

CONSTRUCTIVELY MANAGING CONFLICT
ABOUT OPEN GOVERNMENT:
Use of Ombuds and Other Dispute Resolution Systems in State
and Federal Sunshine Laws

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ABSTRACT

People seeking access to public records and meetings under state and federal open government laws have the right to sue in court to enforce them. But several jurisdictions also have alternative systems to handle disputes arising under public access laws. This study applied principles of Conflict Theory and Dispute Systems Design to examine the systems in place in each jurisdiction.

First, formal dispute resolution systems in each jurisdiction were examined, and a typology of systems was developed that identified five models: Multiple Process, Administrative Facilitation, Administrative Adjudication, Advisory, and Litigation. Second, ten experts in the freedom of information field were interviewed to examine any informal dispute resolution systems that may be in place. While few informal systems were found, the sources affirmed the necessity for formal alternative dispute resolution systems. Finally, case studies were conducted of three ombuds programs to examine the effectiveness of these kinds of offices in handling open government disputes.

The study concluded that ombuds programs, if established following the tenets of Dispute Systems Design by using a stakeholder process and building trust for providing independent, impartial and credible oversight, have great potential for constructive conflict management.