

**INSTITUTIONALIZING ALTERNATIVE DISPUTE RESOLUTION:
INSIGHTS FROM THE EXPERIENCES OF STATE LEVEL
ENVIRONMENTAL AND PUBLIC POLICY OFFICES**

by

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A dissertation submitted in partial fulfillment
of the requirements for the degree of
Doctor of Philosophy
(Natural Resources and Environment)
in the University of Michigan
2009

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Acknowledgements

This project would not have been possible without the valuable time and energy the dissertation committee spent helping me with this work. I am particularly grateful to my committee chair for assisting me on this long journey.

The staff of the state EPP offices and others in the field were very generous by taking the time to talk with me and share their amazing ideas, dreams, and challenges in the hopes that others would benefit. The Maryland Mediation and Conflict Resolution Office was amazingly generous with me as I finished this work.

My family, friends, and colleagues were and are amazing, I am grateful for your enduring support and love.

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Abstract

INSTITUTIONALIZING ALTERNATIVE DISPUTE RESOLUTION: INSIGHTS FROM THE EXPERIENCES OF STATE LEVEL ENVIRONMENTAL AND PUBLIC POLICY OFFICES

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Chair: Julia M. Wondolleck

During the 1970s and 1980s, alternative dispute resolution (ADR) emerged as a new decision-making construct for environmental and public policy (EPP) conflicts in the United States. Over the years, there has been a long and varied history of efforts to institutionalize ADR. The focus of this dissertation is on state-level EPP offices, an under studied but well established set of twenty-three organizations that constitute an organizational population. The overarching question of this research is, *what insights can be gained about institutionalization of ADR from the experiences of state EPP offices?*

Review of natural resource management and environmental policy, ADR, organizational theory, and psychology literature provides a context for this research. This interdisciplinary research uses a focused qualitative analysis, which allows for the identification of unexpected patterns, while capturing the data needed to make a sound analysis. Data collection occurred through semi-structured telephone interviews, review of documents, and cognitive mapping of state EPP office directors.

This research starts by developing a systematic understanding of the state EPP offices through a focus on six characteristics. Next, the origins and current influences on the population of state EPP offices are analyzed. A cognitive map analysis is used to better understand the frameworks directors use to make sense of the twenty-three state EPP offices. The final analysis focuses on the institutional logics, that is, the underlying assumptions that influence office leadership.

This research shows that pathways to institutionalization can emerge organically from the bottom up and do not always occur in a top-down manner, a different approach than the typical federal ADR initiatives. While a dominant framing in the literature and among directors is based on the characteristic of affiliation (university, judiciary, executive, independent), the data indicates that affiliation is not predictive of an office's purpose, logic, activities, or budget. In regard to origins, champions are identified as crucial but not the sole element of the institutionalization process. Finally, five logics are identified; these five discrete logics suggest a hybrid logic of effective collaborative governance for the population. Those interested in fostering institutionalization should enhance the networks and the visibility of the population.

Chapter 1

INTRODUCTION

When Washington Governor Daniel Evans invited mediators to help resolve the Snoqualmie River conflict in 1973, he initiated a transformation in environmental and public policy (EPP) conflict resolution in the United States. Like Evans, growing dissatisfaction with traditional EPP methods had led individuals in both the private sector and government agencies to begin to experiment with “alternative dispute resolution” (ADR)¹ techniques (Cormick 1976; Talbot 1983; Bingham 1986; Susskind and McKernan 1999). Early successes with these new methods quickly brought advocacy for institutionalizing an ADR construct² across jurisdictions, locations, and purposes; the subsequent history of ADR is a story of that variously structured institutionalization.

In the private sector, ADR service-providing firms were founded in the mid-to late-1970s. The first state-level institutionalization occurred in 1980 with the creation of the Institute for Environmental Negotiation at the University of Virginia. The U.S.

¹ Alternative Dispute Resolution (ADR) refers to processes intended to assist negotiations, such as mediation, facilitation, arbitration, policy dialogues, and a variety of consensus-based processes. A variety of terms are currently used in the literature and the field; this research intentionally uses ADR as a broad and encompassing term.

² ADR Construct refers to an approach to decision making with a focus on negotiation, often contrasted with rights-based decision making which occurs through litigation. The parties are the prime determinants of the process they use, engage in the process, and are responsible for creating the outcome (Adler 1987).

Environmental Protection Agency began institutionalization with a policy statement in 1981, then a regulatory negotiation project in 1983 (O'Leary and Raines 2001).

Much of the early ADR literature focused on specific mechanisms, such as mediation, regulatory negotiation, etc., and on different aspects of these mechanisms (Golten 1980; Cormick 1982; Carpenter 1983; Susskind and Ozawa 1983; Talbot 1983; Susskind and Ozawa 1985; Cormick and Knaster 1986). Over time, evaluation of these practices and aspects became an important thread in the literature (Bingham 1986; Buckle and Thomas-Buckle 1986; O'Leary 1995; Sipe and Stiffler 1995; Brett, Barsness et al. 1996; Campbell and Floyd 1996; Coglianese 1997; Sipe 1998; Innes 1999). Supporters of the various processes have called for their institutionalization, with the hope of increasing their diffusion and creating more stable funding mechanisms.

A research thread soon emerged that focused on adoption of certain practices and aspects of ADR, adoption predominantly focused at the federal level (Wondolleck 1988; Susskind, Babbitt et al. 1993; Harter 2000; Coglianese 2001; O'Leary and Raines 2001; Nabatchi 2007). The literature indicates that there have been multiple ADR Acts, a Presidential Memorandum, and numerous memoranda from influential agencies, such as the Office of Management and Budget, directing further institutionalization of ADR. Top-down institutionalization of the ADR construct, however, has not been seamless; there have been both success and failures. The result is ADR institutionalization within some units and even some federal agencies, but not a systematic, government-wide adoption. While the requirements of the directives have been met, their intent, diffusion of ADR practices, has yet to be achieved (Nabatchi 2007).

In contrast, the literature on institutionalization of the ADR construct at the state-level is quite sparse. Since creation of the first state EPP office in 1980, there have been only two peer-reviewed articles and four foundation-based reports focused on institutionalization through state EPP offices (Susskind 1987; Drake 1989; Adler 1993; Dillon 1994; O'Leary and Yandle 2000; Policy Consensus Initiative 2005). While this scholarship provides valuable contributions to our knowledge base, many questions remain unanswered. For example, while the literature indicates creation of some state-level infrastructure, it is unclear how many states have EPP offices, what characteristics these organizations exhibit, and what activities the offices are currently engaged in. Because there has been no federal mandate to states, no clear lines of origin exist as occurred at the federal level; similarly, little is known about the factors influencing the emergence of this state-level organizational population. Because state offices were not created by a centralized, top-down mandate, what are the driving logics or underlying assumptions permeating office leadership? Finally, do the office directors view themselves as part of a unified population or as isolated and independent state level dispute resolution offices?

Given that EPP issues have broad financial, ecological, and social impact on state governments and citizens, there is value in better understanding how the ADR construct has been, and is presently, institutionalized at the state-level. Additionally, this research brings new lenses of analysis to the ADR literature which will provide insights about their structure, purpose, and evolution. Finally, this research seeks to address a gap in the scholarship regarding this important but little understood phenomenon, institutionalization of ADR at the state-level.

Research Objectives

In order to contribute to the ADR scholarship and field, the overarching question of this research is, *what insights can be gained about institutionalization of ADR from the experiences of state EPP offices?* Each state has its own unique history, as well as its own social, political, and economic characteristics, and this research can help to build a foundation of knowledge in the ADR literature and provide practitioners and policy makers with new insights about institutionalization. To provide the ADR scholarship with analytical frameworks that have thus far been under-utilized, the research will draw on lenses of analysis from organizational theory and environmental psychology. As a result, the analytical focus will be on the organizational population that the state EPP offices constitute, the individual organizations, and individuals. These levels of analysis allow the following questions to be answered:

First, *what are the characteristics of the offices?* Understanding the characteristics is a basic necessity for understanding any organizational population and provides the data necessary to answer other research questions. The six characteristics measured are: office affiliation, staff size, budget, type of conflicts addressed, how success is defined, and what activities the offices are engaged in.

Next, the research seeks to understand, *what factors explain the emergence of this population and what are the current influences?* One researcher found that, “the presence of a champion or change agent appears to be the most important for EDR adoption.” (O’Leary and Yandle 2000, p. 140-141) However, there is still a gap in our understanding of the emergence of the offices in general and in particular, it is not clear what factors facilitated the efforts of champions. The early literature indicates that in the

beginning, this population of organizations was viewed to be heterogeneous. Are the current influences perpetuating that heterogeneity, or has the population changed over the years and experienced a convergence as it has evolved?

What began as a handful of offices scattered across the country has evolved into a state-level ADR tapestry comprised of twenty-three separate offices across the United States. It is unclear how the directors of these offices perceive this state-level tapestry of ADR activity; thus, the next research question asks, *how do the directors make sense of their office within the broader population, and do they share any norms?* These questions are answered through the exploration of the directors' cognitive maps and by determining what office norms each director identifies.

Finally, the research asks, *what are the institutional logics?* In other words, what are the underlying assumptions influencing the office leadership? Why do the directors and office staff do what they do? For example, a research project found that the logic of a regional medical community had shifted over time from, a logic of “quality of care” to one of “efficiency.” (Scott, Ruef et al. 2000) Determining the institutional logics of the directors of the state EPP offices is important for understanding what underlying assumptions drive their decisions. Understanding the institutional logics also allows this research to identify any evolutionary changes over the last two decades.

Research Design

This research utilized a focused qualitative analysis. Qualitative methods allow for the identification of unexpected patterns, while some focused questions increase the likelihood that relevant data are collected to make a sound analysis possible. The limited scholarship in this area meant that exploration was an important aspect of this research,

and thus reinforced the value of a qualitative approach. While quantitative research methods also provide valuable insight, given the very small size of the data pool (21 states, 23 offices), qualitative analysis was deemed the most appropriate method of inquiry.

Data collection occurred through semi-structured telephone interviews, review of documents, and the directors' explanations of their cognitive maps of state EPP offices. This combination of data collection tools was beneficial for two reasons: First, the multiple sources of information allowed for triangulation of the data, improving the accuracy and validity of the research (Robson 1993). Second, the combination of methods facilitated recognition of patterns (McCracken 1988; Creswell 1994). While past research has described the landscape sufficiently to identify relevant research questions for a focused qualitative inquiry, there were still many aspects and relationships that were not clear. Thus, while this dissertation has focus, the data collection methods facilitate recognition of any unexpected patterns that may exist.

To clearly define what constitutes a state EPP office, this research uses a four-prong test:

- 1) ADR is a primary function of the organization.
- 2) Environmental and/or public policy conflicts is an area of focus.
- 3) The organization is sanctioned by state government.
- 4) The organization has a statewide focus.

The above requirements resulted in the following data pool, see Table 1.1, which lists the name and location of each office.

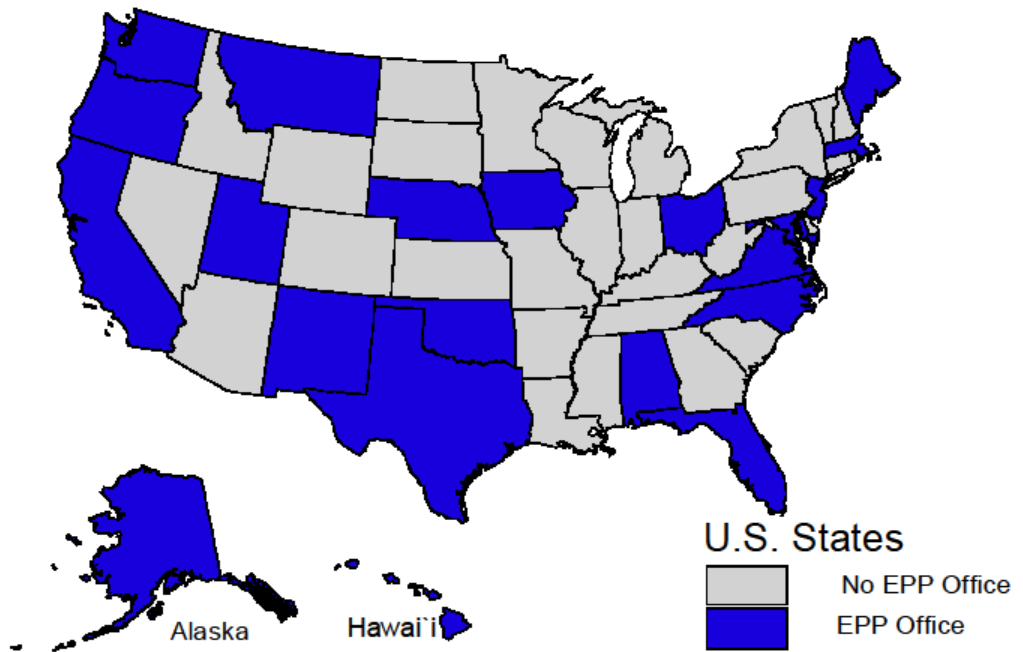
**Table 1.1
State EPP Offices**

State	Office Name	State	Office Name
AL	Alabama Center for Dispute Resolution	NJ	Office of Dispute Settlement
AK	Resource Solutions	NC	Natural Resources Leadership Institute (NRLI)
CA	Center for Collaborative Policy	NC	Public Dispute Resolution Program
CA	Common Ground	NM	Office of Public Facilitation
FL	Florida Conflict Resolution Consortium (FCRC)	OH	Ohio Commission on Dispute Resolution
HI	Center for Alternative Dispute Resolution	OK	Institute for Issue Management and Alternative Dispute Resolution (IIMADR)
IA	Iowa Mediation Service	OR	Oregon Consensus Program
ME	The Office of Court Alternative Dispute Resolution	TX	Center for Public Policy Dispute Resolution
MD	Mediation and Conflict Resolution Office (MACRO)	UT	ADR Coordinator for the State of Utah
MA	Massachusetts Office of Dispute Resolution (MODR)	VA	Institute for Environmental Negotiation (IEN)
MT	Montana Consensus Council	WA	Policy Consensus Center
NE	Nebraska Office of Dispute Resolution		

Both California and North Carolina have two offices within the state. Each office is independent of the other and each engages in statewide activity. Thus, those states are considered to have two state EPP offices. In contrast, the Policy Consensus Center - William D. Ruckelshaus Center has two co-directors, one at the University of Washington and the other at Washington State University. Because they are organized as a single office and operate as a single office, they are counted as a single office. Figure 1.1 provides a graphical representation of the office locations on a map of the United States.

Figure 1.1
State EPP Offices

2005 EPP State Offices



Alabama	Alaska	California-2	Florida	Hawaii
Iowa	Maine	Maryland	Massachusetts	Montana
Nebraska	New Jersey	New Mexico	North Carolina-2	Ohio
Oklahoma	Oregon	Texas	Utah	Virginia
Washington				

Analytical Framework

This research is broadly focused on the organizational population of state EPP offices. However, individuals and organizations are important components of this

institutionalization story. The research therefore takes account of these multiple levels of complexity to gain different perspectives that might offer valuable insights (Scott 1995).

