINARY AND ILLUSTRATIVE LIST OF POTENTIAL STAKEHOLDERS

- City Commission
- City Manager
- Mayor
- City Auditor
- Antonio Silio – Coral Gables
 - Willing to answer more questions

RECOMMENDED POINTS FOR FURTHER RESEARCH/DISCUSSION

- Which structure will suit our city best: Executive v. Legislative?
- Would the office cover citizen complaints for all government services? Specific programs? Include city employee redress?
- Which is preferred, an Official “Ombudsman Office” or intersection of Ombudsman/Board of Ethics/Office of Inspector General?