There is no single way to delineate a population (Carroll and Hannan 2000; Scott and Davis 2007). This research draws on Scott's definition, "This concept of *organizational population* is used to identify aggregates of organizations that are alike in some respect—for example, institutions of higher education or newspapers" (Scott and Davis 2007, p. 250)

Moving down one level of analysis to the concept of organization, it, too has no single definition (Scott 1998). For the purpose of this research, an organization is a collective of individuals pursuing a variety of goals influenced not only by the environment, but also exerting influence on the environment.

At the individual level of analysis, two separate analytical frameworks are used: cognitive maps and institutional logic. Cognitive map refers to a simplified mental representation of complex information. For example, people create simplified maps in their minds that allow them to make sense of where they live. Such a map has their home, some major points of interest such as a friend's home, and perhaps a locational cue, such as a highway ramp or a grocery store. In a similar way, the directors of the state offices have cognitive maps of their office in relation to other state EPP offices. Gaining insight into these maps can show how the directors make sense of their world: Do directors cluster some offices together into a group? If so, why? Cognitive mapping informs this research with regard to how the directors view their office in the context of the broader population, and how they mentally organize or group the various offices.

Institutional logic, the other individual-level analytical component, is an organizational framework used to illuminate the assumptions (logics) behind stated goals. Institutional logics are defined as, “the cognitive frames and underlying assumptions that constitute the “organizing principles” for pursuing goals in a given arena” (Scott 1998, p. 223) Using this framework of analysis allows this research to move past artifacts, such as office affiliation, and to determine: What are the underlying assumptions driving the offices? Are there any commonalities in this population?

Historical Context

With increasing awareness of the public’s environmental concerns, and the broader social changes occurring in the 1960s and early 1970s, legislators began creating a groundswell of new environmental laws. These changes occurred at both the federal and state level (Browne and VerBurg 1995, p. 280). Compared to the political nature of the legislative decision-making processes, the courts were seen as a neutral decision-making bodies and thus, the best “arbitrators” of environmental conflicts. For example, in 1970 the Michigan Environmental Protection Act (MEPA) was passed;

The legislation also institutes court procedures to settle disputes. These procedures are designed to identify the critical issues behind a complaint and to resolve them without sentiment or prejudice to either side. Because the adversaries in environmental disputes were seen to be unusually determined foes, with full intentions of carrying out extensive campaigns, the legislature chose the courts as arbiters. Advocates of MEPA feared the consequences of either the normal routine of negotiated compromises or of gridlock in the legislature or the administration. (Browne and VerBurg 1995, p. 280)

One crucial aspect of the new laws was that the courts interpreted the laws as giving plaintiffs standing before the courts, thus shifting the dynamic from a power-based to a rights-based system. The result was that government agencies were no longer isolated

decision-makers; plaintiffs could, and did, sue to have the courts review EPP decisions by government agents.

While one of the hopes behind this shift to the courts as final arbiter was that they would expedite protracted EPP conflicts; the reality proved otherwise. While the U.S. federal and state court systems did bring clarity to legislative language and created new legal precedents, some EPP conflicts soon became bogged down in the court system. Conflicts over power plants' impact on the Hudson River Valley region of New York, for example, worked their way through the court system for nearly fourteen years (Table 1.2). This conflict provided important legal precedents, but the legal process provided no resolution to the conflict.

Table 1.2
Storm King Litigation Timeline

1965	Scenic Hudson v. Federal Power Commission (FPC)
1971	Scenic Hudson v. FPC
1974	Hudson River Fisherman Ass'n v. FPC
1974	Scenic Hudson v. Callaway
1977	Edison challenges U.S. EPA's permit jurisdiction

In 1979, the parties chose to utilize mediation, since they had “been arguing the same issues for close to 14 years, and there was no end in sight.” (Talbot 1983, p. 13)

Although the court system did not eliminate the gridlock as hoped, with the courts as a back-stop, negotiation became a more viable mechanism for resolution (Bacow and Wheeler 1984; Ury, Brett et al. 1993; Goldberg, Sander et al. 1999). Interest-based negotiation became more acceptable to disputing parties with the altered dynamics of power (Bacow and Wheeler 1984; Ury, Brett et al. 1993; Browne and VerBurg 1995). As a result, environmental mediation and other ADR processes emerged as more attractive mechanisms to disputants than those available in legislative and court forums.

The combination of gridlock, slow implementation, desire for the best possible outcome, and responsibility for effective and timely decision making spurred some states to utilize ADR processes. State-level institutionalization of EPP conflict resolution and decision-making processes began because of some success, and the belief in its potential for more.

The balance of power between the state and federal governments has never been static in the realm of environmental policy. States recently have a more active role (Rabe 2006), while the federal government played the dominant role for much of the 20th century; “America is in the midst of a ‘devolution revolution’ as increasing amounts of the responsibilities for governing the nation are shifted to the American states.” (Hedge 1998, p. xi) For example, the U.S. EPA acknowledges that, “Forty-four states play a major role in implementing the Clean Water Act’s National Pollutant Discharge Elimination System program.” (US EPA 2001, p. i) Similarly, the Clean Air Act (1990) depends upon the important role of states through its establishment of State Implementation Plans (SIPs). States are presently responsible not only for implementing various aspects of many federal regulations, they have their own set of regulations, lands to manage, economies to foster, and citizens’ interests to address. When conflicts arise, state governments are often situated between federal government, industry, environmentalists, and their own interests; a challenging place to be in the best of situations and, as states have learned, an often untenable place when dealing with intractable and complex EPP conflicts.

Institutionalization

Institutionalization of ADR processes for EPP issues has been controversial from the beginning (Bingham 1986; Institute for Environmental Negotiation and RESOLVE:

Center for Environmental Dispute Resolution 1992). Additionally, the reason for pursuing institutionalization have varied, some hoped for stable funding mechanisms for practitioners. Others hoped institutionalization would lead to broader use of the processes, or would move their ad hoc use to a systematic application. While it is easiest to think of institutionalization in a binary framing, i.e., as something that is either institutionalized or not, the diffusion of innovation literature indicates there are many levels and ways in which institutionalization can occur (Rogers 2003). Certainly, this spectrum of institutionalization is apparent in state governments' approach to conflict resolution. Some states pass legislation allowing the use of mediation to resolve cases in litigation. Others have executive orders requiring each agency to designate an employee as their ADR coordinator. Some states have created formal offices of dispute resolution. There is no universal process by which institutionalization occurs in a complex and dynamic world, as evidenced by this research. Instead, this research analytically and descriptively frames the many approaches to institutionalization presently demonstrated in state offices of dispute resolution having EPP initiatives.

In fact, creation of a state office is only the first step of institutionalization. Institutionalization has been described as, "the process by which actions are repeated and given similar meaning by self and others ... the process by which social reality is constructed." (Scott and Davis 2007, p. 260) The creation of an office provides a mechanism to foster shared meanings of conflict resolution and a hub of activity which can lead to repeated activity. While creation of an office is a first step in constructing a new social reality of conflict resolution, four walls and a computer alone do not sustainably alter the existing institutional arrangement. There must be engagement,

activity, learning, and expansion of the new conflict resolution social reality beyond the four walls of an office to a broader base across the state. DiMaggio reminds us there are multiple challenges involved in institutionalization; “even when an organizational form becomes institutionalized, its diffusion is rarely complete.” (DiMaggio 1988, p. 16) In short, this research seeks to gain insight into how ADR processes have been institutionalized by state government as a means of altering how EPP conflicts are addressed on a statewide basis.

Chapter Organization

Chapter Two reviews the literature that informed this research. Because this research focuses on an applied issue that cuts across disciplinary boundaries, it requires an interdisciplinary approach. This chapter draws on historical and current natural resource/environmental policy, organizational theory with a focus on institutionalism, and the conflict resolution literature.

Chapter Three is the research methods chapter. It provides a rationale for and description of data collection methods and instruments, as well as for data analysis techniques.

Chapter Four identifies organizational forms of offices and analyzes characteristics to delineate variations in terms of function and structure. The main goal of this chapter is to assess what currently exists, thus providing the necessary data for analysis in later chapters.

Chapter Five looks more closely at the state EPP office population, to determine what factors explain its emergence, as well as what factors continue to shape it. The first portion focuses on the specific factors and catalysts that facilitated the efforts of

champions to create the state offices; the latter portion examines current external influences on the offices. These two "closer looks" are important because the population evolved from a handful of scattered offices into a fairly widespread tapestry which implements ADR processes at a statewide level for EPP disputes. Yet little is known about this emerging population.

Chapter Six steps one level closer, analyzing the cognitive maps of the state office directors as to whether they view their offices as unique, or as part of a population of state-level offices and discusses their perceptions. As a result, the chapter proposes a framing of the offices which few directors consciously acknowledge, i.e., that, even though the directors do not see themselves as part of a single population, the twenty-three offices do, in fact, constitute a single population.

Chapter Seven then uses an institutional logic framework to identify five underlying assumptions (i.e., institutional logics) which are characteristic of the population and which drive many of the offices. While there is some variance in logics among the offices, there is also a common theme. The chapter also compares current institutional logics with the early goals of the ADR field to identify evolutionary changes occurring over the years, i.e., from an emphasis on court congestion to an emphasis on effective collaborative governance.

Chapter Eight summarizes the findings and then discusses the conclusions and recommendations that can be drawn from this research. The discussion focuses on the soft convergence of a population which, interestingly, many actors within the population do not see. Next the chapter provides a more nuanced understanding of the origin story, adding to the existing literature's focus on champions by providing insight into the

factors that facilitated the work of champions. Another conclusion is that this research indicates that institutionalization has not lead to rigidity despite some fears expressed in the early development of EPP ADR. Next, the myth of affiliation is discussed and an explanation explored. Finally, two recommendations are made: to increase the visibility of the population and enhance networks.

Chapter 2

LITERATURE REVIEW

The over-arching question of this research is: What insights can be gained about institutionalization of ADR from the experiences of state EPP offices? This chapter starts with a focus on the literature regarding U.S. natural resource and environmental management practices and the resulting conflicts that helped to create a climate facilitating the institutionalization of the ADR construct. The focus then narrows to the environmental and public policy conflict resolution literature, highlighting six studies on state-level EPP conflict resolution that provide an understanding of relevant past work. Next, the chapter explores the literature which forms the lenses of analysis for this research: the organizational theory literature. This body of research, with its focus on institutionalism, will be used to guide the level of analysis in the present study by framing the concepts of population, champions, institutional logic, and institutionalization. Finally, the chapter introduces the analytical lens of cognitive maps through a review of the literature on that construct.

Natural Resource and Environmental Management

The management of both U.S. natural resources and of environmental issues has evolved as governmental and popular perspectives, values, and needs have shifted over

time. The first major shift occurred with Europeans' colonization of North America. Colonists and their related governmental structures utilized a rigid ownership framework for land and natural resources. Additionally, European concepts of wilderness and religion facilitated a commoditization of colonists' perspective of natural resources (Nash 1982). Managing natural resources as either personally useful materials or as valuable articles of commerce continued throughout the decades of colonial rebellion and development of a federal government; the new government sought both to encourage its citizens to expand inland, and at the same time, to establish itself internationally.

The progressive era of the late 19th and early 20th centuries marked another significant shift in the management of natural resources and environmental issues. The “closing” of the western frontier and increased settlement activity changed expectations and brought about pressure for better governance institutions free of nepotism, corruption, and minimal regulation (McKinney and Harmon 2004). This pressure contributed to a progressive policy movement at both the federal and state-levels (Browne and VerBurg 1995). Gifford Pinchot and others advocated for “scientific management”, i.e., management of natural resources by individuals having technical expertise rather than familial or political connections (Nash 1982; Wondolleck 1988; McKinney and Harmon 2004).

Early on in this new era, the term "conservation" applied to all those interested in shifting natural resource management from the old system of nepotism to the progressive system of scientific management. However, a schism occurred between those favoring preservation and those advocating utilitarian conservation.

The schism ran between those who defined conservation as the wise use or planned development of resources and those who have been termed preservationists, with their rejection of utilitarianism and advocacy of nature unaltered by man. (Nash 1982, p. 129)

John Muir served as an early leader of the preservation movement, while Gifford Pinchot was a leader for those with a utilitarian conservation approach. Conflict quickly occurred among those wishing to set aside land for preservation (e.g., for national parks) and those wishing such set-asides for utilitarian conservation (e.g., national forests). Conflict over the Hetch Hetchy Valley in California elevated the preservation vs. utilitarian conservation argument to a national media debate, and ultimately, the issue was decided by Congress and President Wilson, with utilitarian management being utilized for Hetch Hetchy. While state and federal governments have predominantly adopted a utilitarian approach (with some preservation activity), the conflict has continued for the last 100-plus years. There has been constant pressure on policy by those who feel “locking up” land and natural resources is stealing the prosperity of a nation (Bryner 1998).

Pinchot’s successes in advocating for scientific management and changes in resource management perspectives during the progressive era also resulted in technically trained staff filling government natural resource management positions. Over time, an “expert” orientation emerged among these natural resources decision-makers, with the public often being excluded from meaningful participation (Wondolleck 1988; McKinney and Harmon 2004). However, the 1960s and 70s were a time of social change for the U.S., and once again there was a shift, which included both a growing awareness of and concern for environmental and natural resource issues. In addition, multiple high-profile factors emerged during this period that spurred a sense of crisis, such as publicity around

the book Silent Spring (Carson 1962), the Cuyahoga River fires in Ohio, and the oil spill along California's Santa Barbara Channel. One outcome of these forces was heightened public and political concern over the environment; another was the creation of new environmental laws. These new laws made it easier for plaintiffs to achieve legal standing before the courts. Ultimately, the new laws changed the way in which environmental and natural resource management decisions were made, since the public could now challenge the decisions of government agents in court.

At the time, the courts were viewed as the ideal forum for resolving environmental and natural resource disputes because they were thought to be able to "resolve ...[disputes] without sentiment or prejudice to either side." (Browne and VerBurg 1995, p. 280) The hope was that court decisions would avoid the contentious debates, environmental harm, and would end the gridlock that had already begun to occur in state and federal legislatures where both sides sought to win at any cost. Redirecting contentious decisions to the courts, however, did not end the conflict because government agents were still in the position to make decisions; individuals and groups had simply gained the ability to challenge those decisions in court, i.e., to halt, delay, or significantly alter the decisions' implementation. For example, the environmental impact statements required by the National Environmental Policy Act (1970) have been used by many as an avenue to seek redress via the court system. An elite group of technocrats was still in the position to make decisions, but implementation of their decisions was no longer a given; it was subject to the review of the courts (McKinney and Harmon 2004).

Environmental and Public Policy Conflict Resolution

Increased access to the courts changed the conflict dynamics from a power-based (lobbying legislators) process to a right-based (courts) process (Lake 1980; Ury, Brett et al. 1988). While the federal and state court systems did help to bring clarity to legislative language and intent around natural resource and environmental issues, the conflicts quickly became bogged down in the court system. The increased number of lawsuits and the slow pace of appeals processes resulted in a judicial form of gridlock for implementation of natural resource and environmental issues (Talbot 1983; Bingham 1986; Susskind and Cruikshank 1987). Additionally, litigation can shift the focus from the substantive issue in a conflict to procedural issues (Lake 1980). While it can be important for a court to rule on a procedural issue of due process, often this does not address the underlying environmental conflict; such rulings leave the parties locked in a dispute that can go on for years and have broad impact, as evidenced in the Storm King dispute which was litigated for fourteen years before mediation was used to resolve the conflict (Talbot 1983). While litigation can help ensure that agencies respond to public input, it can also drain agency resources. Some expressed concern that agencies had become so focused on responding to lawsuits and court orders, they no longer had the resources to focus on natural resource and environmental protection (McKinney and Harmon 2004). Senator Humphrey advocated for the National Forest Management Act in order to "get the practice of forestry out of the courts and back to the forests." (Humphrey 1976, p. 33835) The will to experiment with ADR processes emerged from this gridlock and frustration (Cormick 1976; Talbot 1983; Bingham 1986; Susskind and Cruikshank 1987).

Adoption of ADR Processes

While ADR processes had been used for centuries in the U.S. to address commercial disputes, it was not until the 1970s that the setting was right for the application of ADR processes to environmental issues (Barrett and Barrett 2004). Soon after Cormick and McCarthy's use of mediation with the Snoqualmie River conflict in 1973, ADR processes were also applied to public policy issues (Cormick 1976; Talbot 1983; Bingham 1986). This research uses "environmental and public policy" (EPP) to refer to decision-making processes focused on natural resource, environmental, and public policy conflicts.

Because applying ADR processes to EPP issues was a new phenomenon, much of the early EPP literature focused on defining the processes, understanding their appropriateness in various types of conflicts, and identifying factors influencing the processes (Cormick 1980; Susskind and Weinstein 1980; Talbot 1983; Bacow and Wheeler 1984; Bingham 1986; Susskind and McMahon 1987; Carpenter and Kennedy 1988; Wondolleck 1988). The literature also presents concerns over the accessibility to and impacts of ADR processes in disputes (Abel 1982; Fiss 1984; Delgado, Dunn et al. 1985; Amy 1987; Grillo 1991; McCloskey 1996; Coglianesi 1997; Coglianesi 1999; Coglianesi 2001; Menkel-Meadow 2003). Among the concerns are fear of co-optation, disempowerment of minorities, privatization of justice, and marginalization of national environmental policies vis-à-vis local interests. Given that some of the early ADR literature had an advocacy tone, it was and still is important to question the value of these processes (Todd 2001). Every decision-making process possesses strengths and weaknesses; parties involved in a conflict must carefully consider the most appropriate

forum for resolution, given each one's strengths, weaknesses, and interests (Crowfoot and Wondolleck 1990).

As ADR processes were applied to more EPP issues, evaluation became an important thread in the literature. Initially, there was a focus on outcome as the indicator of success, with agreement between disputing parties and implementation serving as the measures (Susskind and Weinstein 1980; Cormick 1982; Talbot 1983; Bacow and Wheeler 1984). The focus soon broadened beyond outcome to process measures that provided deeper insight to the strengths and weaknesses of ADR processes (Susskind and Ozawa 1983; Bingham 1986; Buckle and Thomas-Buckle 1986). Process measures take into account factors such as fairness, efficiency, and changes in relationships among disputing parties. Today, use of both outcome and process measures is more common (Innes 1999; Todd 2001). While the literature has relied predominantly on qualitative data, evaluations have also used a quantitative approach (Bingham 1986; Floyd, Germain et al. 1996; Coglianesi 1997; Sipe 1998; Harter 2000; Andrew 2001; Coglianesi 2001). Again, each method has its strengths and weaknesses, yet both types have shown the value of utilizing ADR processes to address EPP conflicts.

Ad hoc use of ADR processes characterized the first decade of practitioner activity (Cormick 1976; Bingham 1986). As a successful track record started to emerge, advocates of EPP conflict resolution processes sought to create institutional mechanisms supporting these processes. Some felt this approach would move the field ahead, others wanted ADR processes made available to the wider public, and still others felt institutionalization would minimize potential abuse (Bingham 1986). Thus, the literature spun a new thread, focused on institutionalization.

Federal Level Adoption of ADR

Most studies of institutionalization focus on the federal level (Wondolleck 1988; Susskind, Babbitt et al. 1993; Harter 2000; Coglianese 2001; O'Leary and Raines 2001; Nabatchi 2007). The research indicates that institutionalization of ADR at the federal level was driven predominantly by top-down mandates (Nabatchi 2007, p. 658). The Administrative Dispute Resolution Act of 1990 authorized the use of ADR by federal agencies. This was followed by the Administrative Dispute Resolution Act of 1996, which required the designation or creation of a federal agency committee to which all federal agencies would report their ADR activity. Subsequently, memorandums directing the use of ADR have been issued by a President, Office of Management and Budget, and the President's Office of Environmental Quality, to name a few. The research shows that the level of implementation has varied across federal government and full institutionalization tends to be the exception rather than the norm. Additionally, the research identifies multiple challenges to institutionalization such as; line personnel fearing loss of control, lack of support from colleagues or supervisors, lack of settlement authority among government officials at the table, and fears of appearing weak or of ADR reducing agency legitimacy.

The outcome of the top-down institutionalization effort by federal government has resulted in some units integrating ADR practices into their routine practices. However, in general, broad agency or government-wide adoption and integration of ADR into EPP decision-making practices has not occurred. A recent study concluded, "that although agencies have complied with the direct requirements of the ADR Acts, the intent of the acts has not been fully realized." (Nabatchi 2007, p. 658)

State-Level Institutionalization - State EPP Offices

Concurrent to the centralized, top-down mandate at the federal level, institutionalization of ADR was happening at the state-level, but in a completely different manner: the result has been creation of a new and only minimally understood phenomenon, the emergence of a state-level EPP office population.

Six published studies and a dissertation have analyzed the institutionalization of the ADR construct at the state-level, i.e., the state EPP offices. Four of these reports provide descriptive accounts of offices and identify lessons learned (Susskind 1987; Drake 1989; Dillon 1994; Policy Consensus Initiative 2005). Peter Adler (1993) provides an historical account of the offices, as well as a two-phase framework of the offices, while O’Leary and Yandle (2000) propose and test three hypotheses. These articles, discussed below, constitute the publicly available knowledge base of the efforts to institutionalize EPP conflict resolution processes in state offices.

The first state EPP office can be traced to Virginia, where funding from the Virginia Environmental Endowment was used by faculty to create an office at the University of Virginia in 1980 (Williams 2002). The first study of efforts to institutionalize EPP conflict resolution in statewide offices, however, did not occur until the National Institute for Dispute Resolution (NIDR) fostered formation of five offices in Hawai`i, Massachusetts, Minnesota, New Jersey, and Wisconsin in 1985 (Susskind 1987). The Vice President of NIDR gave Susskind credit for motivating NIDR’s interest in the idea of state offices; Susskind had written a letter to NIDR in 1983 “to discuss the concept he [Susskind] called ‘governor’s offices of mediation.’” (Drake 1989, p. 344)

The combination of NIDR's financial resources and Susskind's interest in the subject matter led to the first study of state EPP offices soon after the NIDR initiative began (Susskind 1987). The first thing Susskind noted when comparing the five new offices was the heterogeneity among them. Each office had been created within a different part of state government, with a focus on different activities. However, one common theme among all of the offices was a challenge to develop long-term funding mechanisms. The budgets of the offices were being supplemented by foundation grants. None had yet found a sustainable funding mechanism because state governments were reluctant to commit to fully funding the offices. Some offices had started charging a nominal fee for services, while the primary sources of funding for most was a mixture of state government and foundations. Susskind's work provides a descriptive account of the offices, as well as an historical buoy of the early years of institutionalization, as data collection began approximately one year after creation of the five NIDR offices.

A few years later, William Drake (1989) published an update on NIDR's efforts to foster statewide offices. This article provides insight to the approach and motivations for the NIDR initiative. The best way to expand the use of ADR, they believed, was to "create mediation providers that were publicly funded and sanctioned." (Drake 1989, p. 340) Using this approach, they created demonstration projects to show leaders in other states their potential and also to help foster a market for practitioners. Instead of using a cookie-cutter approach, Drake indicated that the philosophy of NIDR staff was to tailor each office to each state. Like Susskind's study, Drake's work provides a description of events, as well as an important snapshot of the offices' early years.

While the few earlier studies of state offices had focused on identifying the individual offices and explaining the motivations and goals of the NIDR staff in fostering them, Peter Adler's article is an historical analysis of the offices that provides a multi-phase framework of ADR activity (Adler 1993). Adler argues that, in 1993, the state offices had started to move into a second phase. While the first phase focused on refining ADR procedures and creating trained practitioners, this second phase was a time of testing ADR processes in a variety of settings. Activities centered on developing systematic approaches and modifying institutional arrangements over the long term through emphasis on laws, rules, and policies that govern decision-making. Adler argues that one function of the second phase office was to operate as part of a national network, to "ensure a flow of useful information to, from, and between state offices." (Adler 1993, p. 1025) Adler concludes by noting the heterogeneity of office forms, and arguing that institutionalization of these offices is just one goal. "Second generation" offices, he argued, should focus on changing the institutional methods as well, to ensure "fairness, efficiency, informed participation, wise outcomes, and the reduction of injustice." (Adler 1993, p. 1027)

Adler's work (1993) also reaffirms the earlier work of Goldberg, Green, et al.

(1985) which identified four main goals of the ADR field at the time:

- (1) to relieve court congestion and undue costs and delays;
 - (2) to enhance community involvement in dispute resolution;
 - (3) to facilitate and improve access to justice; and
 - (4) to provide more effective forums for conflict resolution
- (Goldberg, Green et al. 1985, p. 5; Adler 1993, p. 6)

These goals were identified just as the first state EPP offices were being created, providing this research with a point of comparison, specifically when analyzing the current institutional logics driving the state EPP office directors.

A year later, NIDR published a briefing paper for state policymakers on the state offices (Dillon 1994). This document provides examples of state office activities and lessons learned. The heterogeneity of the offices is again noted,

The most important 'lesson learned' according to the directors of statewide offices of dispute resolution and others who have worked closely with these offices, is that *no two offices are alike and there is no single model for creating and structuring an office.* [emphasis in original] (Dillon 1994, p. vi)

The heterogeneity of the offices is clearly a theme throughout the early literature; the present research seeks to determine whether heterogeneity is still the case or if the last twenty-five years has resulted in a convergence.

O'Leary and Yandle's (2000) study of state EPP offices is the most comprehensive to date. The goal of their research was to assess states' adoption of EPP conflict resolution processes and to determine reasons for different levels of success.

Three hypotheses were tested in this research and reported in the article,

- States with strong commitment to environmental protection efforts will have strong EDR (Institute for Environmental Negotiation and RESOLVE: Center for Environmental Dispute Resolution) programs ...
- States with high management grades will have strong EDR programs; and
- States with high capacity grades will have strong EDR programs. (O'Leary and Yandle 2000, p. 140-141)

The authors used three rating systems to analyze the states. Two preexisting rating systems were the Lester Rating and the Government Performance Project that respectively measure state environmental commitment-institutional capacity and financial-human management capacity. O'Leary and Yandle also created their own

rating system to compare the states' EDR programs; the instrument uses six measurements: specific EDR legislation, program, full-time staff, funding, high-level support, and neutrality of office. The authors found that “the hypothesized relationships do exist ... but for all hypotheses the relationship is neither strong nor dramatic.” (O'Leary and Yandle 2000, p. 151) The authors' view on adoption is that champions are a crucial component of creating offices:

... the presence of a champion or change agent appears to be the most important for EDR adoption. In each of the eight states that earned an EDR grade in the A range, there were EDR champions who, at the right place at the right time, advocated EDR. (O'Leary and Yandle 2000, p. 151)

This dissertation will build upon the above work by determining what created the right place and right time. In other words, this dissertation seeks to understand the emergence of the offices and what factors or catalytic events created an environment that facilitated the work of champions who were able to create state EPP offices.

The most recent study of institutionalization of ADR processes at the state-level that includes EPP state offices focuses on offices within state universities; Finding Better Ways to Solve Public Problems: The Emerging Role of Universities as Neutral Forums for Collaborative Policymaking (Policy Consensus Initiative 2005). The Policy Consensus Initiative (PCI) study describes the programs and lessons learned over the years. Like previous studies, this one notes the heterogeneity among offices. To emphasize their diversity, the authors extracted the following sentences from the main text, enlarged the font size, added shading, and placed the text as a caption at the top of the report's overview page;

University-based programs engaged in collaborative policymaking are tremendously diverse. Indeed, no two programs are alike. (Policy Consensus Initiative 2005, p. 3)

Like O’Leary and Yandle (2000), the PCI report identifies champions as important to creating and sustaining support for state-level offices. Another assertion of the report is that, “Location does matter, although there is no generalizable experience that suggests one model is preferable over another.” (Policy Consensus Initiative 2005, p. 8) For example, university units with a scholarship focus will have different values than units with a public service focus. These value differences can lead to different expectations and evaluation criteria on the part of the host units. The report concludes that universities are in a unique position to address complex public policy issues, and that the top three lessons learned are: location and context are key considerations, champions are vital, and the offices need to “walk the talk” by acting in a collaborative manner with stakeholders inside and outside the university.

While the above discussion has focused on six published studies, there is an unpublished dissertation of note (Purdy 1994). Jill Purdy’s graduate degree is from the Smeal College of Business Administration and, in line with that academic focus, the “primary goal of this research is to examine the links between organizational agency, organizational outcomes and institutional environments.” (Purdy 1994, p. iii) The phenomenon utilized to provide insight to the theoretical exploration are “ a group of thirteen organizations that resolve public policy disputes using alternative dispute resolution techniques.” (Purdy 1994, p. iv) While Purdy’s data pool includes both U.S. and Canadian organizations, there is overlap between Purdy’s U.S. data pool and the twenty-three organizations studied in this research. Purdy was interested in bringing

resource dependence issues into institutional theory; this integration of theories was accomplished by utilizing an organizational agency construct.

The most relevant finding for this research is that Purdy identified the emergence of an “ideal model” for the offices. “Meetings of the National Council of State Dispute Resolution Programs (NCSDRP), which is NIDR-related, help encourage the growth of this ideal.” (Purdy 1994, p. 119) NCSDRP was a short lived council designed to serve as a mechanism for exchanging information and technical support among the staff of state offices (Dillon 1994). Purdy describes and explains the ideal model along three lines:

- Prioritizing program development over direct service;
- Maintaining a roster of certified mediators; and
- Educating and training constituents about ADR.

However, soon after Purdy’s work was concluded, NCSDRP ceased to exist³, raising the question: Was the void filled, or is the population no longer experiencing a unifying influence? Purdy’s work also indicates that perhaps heterogeneity was going to fade, given the early emergence of an ideal model. Is that the case, or with the ending of the NCSDRP, is heterogeneity still the norm?

The early articles provide important historical insight, but their value is limited because there were only a handful of state offices to study and only a few years of evolutionary change to observe. While the later articles survey a longer history, they use a narrow focus to provide depth to the analyses; the resulting depth, however, answers some questions but raises others: Is this population still heterogeneous or have changes occurred over the last twenty-five years? What characteristics do the offices exhibit? What factors explain the emergence of this population and what are the current

³ No records were found to explain the end of NCSDRP.

influences? How do the directors make sense of their office within the broader population and do they share any norms? What are the logics driving these state-level organizations? In order to answer these questions, this research draws on the organizational theory literature to provide frameworks of analysis.

Organizational Theory - Institutionalism

This research seeks to not only build upon past ADR literature focused on the institutionalization of the ADR construct at the state-level, but also utilize frameworks of analysis that have not traditionally been a part of the ADR scholarship but which can provide new insights. The organizational literature guides this research in levels of analysis and frameworks for studying institutionalization of the ADR construct. Given that organizational theory has not been a dominant part of ADR scholarship, this part of the discussion begins broadly, then focuses in on the lenses of analysis that are being utilized in this research: population, emergence focused on factors facilitating champions, institutional logic, and institutionalization.

This dissertation does not assume there is but one truth to be found in studying institutionalization of the ADR construct; instead, as Scott argues, there are a variety of lenses of analysis that can provide insights: “[I]t is essential to remember that definitions are neither true nor false but are only more or less helpful in calling attention to certain aspects of the phenomenon under study.” (Scott 1998, p. 28) The present study has adopted an institutional framework, while investigating the phenomenon of institutionalization of EPP offices. However, even with this narrowing of the focus, there are still a variety of perspectives, theories, and schools of thought (DiMaggio and Powell 1991). Within institutionalism, a divergence occurred between “old” and “new” (Powell

and DiMaggio 1991). While segregation of theories into schools or theoretical camps can provide clarity by drawing boundaries, such segregation itself has limitations, particularly when dealing with organizations and research that crosses disciplinary boundaries. One theory does not apply to all aspects of every organization (Selznick 1996; Morgan 1997). The research for this dissertation finds value in both old and new institutionalism, even though they have been polarized in the past; there are, in fact, common threads across “old” and “new” institutionalism, and drawing from both schools will provide a more holistic analysis (Brint and Karabel 1991; Selznick 1996).

New institutionalism’s theoretical strength for this research is the distinctions it makes between organizations and institutions, and providing the framework of organizational fields (Scott 1995). The concept of *organizational field* is useful to analysis because it takes into account multiple actors and highlights broad interactions (Scott 2002). Organizational field has been defined in multiple ways. Early on, fields were framed around industrial domains (DiMaggio and Powell 1983, p. 148). This research however, draws from Scott (1995) and Hoffman’s (1999) conception of organizational field.

Fields are defined in terms of shared cognitive or normative frameworks
.... The notion of field connotes the existence of a community of
organizations that partakes of a common meaning system and whose
participants interact more frequently and fatefully with one another than
with actors outside of the field. (Scott 1995, p. 56)

An important aspect of framing the organizational field is to understand that a field is formed around a central issue, not a specific technology or organizational structure (Hoffman 1999).

Thus, for this research, organizational field is not defined around a specific technology such as arbitration, but around the central issue of ADR. A field is not a static framework; rather, it changes with time, as new players enter and exit the field. Additionally, the debates occurring within a field are also in flux. Unresolved issues and competitions may persist, while other conversations that previously were contentious have become routines, norms, or even regulations. Such a framework provides insight to how these state offices fit into the United States tapestry of conflict resolution programs. This framing is important since it allows this research to take account of multiple levels (actors, organizations, and populations) within the ADR field, as well as the changes that are occurring within those levels (Powell and DiMaggio 1991; Scott 1995; Selznick 1996; Scott, Ruef et al. 2000).

While new institutionalism has its theoretical strengths, this framework tends to focus on the functioning of organizations (Brint and Karabel 1991). However, an important aspect of this dissertation is to understand the genesis of the state EPP office population. Old institutionalism highlights the value of gaining a deeper understanding of emergence. Therefore, in line with old institutionalism, this research also takes account of the emergence of the state EPP population. Utilizing multiple frameworks of analysis provides this research with a multidimensional analysis.

These frameworks highlight different but important aspects of the state offices. Often, the focus of organizational research is on measuring outcomes, a prudent and responsible research approach given the democratic values of America and the fact that some state EPP offices use taxpayer dollars. However, outputs are not the whole story; diversity of organizations is also an important subject, particularly the diversity of ideas

and approaches that constitute part of the United States' institutionalized ability to address natural resource/public policy conflicts. These state programs and their diversity are an important repository of the nation's ability to respond to both conflict and change in a dynamic and fluid world where success can no longer be measured as static outputs.

This literature suggests that it is worthwhile to focus analysis on organizational population, understanding the factors facilitating champions, and institutional logic. These lenses of analysis are likely to provide insight to the phenomenon under study, thus allowing this research to make new contributions to the ADR scholarship and practitioner community.

Population

There is no single way to delineate a population (Carroll and Hannan 2000; Scott and Davis 2007). The organizational literature, specifically the institutional and ecological literatures which explore population as a framework of analysis, highlights the variety of ways to delineate populations. One definition put forward in the literature is, “This concept of *organizational population* is used to identify aggregates of organizations that are alike in some respect—for example, institutions of higher education or newspapers” (Scott and Davis 2007, p. 250) Early on, some research used the perspective of the biological sciences to inform their definitions of population, the biological concept of genetic structure being analogous to a blueprint of organizations. As Hannan and Freeman (1997) described it, “So for us, an organizational form is a blueprint ... formal structure of the organization ... patterns of activity within the organization ... normative order” (Hannan and Freeman 1977, p. 935) Over the years, these researchers and others have developed multiple definitions for populations,

i.e., organizational form, elements of dominant competence, statistically measured characteristics, and “native” common sense definitions (Scott and Davis 2007).

In line with the majority of empirical studies of organizational populations, this research relies on common sense (e.g., hospitals or newspapers) and geographical (e.g., fifty states) bounding to delineate a population (Scott and Davis 2007). Technical core is also used to add refinement. Technical core refers to what an organization does, i.e., the central tasks in which an organization engages (Scott 1998). For example, the technical core of Congress is legislating; for schools, it is teaching; for EPP offices, it is conflict resolution. The organizations in the study population all have a focus on conflict resolution; they all engage in EPP conflict resolution; and they all employ ADR processes to carry out their activities.

Because the studied organizations constitute a population and have a variety of forms, isomorphism would seem like a logical analytical framework. While isomorphism can provide important insight into diffusion within an established field, it is less relevant when studying an emerging population that has no strongly developed patterns or values (Ehrenfeld 2002; Maguire, Hardy et al. 2004). Additionally, the literature notes isomorphism has been used extensively, “often to the neglect of more textured conceptions of the structuring of organizational fields...” (Hoffman and Ventresca 2002, p. 22) By weaving together actors, organizations, and population, this research seeks to develop a more textured understanding of the targeted portion of the ADR field, the state EPP office population. Inclusion of these multiple levels can provide unique perspectives leading to valuable insights about the phenomenon being studied (Scott 1995).

Factors Facilitating Champions

When studying organizations and populations, the role of individual champions can be lost in the analysis of the broader activity. Early institutionalism studies explored the role of actors in facilitating institutional change (Selznick 1949), but then there was a period during which the studies “tended to overlook the role of actors in institutional change.” (Leca, Battilana et al. 2008, p. 3) Scholarship has recently begun to argue for taking better account of the role of individuals and for understanding their role during times of emergence (Fligstein 1997; Maguire, Hardy et al. 2004).

The focus on individual actors, however, needs to be done in a holistic manner, i.e., viewing individual activity within the larger context. Scholars have cautioned against “hero imagery” (Lounsbury and Crumley 2007, p. 993) ascribed to individuals, arguing it can lead to a myopic focus on a few players to the exclusion of other important factors. The emergence of a population ultimately derives from a complex set of influences which together contribute to that emergence; a strictly reductionist approach focusing on a single actor can limit understanding of this complex phenomenon (Lounsbury and Crumley 2007, p. 993). Thus, this research utilizes a framework that takes account of the role of champions, but seeks insight as well on the factors facilitating the effort of these champions who attempted to create offices within their states, as well as factors leading to the successful emergence of a state EPP office population.

A champion is an individual who utilizes their resources in an effort to support an activity or bring about change. Rogers (2003) highlights the importance of champions in the diffusion of innovations, arguing that they play a crucial role in either encouraging or discouraging its acceptance. While this research is focused on twenty-three offices that

together constitute a population, the analysis also seeks a more accurate and holistic understanding of the unique factors and catalytic events that facilitated the champions' efforts in creating state EPP offices.

Institutional Logic

Organizational theorists use institutional logic as a framework to explore the underlying assumptions behind stated goals. Friedland and Alford (1991) defined institutional logic as “a set of material practices and symbolic constructions—which constitutes its organizing principles and which is available to organizations and individuals to elaborate.” (Friedland and Alford 1991, p. 248) Scott (1998) built upon Friedland and Alford’s work, explaining institutional logic as “the cognitive frames and underlying assumptions that constitute the 'organizing principles' for pursuing goals in a given arena” (Scott 1998, p. 223) Institutional logics are more than an academic, intellectual exercise; awareness of institutional logics allows practitioners to reflect on their choices and the possible consequences of those choices; “... institutional logics determine which answers and solutions are the focus of management’s attention.” (Thornton 2002, p. 83)

Just as people and organizations often change with time, so do institutional logics. For example, a dominant institutional logic for many years in the San Francisco Bay Area healthcare system was “quality of care....” (Scott, Ruef et al. 2000, p. 182) However, as medical expenses continually increased, to the point that other factors such as cost and efficiency came into play, a new dominant institutional logic of “efficiency” emerged (Scott, Ruef et al. 2000, p. 218). Not only can institutional logics change with time, but there can also be a dominant institutional logic, such as efficiency, for a population, and

at the same time, different institutional logics at the individual organization level. This dynamic situation may put an organization on the cutting edge within a changing population, or it may hinder an organization if the population's dominant logic moves in a direction that is incompatible with the individual organization's institutional logic. Such secondary logics can exist in support of the dominant logic or can undermine it (Scott, Ruef et al. 2000). Other researchers have used the framework of hybrid logics, "logics which combine the attributes of different logics..." (Cloutier and Langley 2007, p. 17) The institutional logic frameworks provide a useful method of analysis for this research, by enhancing the descriptive subtleties which may exist between the state EPP offices.

Institutionalization

Institutionalization is less a singular goal and more an on-going process. As DiMaggio reminds us, "Even when an organizational form becomes institutionalized, its diffusion is rarely complete." (DiMaggio 1988, p. 16) Institutionalization has been described as, "the process by which actions are repeated and given similar meaning by self and others ... the process by which social reality is constructed." (Scott and Davis 2007, p. 260) While it is easiest to think of institutionalization in a binary framing, i.e., something being either institutionalized or not, the diffusion of innovation literature highlights the many levels and ways in which institutionalization can occur, varying across multiple levels of initiation and implementation (Rogers 2003). Sometimes full institutionalization (routinization) is not even the goal. Although the EPP literature shows that institutionalization was seen as a way to expand the availability of ADR processes for EPP issues, not all viewed institutionalization as a panacea:

Still, not all observers view the development of institutionalized approaches favorably. Moreover, skeptics and optimists alike caution that accomplishing the intended goals without losing the flexibility that is a basic strength of voluntary dispute resolution processes will be a challenge. (Bingham 1986, p. 149)

The underlying concern was that, if ADR processes become routine within a rigid state bureaucracy, they will no longer solve the shortcomings of traditional institutionalized decision-making processes. Thus, while this research seeks improved understanding of the phenomenon of state-level institutionalization of ADR processes within EPP offices, it does not assume that routinization is the *de facto* goal. The goal of this research is to accurately describe the efforts that have occurred to institutionalize the ADR construct in nearly half the states in America.

Cognitive Maps

The last framework of analysis for this research, cognitive map, comes from psychology (Tolman 1948). Because we live in complex environments with stimulants constantly occurring, e.g., noises, movements, smells, language, etc., the mind is constantly exposed to new data. One way the human mind copes is through the creation of simplified representations that allow complex data to be effectively dealt with. In other words, everyone creates cognitive maps that they use to make sense of a complex world (Kaplan and Kaplan 1983). This research draws on the work of environmental psychologists who have developed the Conceptual Content Cognitive Map (3CM) method as a way to assess the cognitive maps of individuals (Kearney and Kaplan 1997).

Because “mental models guide people’s perceptions, decisions, and behavior ...” (Kearney and Kaplan 1997), assessing cognitive maps has value in this research.

Assessing the cognitive maps of the directors of the state EPP offices can provide insight

to their perceptions of how their offices fit into the population. Such insight is important because people filter new information through their existing cognitive maps and "tend to ignore or reinterpret new information that contradicts their current understanding." (Kearney and Kaplan 1997) This dissertation utilizes a modified 3CM in order to determine what cognitive maps the state-level office directors have created regarding their office and its place in the broader environment of state EPP offices. Do the directors view their offices as unique, or as part of a larger population?

This review of the literature highlights that EPP conflicts are not a localized phenomena or the result of an easily fixed problem, but instead come from a long and complex history of policy approaches to natural resource and policy decision-making. While scholars have studied the ADR field, the scholarship on the institutionalization of the ADR construct at the state-level is sparse. In an effort to gain insight about institutionalization from the experiences of state EPP offices, this research draws on organizational frameworks of analysis in order to provide new insight to the ADR scholarship and ADR practitioners.

Chapter 3

RESEARCH METHODS

The overarching question of this research is, *what insights can be gained about institutionalization of ADR from the experiences of state EPP offices?* While existing research on some state EPP offices provided some guidance on the direction for this research, this research uses a grounded approach in order to seek emergent insights and develop a better understanding of categories (Glaser and Strauss 1967; Robson 1993; Creswell 1994). This approach allows this research to be informed by the literature but also to be open to unforeseen patterns. Thus, this research used a focused qualitative analysis (McCracken 1988; Creswell 1994), which allows for the identification of unexpected patterns, while capturing through focused questions the data needed to make a sound analysis. Given the small size of the data pool (21 states, 23 offices) and the need for further foundational work, qualitative analysis provides a more appropriate method of inquiry than quantitative research methods.

Data collection occurred through semi-structured telephone interviews, review of documents, and exploration of the cognitive maps of state EPP office directors. The use of multiple sources allowed for triangulation, which improves the validity and accuracy of research (Robson 1993). Additionally, the combination of data collection approaches facilitates recognition of patterns (McCracken 1988; Creswell 1994).

Data Sample

Given the exploratory nature of this research and minimal existing literature, the first step was to define what constitutes a state EPP office because no clear definition exists in the literature. A four-prong test was developed:

- 5) ADR is a primary function of the organization.
- 6) Environmental and/or public policy conflicts are an area of focus.
- 7) The organization is sanctioned by state government.
- 8) The organization has a statewide focus.

The first prong of the test, ADR is a primary function of the organization, makes the distinction between state ADR offices and state agencies that might have an ADR program. For example, a state department of environmental quality might have an office of enforcement. The office of enforcement has an ADR program, but the primary function of the office is to provide legal opinions and issue orders, so it would not be included in the data pool. The second prong, environmental and/or public policy conflicts are an area of focus, is important because some state ADR offices do not address EPP conflicts. For example, some states have court ADR offices that focus on small claims and divorce mediation, but have no focus on EPP conflicts. Since this research focuses on state-level institutionalization, the third prong, organization is sanctioned by state government which can be indicated by funding, infrastructure support and or formal declarations. Finally, the fourth prong, organization has a statewide focus, ensures that population studied shares the same broad reach.

To locate the relevant organizations for this study, the research first electronically screened newspaper databases, selecting two newspapers from each state, one located in the state capital and the other in its largest city. The following search terms were then used to identify related material: mediation and environment, mediation center, ADR,

alternative dispute resolution. The assumption was that a public office involved with complex EPP cases would likely be mentioned in the press at least once. In case this assumption was inaccurate, the newspaper search results were compared to the Policy Consensus Initiative's "State Environmental Dispute Resolution Directory" of 2004. If these search tools indicated there were states with no office, during the interviews with states in the region, directors were asked if they were aware of any other offices. The definition discussed above was then used as a screening tool. This process resulted in the identification of twenty-three existing offices (see Table 1.1, page 7) and two offices that no longer exist (in Minnesota and Wisconsin).

Data Sources and Analysis

Interview

The primary method of data collection was a semi-structured, in-depth telephone interview designed specifically for the acting directors of the twenty-three state EPP offices. Each director was mailed a letter with a brief introduction of the research, a note on confidentiality, and a statement that he or she would be contacted by telephone in order to answer any questions and to arrange an interview time (Appendix A). In two cases, the office directors were not available, so they designated a staff member as their surrogate for the interview. Two offices have co-directors; in both cases, only one director was available for the interview. Past program directors were also interviewed if available, as was the former director of the now-closed Wisconsin office. The director of the former Minnesota office, now also closed, was not available.

Interviews ranged in length from 30 to 110 minutes and occurred between December 2004 and May 2005. As part of the focused qualitative approach, the semi-

structured interview format was used because it allowed collection of data on a standard set of issues informed by literature while also remaining open to emerging patterns (Robson 1993). A core set of questions (Table 3.1) was asked of every director. The core questions were chosen so that there would be relevant data for the research questions discussed in Chapter One.

Table 3.1
Core Questions for Semi-Structured Interview

- “Can you tell me about your background and how you became involved with the program?”
- “The program was created in 19xx, by whom?” (Explore why created, original intent, and who started/catalyst)
- “Why was the program housed in x?” (institutional home)
- “What was the original organizational structure, that is, who reported to whom, how were daily decisions made, and how were long-term goals set?”
- “What is the current staff size (FTE’s)?”
- “What are your program goals?
 - Why, what is the motivation for these goals?” (reduce case load, reduce # conflicts, change conflict resolution methods, save money, reduce delays/stalemate, improve env., improve resource mngt., improve human quality of life, etc.)
- “How do you measure success?”
- “State programs have emerged in a variety of forms (crts, univ., gov. off., state agency, etc.), what advantages do you see in your program form?” “Challenges?”
- “Why did you organize the field like this?” (cognitive map)
- “Currently there are no formal national policies that regulate/influence state programs. Are there any informal influences/norms? For example, there is an informal rule/norm among art museums that you never sell a piece of art work to cover operating costs, only to purchase other artwork.”
- “What influences from outside the state are there on your program?”
- “When you have questions, who do you brainstorm with?”
- “How is your program funded?”
- “How much does it cost per year to operate your office?”

Appendix B lists all the questions that were part of the protocol. If time allowed, more questions from the interview protocol were asked beyond the core questions. The

combination of follow-up clarification questions and allowing the interviewees to add comments beyond what they were asked resulted in some variance but also allowed for the emergence of unforeseen data.

The researcher promised confidentiality to interviewees in order to increase the likelihood that directors would respond to the interview as honestly as possible. While such confidentiality places limitations on the reporting of this research, the benefit was that twenty-two out of twenty-three directors allowed the interviews to be recorded, an invaluable help in transcribing responses to interview questions and assuring accurate data collection. One director agreed to be interviewed but was not comfortable being recorded. In this case, notes served as a proxy for data transcription. Additionally, approximately 25 minutes of one 90-minute interview were lost due to technical problems. The researcher relied on notes, taken during all interviews, for recovering information from this recording gap.

Coding of Interview Data

The story told by qualitative inquiry emerges through the process of coding data and creating categories from data collected, in this case, during the interviews. Robson (1993) recommends adopting a systematic approach in order to minimize the deficiencies inherent in all human analysts, such as data overload and powerful first impressions. Thus, this research followed Tesch's (1990, p. 142-145) eight-step system for organizing qualitative data:

1. Review all transcripts to get a sense of the whole; jot down some general ideas as they come to mind.
2. Focus on a single interview and ask, what is this about? What is the underlying meaning? Focus on general topics in the data, not specific content, and jot down thoughts as they occur.
3. Repeat step two several times, then create a list of all topics.
4. Start coding the data based on the topics from step three. See whether new codes and categories emerge. (This research used NVivo software to facilitate color-coding and the mechanics of organizing text by categories.)
5. Look for straightforward but descriptive wording for categories and, where possible, reduce the total list of categories by grouping related items.
6. Finalize categories and create abbreviations to use in coding.
7. Test categories by coding all data, paying special attention to whether the categories were too narrow or broad.
8. Make adjustments and recode if necessary.

Having a systematic process is important, yet a system alone does not address all challenges of qualitative analysis, which must also account for credibility, transferability, dependability, and conformability (Lincoln and Guba 1985; Robson 1993). Credibility requires “that the subject of the enquiry was accurately identified and described.”

(Robson 1993, p. 403) In order to address issues of credibility, this research used triangulation between the interview and documents, specifically looking for negative or contradictory evidence. This made the analysis an iterative process, since contradictory evidence required reexamination of the interview coding and/or a search for explanation of the contradiction.

Transferability refers to the ability to apply the findings of research to other situations; this corresponds to external validity in quantitative analysis. While this research draws on the entire data pool, transferability is still an issue because this data is

limited to the circumstances during which the data was collected. In order to allow the reader to decide on the extent of transferability of the conclusions, this research provides a “thick description” (Lincoln and Guba 1985, p. 125) of the offices.

Dependability, which is similar to reliability, is addressed if credibility has been addressed according to Lincoln and Guba (1981). However, Robson (1993) argues that more is needed; that triangulation is specifically necessary for dependability. Since triangulation was used to address credibility, dependability was also addressed.

Confirmability is concerned with the neutrality of the research process. While all humans form impressions, the use of a systematic process in order to minimize bias was used to increase the confirmability of this research.

Documents

While the interview tool is the primary source of data for this research, other documents provided triangulation. Review of the peer-reviewed literature served as a starting point for developing research questions. As interviews progressed, additional documents were identified. For example, historical NIDR reports not held by libraries were shared. As coding and categorization of the interview data occurred, documents were reviewed with an eye towards contradictory evidence. Notes were made in the margins, leading to a re-examination of interview coding or search for an explanation of the contradictory evidence. By drawing on the interview tool and documents, this research provides a more holistic understanding the institutionalization of ADR at the state level.

The following types of documents were used: state office documents, peer reviewed literature, commissioned reports (NIDR-Hewlett), news articles, news letters,

and a congressional hearing. While most documents were available in public libraries or electronically, since NIDR no longer exists and no public library serves as a repository for NIDR documents, the Washington, D.C., headquarters of the Association for Conflict Resolution was visited since they had “inherited” some NIDR documents. The other document site visit was to the Consensus Building Institute in Boston, Massachusetts, in order to review their collection of Consensus, a newsletter no longer in circulation.

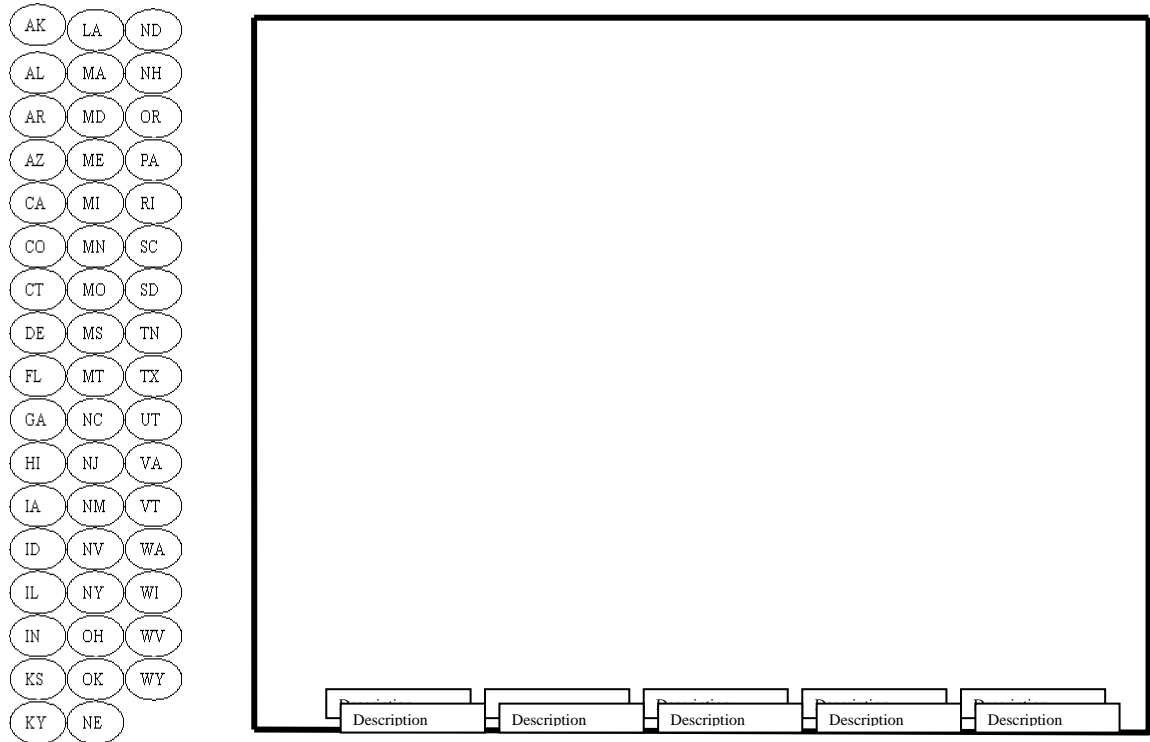
Modified Conceptual Content Cognitive Map (3CM)

While this research has defined the concept of state EPP offices, it also seeks to explore how the directors view, organize, and categorize the offices. To answer that question, this research used cognitive maps, which provide a simplified mental representation of complex information; specifically, a modified 3CM (Kearney and Kaplan 1997). This lens of analysis provides a snapshot of the different ways the directors make sense of the population they exist within. The research design created an experimental data collection tool, creating an electronic 3CM tool and delivering it through email. However, given the experimental nature of this design, as a backup the interview tool also asked questions about the directors’ cognitive maps, ensuring the data would be collected.

Data collection started by emailing the 3CM tool (Figure 3.1) to all directors 24 hours before the interview. The tool design for this research allowed the directors to move the state symbols into the box and to organize them in whatever manner they chose in response to directions (see Appendix C for directions and related email). Additionally, the directors could label any groupings they created. This would have provided a recordable, visual account of the directors’ cognitive map of the state EPP office.

However, only four out of the twenty-three directors (17 percent) chose to use the 3CM tool, a rate too low for inclusion in data analysis.

Figure 3.1
3CM – Conceptual Content Map Emailed to Directors



The number one reason directors gave for not using the 3CM tool was that they did not have the time, and they would instead talk about the 3CM during the interview. Since the interview was designed to allow discussion of the 3CM, deference was given to the directors' desire to talk through it rather than complete it manually. During the interview everyone was reminded about the 3CM tool, and they were asked:

- When you are sitting in your office, looking out at the U.S., how do you make sense of all the offices out there?
- How would you organize or group the offices?

Directors' responses to the above questions provided a verbal mapping. This approach captured the cognitive map for each director with regard to groupings of offices and what categorization system the directors use for those groupings. Thus, the most important aspect for this research, i.e., how the directors organized the offices, was captured. What was lost in the oral vs. electronic mapping were the positional relationships between the clusters.

Institutional Logic

Institutional logic, the other individual-level analytical component, is a lens of analysis used to identify the assumptions or logics behind stated goals. Institutional logics are defined as “the cognitive frames and underlying assumptions that constitute the ‘organizing principles’ for pursuing goals in a given arena” (Scott 1998, p. 223) For example, do some state EPP office directors have logics of efficiency, citizen engagement, or environmental protection?

Methods for identifying institutional logics is not as clear-cut as measuring the characteristics of state EPP offices. The initial design for this research included a variety of indicators similar to Scott et al. (2000), including educational background of office directors, professional affiliations, sources of information (journals, conferences), and accreditation standards of service providers.

During a pilot test of the semi-structured, in-depth interview protocol, it quickly became clear that the initial indicators were not viable. The problems arose in part from the fact that the Scott et al. (2000) research was within the context of a long established field, while this research was within the context of a young and emerging population. Even with the modifications of the measurement tools from the Scott et al. methods, the

modifications were insufficient to address the differences between an established and emerging population.

The problems likely arose from the lack of uniformity within a young population. For example, looking at the educational background in the medical field would provide some semi-rigid categories. A medical doctor must have four years of medical school typically followed by a series of on-the-job training defined by a specialty. In contrast, the ADR community has no such standards. While academic credentials are starting to crystallize, there are still many examples of an individual's skills and reputation serving as the main standard. For the purposes of this research, the lack of uniformity of a young population is neither good nor bad, but a reality that was acknowledged and addressed in the process of studying the population.

The tools for measuring institutional logic were changed to a semi-structured, in-depth interview (Thornton and Ocasio 1999; Thornton 2002). Each director of the state EPP office was asked, "What are the goals of the office?" After the interviewees responded, they were asked, "Why are the stated goals important? What were the driving forces and motivational forces behind the goals?" Given the non-traditional nature of the question, many people wanted more clarification. An example that was unlikely to be relevant to their office was offered in order to minimize bias. For example, if the interview was with the director of an office housed in a university, the clarification example would be, "For example, an EPP office in the court might say they want to resolve conflicts, and their driving force for this goal is that they want to reduce the docket caseload."

Research Limitations

Every research project must balance breadth and depth of analysis. When contemplating these factors, research design needs to consider the existing knowledge base. In the case of this research, multiple studies exist on the institutionalization of collaborative processes at the federal level (Wondolleck 1988; Susskind, Babbitt et al. 1993; Harter 2000; Coglianese 2001; O'Leary and Raines 2001; Nabatchi 2007). Yet, there is only limited knowledge of institutionalization at the state level (Susskind 1987; O'Leary and Yandle 2000). As a result, this research focuses first on developing a breadth of knowledge, which in turn, allows for some depth.

An assumption of this research is that the interviewees responded truthfully to the interview questions. While assurances of confidentiality may have increased the likelihood of honest responses, ideally interviews would have been combined with observations. Unfortunately, the dispersed geography of study sites and related costs did not allow for this.

The 3CM tool used in this research captured the first map that the office directors thought of as they talked during the interview. If directors had agreed to use the electronic map sent them, the directors would have been provided more opportunity to reflect on their map and make modifications because it would have been visually laid out in front of them. While it is useful to understand the initial map of the directors, a more deliberate response would likely have occurred with the electronic 3CM. Additionally, if maps had been created electronically, this would have made for a very powerful tool of illustration.

While documents served as another source of data, and thus triangulation of the interview responses, the NIDR documentation has not been catalogued. Since the NIDR no longer exists, it is not clear what percentage of NIDR documentation was obtained.

The interviews were conducted with existing and available past directors. While these are the most important actors for this research, a more holistic understanding could be achieved by also taking account of insights from federal actors and the private sector.

This research approach has value, as it provides insight into a state-level phenomenon that is emerging as a national population. However, each state-level organization has its own rich history, experiences, and lessons that are not fully accounted for in this research. A more narrowly focused, in-depth analysis can now be conducted than would have been possible in the past. Institutional parameters, such as institutional logics, are better understood, allowing more focused research.

Chapter 4

CHARACTERISTICS OF ENVIRONMENTAL AND PUBLIC POLICY STATE OFFICES

This chapter focuses on understanding the characteristics of the offices, while the next chapter will focus on the origins and influences on the offices. The primary focus of this chapter is to develop a systematic understanding of the state EPP offices. Our current understanding of the existing population is incomplete, based predominantly on historical data from a time when there were only a handful of offices to study. The more recent data in the literature do not provide sufficient foundation for this research. Thus, to develop a foundation, six characteristics of the state EPP offices were determined: 1) office affiliation 2) staff size 3) budget 4) type of conflicts addressed 5) how success is defined and 6) what activities the offices engage in.

In addition to providing information for further analysis, these data will also allow comparison with the past literature. A report conducted for the National Institute for Dispute Resolution (NIDR) stated, “The most important ‘lesson learned’ ... is that *no two offices are alike and there is no single model for creating and structuring an office* [emphasis in original].” (Dillon 1994, p. vi) Are there indeed twenty-three unique offices in the United States or has a convergence occurred over the years?

In order to provide a point of reference, an “average” office based on the characteristics is described in this paragraph, then the chapter will focus on the findings of each specific characteristic. The average office has a small staff, employing four full-time staff members. The office serves as a state center of information, providing consulting and conducting conflict assessments for individuals, groups, and state government units. The office also offers formal education, such as trainings or classes at universities, which focus on collaborative processes. The office staff may directly engage in this education or contract others to conduct the trainings. The average office will perform direct service for collaborative processes or it will turn to contractors in the private sector. Use of contractors expands small staff capabilities and addresses fluctuating budgets, while minimizing potential alienation of the private sector via perceived competition. The annual budget of the “average” office is approximately \$350,000. Some “average” offices also face pressure to become completely self-funded through fee-for-service delivery models. The office generally has a broad portfolio of conflict types handled, engaging in both environmental conflicts and public policy issues. The two most common measures of success that the director of the “average” office uses are outcome and client satisfaction; this “success” is typically determined on a case-by-case basis. Such an approach is facilitated by the geographic boundaries of the work, within state, because staff can generally follow-up when appropriate. The reality of limited resources also means that formal and comprehensive longitudinal evaluations of office activities are rare.

With the above description providing a point of reference, the following paragraphs will focus on the characteristics:

Affiliation

The characteristic of affiliation refers to where an office is housed and or the office's predominant funding source. In other words, is an office part of a university, executive branch, judicial branch, or independent? The concept of affiliation is useful because it allows "grouping" by which people make sense of their world, classifying the many into smaller groups by perceived similarity. For example, when someone walks into a grocery store, they expect certain norms and services, different from those of a bank, church, or police station. While affiliation can, therefore, serve as a summary, it is important to remember that all simplified typologies have limits. Alabama's Center for Dispute Resolution, for example, has aspects of both independent and judicial affiliation. The office exists as a non-profit and is housed outside state government, the state bar provides office space. The office's budget dynamics are similar to those of a non-profit, and similar as well in that its director serves as the hub of the organization. Thus, categorizing Alabama's office as "independent" provides a useful descriptor for this office. Yet, in other characteristics, the office is aligned with the judicial branch, in that it is overseen by the legal community, judges, and lawyers; it conducts activities in the court system; and it receives some funding from the court. Based on the fact that the office is housed outside the formal court structure and receives funding from a variety of sources, this research classifies the office as independent. However, Alabama's office highlights that this typology has limits since the office also has important ties to the judiciary.

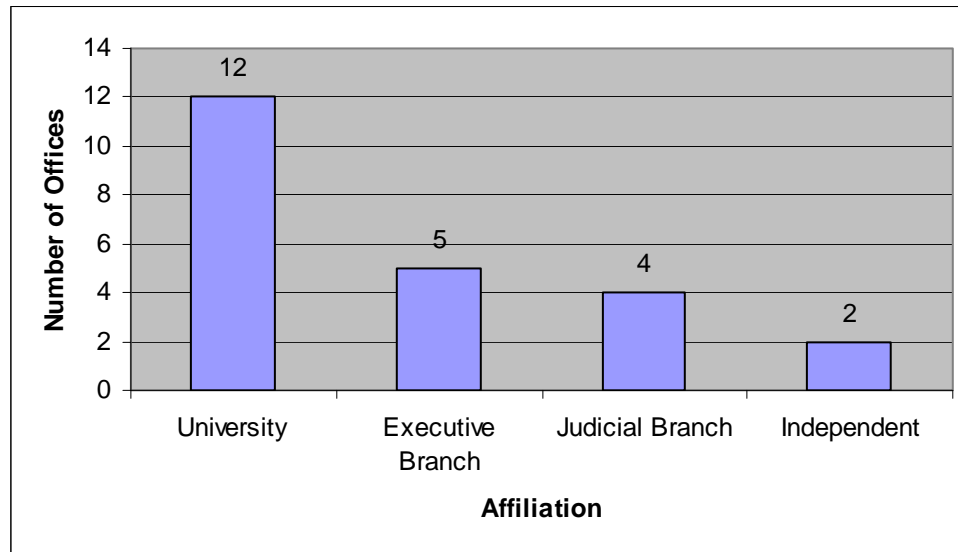
Given the limitations of a typology based on affiliation with the ADR organizational population, a reasonable question is: why use affiliation? The first reason

is that, even with its limitations, creating a typology starts the process of sensemaking for a complex phenomenon. Additionally, as will be discussed in more depth in Chapter Six, when the directors of the offices were asked how they themselves categorize the other offices, sixty-seven percent used a method of organizing that relied on affiliation. Thus, affiliation is an important aspect of the organizational framework.

Figure 4.1 shows the typology used in this research: university, executive branch, judicial branch and independent. The most prominent aspect of this data is that half of the offices, twelve (52 percent), have university affiliation. The university category refers to any office housed within a university. If an office is housed within the governor's office or attached to a state agency, it is categorized as part of the executive branch⁴. The judicial branch domain applies to offices housed within a state's judicial branch. The independent domain may seem like a strange category when discussing state offices, but in fact there are two offices that are non-profit organizations housed independently outside state government with long-term financial and service ties to their state governments. Thus, these two offices serve as the de facto state EPP offices for their state.

⁴ Ohio's Commission on Dispute Resolution is classified as an executive branch. While the office is a free standing office that does not have a physical affiliation since it falls under the oversight of a commission, its budget is part of the Governor's budget. Thus, the executive branch classification.

Figure 4.1
State EPP Office Affiliation



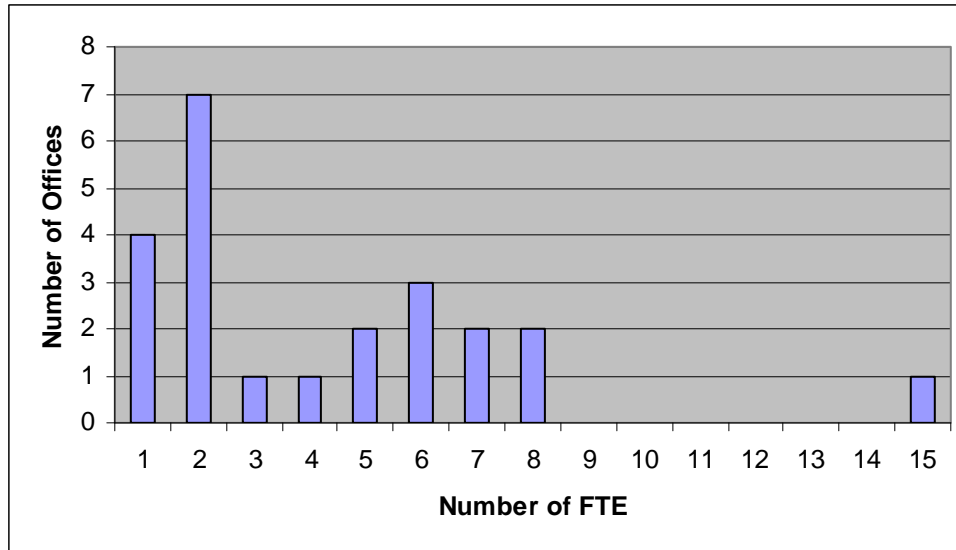
While having four categories provides for simple and discreet findings, the earlier Alabama example illustrates rather fluid boundaries. This fluidity may explain why affiliation was not significantly correlated with the other characteristics discussed below. Thus, while useful as a framework to categorize the offices, affiliation is not predictive of other characteristics under study, in other words, it does not predict specific activities or budget size. This does not imply that affiliation is not important; some offices are likely influenced by their affiliated organization. However, no strong patterns were detected in this study that indicated a particular affiliation made an office more likely to exhibit other specific characteristics.

Staff Size

Staff size in the study ranges from one full-time equivalent (FTE) to fifteen (Figure 4.2). Partial FTEs are rounded off. As shown, seven offices have a staff of two FTE, making this the most common size. The average of 4 FTE results in the clustering at the left end of the x-axis. One office is relatively large, with an FTE of 15. Thus,

based on staff size, the majority of offices are relatively small, particularly considering they have a statewide focus. However, because many offices use contractors, their small staff size is not necessarily reflective of their service capacities. Use of contractors is becoming a common practice for this population.

Figure 4.2
State EPP Office Size – FTE



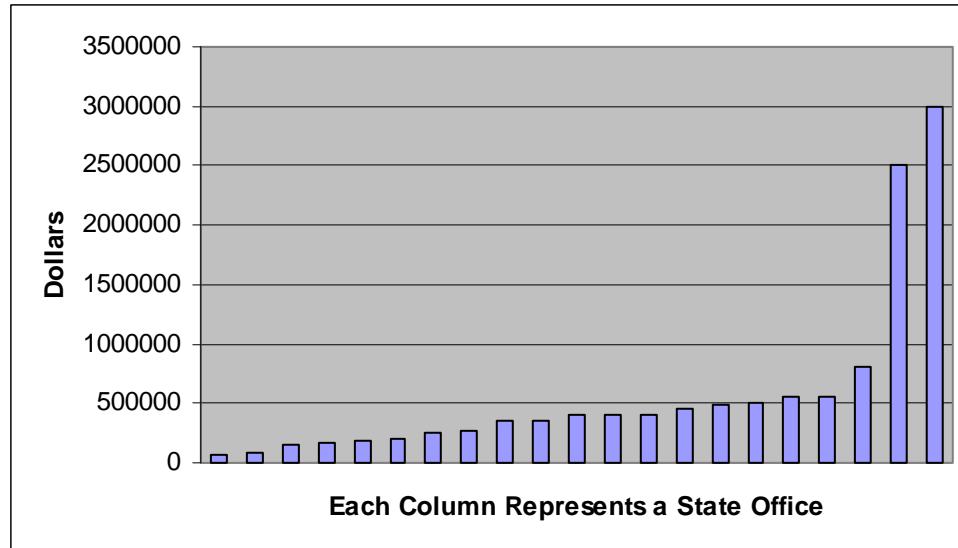
Budget

Figure 4.3 provides an overview of population budget, highlighting that eighteen of twenty-one offices have annual budgets at or below \$550,000. This data set includes only twenty-one of the twenty-three offices; one office was new and had not yet created a budget, while the director of the other office did not report the budget. Budgets range from \$62,500 to \$3,000,000.

Office budget was found to be clearly tied to staff size; comparing Figure 4.3 with Figure 4.2 shows similar patterns. One difference to note between staff and budget figures is that, unlike the staff-size figure which has one outlier, the budget figure shows two outliers. First, the office with the \$3,000,000 budget is the largest (15 FTE staff).

The office with the \$2,500,000 budget has a staff of only 7 FTE. This large budget yet comparatively small staff dynamic is explained by the fact that the office distributes approximately \$1,800,000 as grants and contracts annually. While three other offices also engage in grant-making activity, none come close to \$1.8 million level.

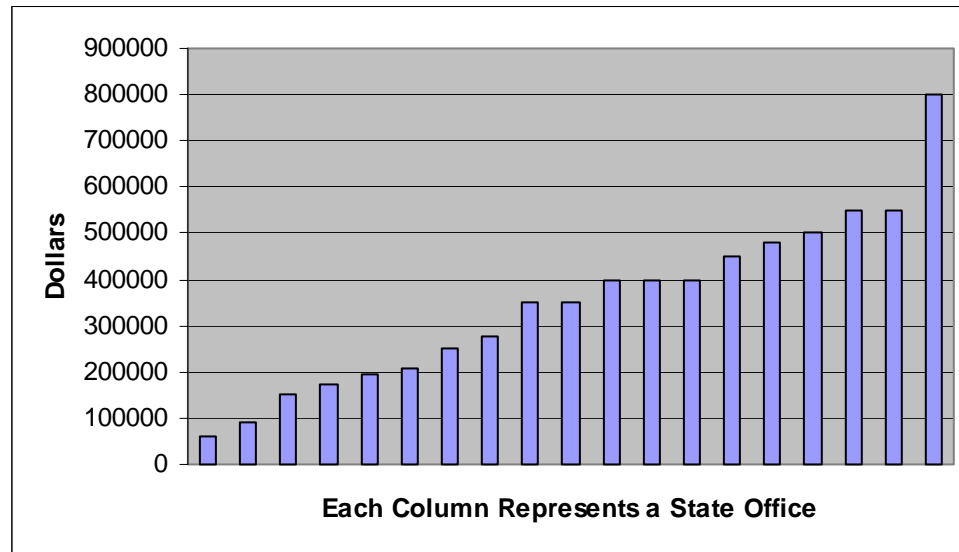
**Figure 4.3
State EPP Office Budgets**



The multi-million dollar budgets of the two offices obscures details of the others' budgets, since the Figure maintains an even y-axis distribution. The average budget for all twenty-one offices is \$577,833. Dropping the two outlying budgets (multi-million dollar) results in an average of \$349,184. Figure 4.4, which excludes the two largest budgets, provides a more detailed view of the majority of the office budgets.

One theme that has recently changed is the source of office funding. National and state-level foundations historically played important roles both as financial catalysts to help create offices and in supplying ongoing funding. During the early 2000s, as foundations began focusing resources elsewhere and state governments experienced

Figure 4.4
State EPP Office Budgets – Under \$1,000,000



budget deficits, funding to many offices was reduced. States cut support for some, while other offices lost state funding completely. At this point, an already present shift toward a fee-for-service model accelerated, the full extent and consequences of which are not fully clear at this stage. Some offices have always functioned successfully in this model, while others are struggling to make the transition.

Taking budget and staff size together, the pattern is one of small staff offices that utilize contractors to expand relatively small budgets, and an increasing trend in budget sources toward fee-for-service.

Type of Conflicts

Environmental and public policy is a broad category of conflicts that typically involve multiple parties engaged in complex issues over long periods of time. For example, planning for the creation of a new reservoir that could address water shortages but also has the potential to negatively impact land owners and culturally important sites.

Or the location and management of a drug rehabilitation recovery house in established neighborhoods. Other examples of conflicts include negotiations over storm water regulations or livestock permitting programs.

During the interviews, some directors discussed other offices in terms of offices having a public policy focus or an environmental focus. However, based on interviews and a review of office documents, no distinction can be made between offices focused solely on environmental issues or public policy issues. The offices' comprehensive nature is explained by several factors. First, it can be difficult to distinguish between environmental and public policy conflicts. For example, conflicts arising over the creation of a greenway trail may include environmental impact issues as well as public policy issues of land use, land takings, and public goods. Second, many office directors view their effort to be helping the state; thus, they take a more inclusive approach when determining whether to engage an office in dispute resolution.

Types of conflicts handled, however, does discern between offices where EPP conflicts are their primary focus and those engaging in a wide variety of conflicts, including EPP. The split is nearly even; eleven offices have a primary focus on EPP conflicts and twelve offices have a track record of EPP work, but also engage in other types, such as school based mediation programs and civil or small claims court mediation programs.

In general, EPP conflicts are often multi-party issues, with the processes carried out over months or years, while other programmatic areas often have fewer parties (typically two-party disputes) and one or only a few meetings. Two contrasting examples

of type of conflict activity are facilitating a collaborative regional watershed management plan versus mediating for two litigants to address a civil lawsuit over a business contract.

Definition of Success

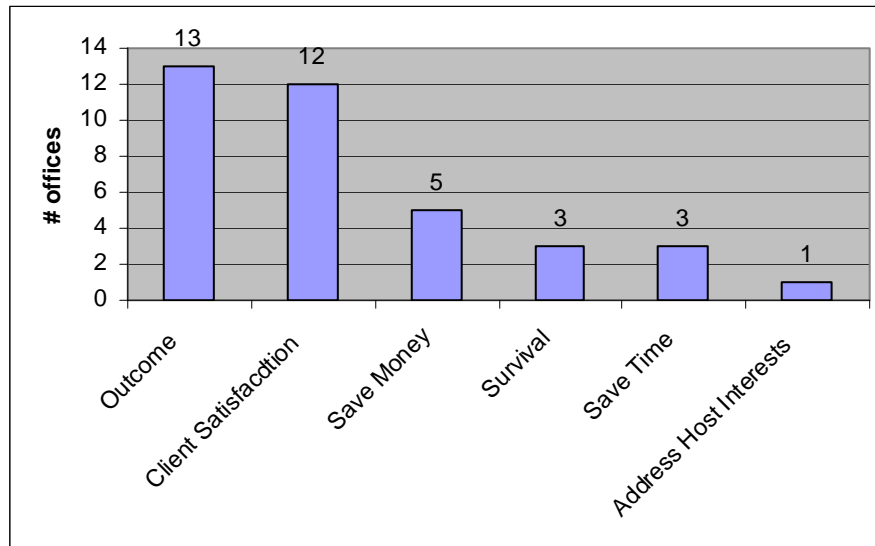
Evaluation of EPP conflict resolution process has been neither straight forward nor without controversy (Todd 2001; O'Leary and Bingham 2003). In an effort to engage policy-makers and others unfamiliar with ADR processes, saving time and money became a mantra in the early years.

Perhaps the single most common assertion made about environmental dispute resolution processes in general ... is that they are cheaper and faster than litigation. (Bingham 1986, p. 127)

Measurement of success based on settlement rates, that is, percentage of signed agreements among cases taken, has also been a common method of evaluation. However, with the evolution of the field over the years, researchers have argued that measurement of success is both more complicated and richer than either of these methods (Sander 1995; Innes 1999; Todd 2001). This raises the question, how do the state EPP offices themselves define success?

Twenty-two out of twenty-three directors (96 percent) responded to the question, "How do you measure success?" Figure 4.5 shows the six types of responses from the directors and their frequency.

Figure 4.5
Measures of Success



Outcome

The most common responses to the question of how directors define success focused on outcome or impact of intervention, whether it was simply that the parties reached a settlement, or that they then were able to develop partnerships that enhanced their capacity for future problem-solving. Thirteen directors (59 percent) indicating they used outcome as a measure of success. Measuring outcome of specific interventions has a settlement rate component: Was an agreement reached? However, directors also acknowledged there is more to success than settlement rate, as highlighted in the following two quotes.

[Success is measured by] number of resolutions, but also more ... partnerships and longer term sustainability of resolutions.

Success [is] not just number of cases resolved, but we are in the business of dispute resolution, people in the courts like to know that we are resolving disputes.

Directors are taking account of both settlement rates and long-term impacts. While none of the directors talked about conducting annual systematic evaluations of outcome based measures beyond settlement rates, directors appear to be able to identify some outcomes that occur post-intervention due to the fact that the activity is confined within an observable domain, i.e., state borders. For example, one director indicated there was no cookie cutter method of measuring outcome, but that she could point to new legislation occurring as a result of their work. Another director talked about a program focused on capacity building, "... what has changed since start of program in the state ... state employees are creating a regulatory negotiation program."

Client Satisfaction

Client satisfaction is also a prevalent measure of success among the directors; twelve directors (55 percent) discussed this measure. Unlike outcome, there is generally a more systematic measurement of client satisfaction, with survey forms after meetings and/or follow-up telephone interviews. The primary component of this measure for many directors is the clients' view of the process. For example, did the clients consider the process fair? Was it viewed as a good use of their resources? Some directors stated they measure client satisfaction based on follow-up business via customer word of mouth. As one director stated, "[We] can't say yes to all of the requests we get; that is success."

Save Money

While outcome and client satisfaction are measures of success for more than fifty percent of directors, use of the other five measures is far less consistent. Five directors (23 percent) discussed the saving of money as a measure of success, particularly in the

comparative context of others processes, such as litigation. While they framed this measure primarily in terms of cost savings for disputants, some directors also discussed the savings for state government; parties could resolve conflicts without using the government supported court system.

Survival

Three directors (14 percent) identified survival of the office as a measure of success. Over a twenty-five year period, the population has been relatively stable with regard to office closures; twenty-three of twenty-five offices (92 percent) have survived. However, these numbers may create a misleading perception; while survival rate is high, many offices were downsized after a series of state funding cutbacks in the early 2000s, and some have struggled to stay open. There is a sense of uncertainty among some directors, as indicated by including the measure of survival in this research. When asked how he/she measures success, one director responded succinctly, “Survival at this stage.” This office was one that had experienced significant state budget cuts.

Time

Saving time was a measure of success discussed by three directors (14 percent). One example was, “If a judge sends us a letter saying that you saved me a month of trial time, that is a success.”

Interests of Host Institution

One director discussed success in terms of addressing the interests of their host institution. In this case, success was seen to occur if the office was meeting the university missions of teaching, research, and engagement.

Activities

The activities which an organization performs reflects how its resources are allocated and provides insight on its priorities. The research identified nine types of activities as being performed by the offices. Table 4.1 lists the activities, number of offices engaging in the activities, and the related percentage.

Table 4.1
Activities of State EPP Offices

Activities	# Offices	Percent
Consultation and Conflict Assessment	23	100
Education-Training, Classes	21	91
Direct Service-Collaborative Processes	19	83
Program Design	14	61
Research	13	57
Contract Management	5	22
Grants	4	17
Formal Roster	4	17
Direct Service-Arbitration	1	4

Consultation and Conflict Assessment

All twenty-three offices provide consultation and conflict assessment. The 100 percent engagement in this activity indicates all of the offices have as a priority the fostering of improved decision-making and dispute resolution within their states. Consultation and conflict assessment methods range from informal conversations to formal conflict assessments. Thus, the offices also are acting as centers of information and advice within their states. For example, the state of Washington's William D. Ruckelshaus Center was asked to consult with a group comprised of agricultural, tribal, environmental, and governmental members interested and affected in a land use issues controversy. The conflict played out across the state due to a related ballot initiative campaign that carried over into the 2007 state legislative session. If the consultation and

assessment warranted second-phase engagement, the center would become more directly engaged by arranging meetings and facilitating discussions. (The William D. Ruckelshaus Center 2008)

Education

Education was another dominant activity of the offices; twenty-two offices (96 percent) reported this activity. While consultation and conflict assessment can be a form of informal education, the framing of the research question exploring this activity focuses on formal education. For example, some offices affiliated with universities offer semester long classes. More common among the offices are trainings, such as 40-hour mediation or facilitation training. The one office that reported not engaging in formal education is located in a state where the private sector provides training opportunities.

Direct Service-Collaborative Processes

The activity of direct service refers to collaborative processes such as mediations, facilitations, dialogues, etc. being directed by office staff. While nineteen offices (83 percent) reported providing direct services, this number is somewhat deceiving; in some cases, directors do not want to compete with the private sector providers of comparable services, and so, refer direct service requests to them. One director described her role as a “broker of services, [who] tries to minimize role as mediator-facilitator unless only way [to] service contract.” In effect, the director will sometimes provide pro-bono services if the parties cannot afford the private sector fees. Another director concurred in this sensitivity to the private sector, saying the decision on which cases to mediate was based on implications of broader learning. As that director stated, “less direct service provided

lately; still do some based on private sector capabilities and what would be good for me to learn and pass along in trainings.” At the other end of the direct service frequency spectrum are offices that make it a routine activity. One director stated that, in their state statute they are described as providers of services, so they view their work as serving the public. Additionally, this director felt direct services made the office “less subject to whims of the marketplace compared with those [other offices] that are service contractors.”

Program Design

Offices that engage in program design help clients to develop protocols and programs fostering decision-making and/or conflict resolution; fourteen offices (61 percent) reported program design activities. The activity can be for a time limited project, such as a community deciding to use a collaborative approach to address a specific issue, or it can be for permanent initiatives, such as a state agency creating a mechanism to address re-occurring issues. California’s two offices, the Center for Collaborative Policy and Common Ground, worked together on a three-phase project of assessment, consulting, and training that culminated in a manual aimed at improving the public participation aspect of the California Water Board’s work (Center for Collaborative Policy 2008). The distinction between this activity and the consultation and conflict assessment activity is that program design involves *implementation*.

Research

More than half of the offices reported engaging in research as one of their activities; thirteen offices (57 percent). The term research in this context is used in a

broad sense. While some research has resulted in public documents such as, Resolving Transportation Conflicts in Florida: What Have We Learned? (Florida Conflict Resolution Consortium 2001), much of the research is program evaluation, for example, surveys to determine customer satisfaction with dispute resolution process. Office staffs also reported conducting formal and informal interviews after the ADR process to gain insight into the value of both the process and outcomes for their clients. While less common than the above evaluations, some office staff have also published in professional and peer-reviewed journals. Such research is not confined to the offices housed in universities; two of the five executive offices reported conducting research, as well as two of the four judicial based offices and one of the two independent offices. Eight of the twelve university offices (67 percent) engage in research, which indicates that the influence of the host organization's norm of research is not consistently transferred to the offices.

Contract Management

Five offices (22 percent) manage contracts as a way to facilitate work between the private sector and state government. Some state regulations and codes can require state agencies to put out contract bids months before a contract is awarded, which can be a problem with some time sensitive conflicts. Additionally, solo practitioners can find the contract processes of some states too cumbersome to warrant the effort. Thus, some state EPP offices are able to contract more efficiently with another state agency, since they are part of the state government system. The two offices can then manage the contracts in a fashion more conducive to engaging the private sector.

Grants

Four (17 percent) state EPP offices reported the activity of awarding grants to fund individuals and organizations within their state. This is a different activity than the occasional pro bono work as discussed in ‘direct service’; the activity of grants has a formal application component and generally focuses on program building. For example, some offices reported awarding grants to supplement the budgets of community dispute resolution offices within their states.

Formal Roster

Four offices (17 percent) maintain formal rosters of mediators and/or facilitators. Some offices that did not have rosters cited concerns about creating an accreditation system, which may raise both resource and philosophical issues. Some offices have insufficient staff resources to actively maintain a roster. Others view the practice as inappropriate. ADR practitioners are generally unregulated; no one is excluded from selling their services on the open market as an ADR practitioner. However, a state government actor maintaining a roster has the appearance, and perhaps the consequences, of being the arbiter of who is “qualified” to offer such services.

Direct Service-arbitration

While arbitration is an ADR process, it is not a collaborative process, and thus, has been used in this research as a characteristic separate from direct service-collaborative processes. This research is not designed to measure the value of either dispute resolution approach. However, it is noteworthy that only one office reported providing arbitration as a direct service. Arbitration is typically valued as a quick

decision-making process. Yet, throughout the study interviews, directors used language such as “consensus” and “collaboration”. Arbitration does not exclude the use of collaborative processes and the office providing it reported using both approaches. This finding which may be an early indicator of an emerging norm in the state EPP population that places greater value on using collaborative approaches.

Discussion

The main goal of this chapter was to develop a systematic description of the offices by exploring six characteristics which present the current state of these organizations and provide a foundation for further investigation. For example, the literature review noted a theme of heterogeneity about the offices derived from the first study: “Each state office has a different administrative structure, and each has focused on different projects and activities.” (Susskind 1986, p. 323) Yet, the current data suggest that the observation of heterogeneity is no longer germane. This research found that 100 percent of the offices engage in consultation and conflict assessment. Additionally, twenty-one of the offices (91 percent) either directly provide formal educational activities such as trainings, or contract others to perform these services. A third common activity (nineteen offices, or 83 percent) was providing direct service, either with office staff or via contractors. While a distinction can be made in how the direct service is provided, most offices support direct service to some degree. Moving beyond office activities, there is also commonality in terms of staff size and budgets. Thus, while the offices are by no means identical, the historical framing of heterogeneity no longer appears to be the case with regard to services, staff size, and budgets.

However, the characteristic of affiliation would appear to indicate that the observations of heterogeneity made in the early literature still holds true today. Just as the early literature noted, institutionalization has continued to occur through a variety of affiliations: university, executive branch, judicial branch, and independent. Based on the six characteristics studied in this research, however, affiliation is not a predictive variable, i.e., whether an office is housed in a university or in the judicial branch does not determine an office's budget, staff size, activity, etc. This finding can seem counterintuitive; surely, an EPP office housed in a university is different from one in the executive branch or judiciary. The concept of artifacts provides an explanation for the finding that affiliation is not a predictive characteristic or strong indicator of heterogeneity.

Artifacts are tangible manifestations which provide a glimpse into a group's basic assumptions. As discussed in the literature review chapter, artifacts are "the visible products of the group, such as the architecture of its physical environment..." (Schein 2004, p. 25-26) Another example of artifacts is how people in a group dress. When someone walks into a building, they will make different assumptions about the organization if they see everyone dressed in suits rather than in t-shirts and jeans. Relating this to the characteristics under study, one might observe an artifact of the office's affiliation and use this to infer deeper meaning about other characteristics of the EPP office, the inference being that, because of affiliation alone, a state EPP office housed in a judiciary is different from an office housed in the executive branch. As Schein states, "It is especially dangerous to try to infer the deeper assumptions from artifacts alone, because one's interpretations will inevitably be projections of one's own

feelings and reactions.” (Schein 2004, p. 27) Study data corroborate Schein's warning. The artifact of affiliation is not predictive of other characteristics. Thus, affiliation appears not to be an indicator of heterogeneity for the current population.

However, while study data indicate that the population has shifted from the heterogeneity noted in the earlier literature, these data alone do not indicate a convergence. In Chapter Seven, this research explores institutional logics in order to identify the underlying assumptions of the offices, and will further characterize the extent of heterogeneity versus homogeneity of this population. To first provide developmental context for that discussion, the next chapter will focus on the origins and current influences on the population.

Chapter 5

ORIGINS AND INFLUENCES

While the literature indicates that the institutionalization of the ADR construct at the federal level occurred through a top down mandate (Nabatchi 2007), there has been no federal mandate extended to states to explain the origin or influences on this population. Thus, this chapter asks: *What factors explain the emergence of this population, and what are their historical and current influences?* The early literature focused at the state-level indicates foundation money offered the "means" to establish some of the early offices (Drake 1989, Susskind 1987), while the later literature highlights champions who provided the necessary leadership as “an important explanation for states’ decision on whether to adopt EDR (Institute for Environmental Negotiation and RESOLVE: Center for Environmental Dispute Resolution) programs.” (O’Leary and Yandle 2000, p. 140-141) Yet, neither period of literature provides insight on the emergence of all the offices nor on the factors that facilitated the efforts of champions to create offices.

This chapter will therefore first analyze the factors explaining the emergence of this population of state-level offices, identifying four broad factors and four state-specific catalytic events, and will then analyze current factors that shaped the population. As

noted in the previous chapter, the historical observation of heterogeneity among the offices is no longer germane; there are, in fact, now many commonalities with regard to their characteristics and activities. Although this research has a population level focus, it also takes account of the influence of individuals and seeks to address the gap in our understanding of what broader factors facilitated the efforts of champions in creating these organizations. This approach aligns with a recent thread in organizational literature suggesting that, when studying emergence, it is important to understand both the role of actors and the broader factors which facilitate their actions (Fligstein 1997; Maguire, Hardy et al. 2004; Lounsbury and Crumley 2007).

While there are twenty-three existing state offices (n of twenty-three for analysis), when focusing on origins, the n is, in fact, twenty-four; Wisconsin had a short-lived office and is relevant to a discussion of origins. A twenty-fifth state, Minnesota, which also had an office, is not included in the study, however, because the office no longer exists and neither the former director nor office documents were available for review.

The Emergence: Four States

The origins of the offices in Virginia, Hawai`i, Ohio, and Maryland are representative of the emergence, offering a longitudinal cross section of the population as they were created in 1980, 1985, 1990 and 2000, respectively. The details of their foundings provide context to the broader discussion. These cases highlight that champions were an important component of the origin of the offices and sets the stage for understanding the four factors and four catalytic events that are identified as themes which facilitated the ability of champions to create state EPP offices.

Virginia

The Institute for Environmental Negotiation (IEN) is the oldest state EPP office in the country, created in 1980. Its first proposal in the 1970s came from the Virginia Environmental Endowment (VEE) foundation's executive director, who wanted to “inject mediation as a coolant in the highly charged atmosphere of environmental politics” (Williams 2002, p. 28) that was occurring in his state. VEE staff brought in Gerald Cormick, an environmental mediator, to talk with people in Virginia about environmental mediation and setting up a fund to support mediation. However, once established, no one used the mediation funding. Finally, in 1980 the executive director of VEE approached faculty at the University of Virginia (UVA) and Virginia Commonwealth University about starting pilot programs at each school and again, VEE provided funding. After a few years, VEE decided to focus its resources on the Institute for Environmental Negotiation (IEN) at the UVA. The faculty there were best able to meet the university's expectations of research and teaching, while implementing a process they found interesting and hoped would lead to a more sustainable environment. Like many institutes at universities, IEN receives some infrastructure support from the university, but utilizes grants and contract work to support staff salaries and other expenses.

Hawai`i

Before the creation of Hawai`i's office in 1985, Hawai`i had a Neighborhood Justice Center that utilized ADR processes as one method of addressing disputes. Peter Adler was the director of the Center and Lester Cingcade (Chief Court Administrator) was a Center board member. As mentioned, there was already ADR activity in the state and one interviewee referred to “a national impulse” of ADR. One recounting of the

creation of the office was that Lester Cingcade had a vision of what could be done with the courts and he collaborated with Peter Adler and Chief Justice Herman Lum to create Hawai`i's office of Alternative Dispute Resolution to relieve clogged dockets and spiraling costs. The champions were able to tap into the first round of NIDR funding in 1985 and with time, the state took over responsibility for funding the office.

While having existing formal infrastructure and champions were important factors in the creation of the office, Hawai`ian culture also supports modern collaborative dispute resolution. "Ho'oponopono, a traditional Hawaiian dispute resolution process, means to set right, to make right, to correct, to restore and maintain good relationships among family, and supernatural powers." (Hawai`i Center for Alternative Dispute Resolution 1997, p. 12) Another traditional cultural influence is Fa'alealeiga, "a Samoan dispute resolution process, is a healing process, which means to make things whole or to mend relationships. It is typically used between family members or families. The neutral may be a chief, parent, or respected elder." (Hawai`i Center for Alternative Dispute Resolution 1997, p. 22)

Ohio

During the late 1980s, Ohio Governor Dick Celeste brought in an advisor who had an interest in dispute resolution. Likewise, the First Lady of Ohio also had an interest in peace making and conflict resolution, as did others in the state, including Chris Carlson, Carl Moore, Nancy Rogers, and Chief Justice Tom Moyer. These coalescing interests led to a Governor's Taskforce on Peace and Conflict Resolution, with approximately thirty people serving. Sub-groups formed around substantive issues, such as public policy, courts, communities and schools, and post-secondary education. These

sub-groups were charged with establishing pilot projects utilizing conflict resolution processes and with reporting back on future recommendations. The final recommendation was for the creation of an Ohio Commission on Dispute Resolution and Conflict Management.

A lobbyist for the Ohio Bar Association, Bill Weisenberg, helped draft legislation for the proposed commission, while taskforce members used their influence and connections to generate support. Ultimately, the Governor, Chief Judge, and leadership of the Senate and House supported the creation of a commission in 1990. The commission sits at the confluence of Ohio's government branches since the Governor, Chief Judge, and Legislature each appoint four commissioners to oversee the office. Ohio did receive a NIDR grant to help with the costs, and Ohio invested a significant amount of money.

Maryland

The origin story of the Maryland's Mediation and Conflict Resolution Office is more recent in comparison to the above cases since the Maryland ADR Commission was created by Chief Judge Robert Bell in 1998. During the mid-1990s Rachel Wohl (former Assistant Attorney General) was asked by state officials to run a collaborative statewide process which was focused on bringing together relevant parties interested in reducing family violence. After directing this process, Rachel Wohl felt Maryland could benefit from increased use of mediation but there was no infrastructure to support the development of collaborative conflict resolution in Maryland. In 1997, she made a proposal to Chief Judge Bell, who had observed the previous statewide collaborative process, and he hired her to direct the Maryland ADR Commission. The commission was

created in order to develop collaboratively a consensus-based practical action plan to advance the appropriate use of ADR in the state's courts as well as in its schools, communities, government agencies, criminal and juvenile justice programs and businesses. This statewide collaborative process actively involved a diverse 40 member high level commission, about 135 people working in six committees and hundreds of people serving on regional advisory boards in the four regions of the state. Altogether, approximately 700 people across the state were engaged in developing the action plan. The commission also had a national advisory board of leaders in the conflict resolution field and benefited greatly by studying the prior development of ADR in other states. Over a two year period, the commission developed an action plan and then it morphed into the Maryland Mediation and Conflict Resolution Office in order to implement the plan. While multiple locations were considered for housing the office, Chief Judge Bell was able to provide the infrastructure and resources within the judiciary that allowed the office to support "innovative dispute resolution programs, and promote the appropriate use of ADR in every field." (Maryland Mediation and Conflict Resolution Office 2008)

These four cases highlight the important role of champions. In Virginia, there was a key person (with the resources of a foundation) who continued to work for change until he was able to find faculty at the UVA who were able to institutionalize a new framework of conflict resolution for the state via an institute within the university. For Hawai'i, the several champions were state government and private sector elites able to tap their experiences and the success of the existing ADR infrastructure to foster change that aligned with traditional culture; fostered by foundation grants. In the case of Ohio, again it was several individuals who had the ability to galvanize a larger group around fostering

change; again fostered by foundation grants. Champions in Maryland grew a statewide collaborative process with a diverse group of Marylanders into an organization promoting ADR throughout the state. These four cases also highlight a variance among the champions. While they were all focused on altering the institutional arrangements within their state, some were based in the non-profit world, others were government elites, foundation staff, members of the legal community, and university faculty/staff. They either had the formal authority to engage in change, the connections to resources necessary to implement it, and/or the ability to motivate others in fostering ADR's growth and acceptance. In every state, the emergence or origin stories each have a sub-story of individual actors becoming leaders, crucial to the creation of the new offices. These individuals had the passion, vision, and leadership skills needed to institutionalize the ADR construct at the state-level. The result is state-level EPP offices in nearly half the states of the Union.

If champions are a common ingredient in all the stories, despite the organic and dispersed emergence of the population, are there factors that facilitated the efforts of these state-level champions across the United States? This research has identified four broad factors: the need for new decision-making methods, the wave of ADR as a construct, the resources of foundations, and the existence of ADR infrastructure.

The Need for New Decision-Making Methods

One factor motivating champions was the desire for an alternative to how conflicts were being resolved in their state. Twelve directors (50 percent) specifically discussed the perception that a new decision-making construct had been needed in their state. Existing methods were seen as inadequate, thus creating an environment ripe for

change, and providing individuals the personal motivation to effect that change. In other words, the champions were motivated by a personal dissatisfaction with the existing norms and rules, while the enabling condition was a broader perception in their state that change was needed.

The variance in this factor is the level at which the need for change was perceived, i.e., among top government officials, at the grassroots level, or elsewhere outside of the government structure. An example of "high-level perception" occurred in Oklahoma when two legislators familiar with arbitration pressed for mediation in the resolution of an agricultural conflict. However, the existing ADR infrastructure did not have a mandate for this kind of activity. Legislation soon followed which broadened the capabilities and responsibilities of the ADR office. An example of "grassroots level perception" occurred at one state university, where the extension staff, several deans, and faculty from the law school and some other departments saw a need in the state for a space where people could talk and work out conflicts. These champions jointly asserted that the university had people with the process expertise needed to support collaborative dialogues; further, they believed that, as a public university, they had a duty to the public to fill that need. The director stated, "[We] were in a unique role to help people come together ... there's a need out there." The extension arm of the university provided a home and, over time, an office has developed and grown within university extension. The status quo had become unacceptable to grassroots level champions, who were able to collaborate and institutionalize ADR processes as a mechanism to alter the old institutional arrangements. An example of the third type, perceived need for change outside of the government structure, was demonstrated, as mentioned before, in Virginia,

where the director of a state-based foundation saw a need for change in how his state resolved conflicts, and worked to bring about the creation of an office in order to “inject mediation as a coolant in the highly charged atmosphere of environmental politics.” (Williams 2002, p. 28) The foundation staff was able to build connections with university faculty, and jointly they created an EPP office. Thus, while the motivation existed in a number of individuals at a variety of levels in this case, the enabling constant was a perception that the current methods of decision-making were not working.

The series of origin events reported in the perception level examples above is in line with Fligstein’s conception of the role of individuals; “actors who have social skills, that is, the ability to motivate cooperation of other actors by providing them with common meanings and identities.” (Fligstein 1997, p. 397) The founders of the offices had the social skills and networks needed to build change around common meaning, i.e., that the status quo dispute resolution process was inadequate, and that a new decision-making method was needed. Additionally, this research indicates that champions did not have to be at a specific level of power or influence in order to create an office. Some were government elites, yet other champions did not hold high level government positions. The bottom-up, organic nature of this change, in contrast to that of a federally mandated change, has meant that the champions emerged from a variety places.

The ADR Wave

Seven directors (29 percent) indicated there was a perception in their state that an ADR wave was occurring across the U.S., and that this perception was one factor enabling the founding of an office; these champions were able to tap into a broader national trend to energize change efforts within their own states. Other terms used by

directors to describe this perceived wave were “synergy,” “atmosphere,” and “national impulse.” This ADR wave helped to legitimize the champions’ efforts to create state offices. For example, one director talked about the Carter Administration's work on justice centers, Harvard’s emerging Program on Negotiation, books such as Getting to Yes, and agricultural mediation programs; all of which fostered an atmosphere of acceptance of ADR processes and/or allowed champions to foster such an atmosphere locally to facilitate the creation of their office. This director summarized her discussion by saying that, “synergy was occurring ... all provided the atmosphere.” Champions felt that something new was happening in the U.S., and that their state would benefit from institutionalizing the ADR processes. To quote one office director, “Pound Conference exposed state legal community to ADR and U.S. Supreme court was pushing ... A lot of buzz [in state] about ADR, lawyers became interested, convinced judges to get involved.”

While part of the motivation to create an office during the ADR wave involved "embracing something new" to help the state, there may also have been a competitive aspect as well, i.e., wanting to be on the cutting edge or, at least, not falling behind. One director stated, “Felt the coming thing, [a bordering state] created one [office] a year earlier, was happening around us.” Thus, the ADR wave not only created a buzz, but provided credibility to champions’ efforts to institutionalize ADR processes within state government. Additionally, this wave provided models to follow, images and legitimacy for how current institutional arrangements could be altered. While as mentioned, seven directors specifically talked about this perception of a wave occurring in the U.S., more champions may actually have been influenced by it than were detected in this research.

The Resources of Foundations

Eleven directors (46 percent) identified the availability of NIDR and Hewlett Foundation resources as a motivation in creating their offices. The Hewlett Foundation provided more than \$160 million to the ADR field from 1984-2004, some of which went into infrastructure, such as creating state offices (Kovick 2005, p. 36). The Hewlett Foundation along with some other foundations jointly created and funded NIDR, allowing NIDR to award grants that fostered the creation of state offices. NIDR's first public announcement in 1984 stated they would "help design and support, in partnership with several states, entities capable of providing mediation services for settling complex public sector disputes on a statewide basis...." (Drake 1989, p. 359) These grant giving organizations played an important role in amplifying the ADR wave; they served as sources of funding, information, and networking for champions.

The most important financial role the foundations played was that of catalyst, offering seed money to states to help with start-up costs. David Kovick highlights NIDR's contributions: "NIDR played an important role in helping to establish state offices of dispute resolution...." (Kovick 2005, p. 36) The size of NIDR contributions varied, based on the matching level of state contribution. The initial start-up contributions for the first NIDR offices, in Hawai'i, Massachusetts, Minnesota, and New Jersey, totaled \$150,000. By 1988, four years later, NIDR had contributed an additional \$150,000 to these four initial offices (Drake 1989). Even though Wisconsin received NIDR start-up funding, the amount given to Wisconsin was not included in these "total" sums; office documents gave no reason for this exclusion. While in many cases the grants were small, the importance of their availability should not be underestimated. As

the director of an independent state office explained, the reason they are in a non-profit organizational form is because the “legislature has always been scared of costs to start an office within government.” Yet, this office has received annual funding from the state government for nearly two decades. The availability of seed money from foundations for start-up costs, although not the sole factor, was nonetheless an important influence in the creation of state offices, a persuasive tool which champions used to overcome institutional inertia.

Existing ADR Infrastructure

The existence of ADR infrastructure provided opportunities for champions to either use that infrastructure as a launching point for change, or to actually change the infrastructure into a state office. Two kinds of existing infrastructure, Neighborhood Justice Centers (NJC) and semi-organized church conflict resolution activities, were identified in this research as contributing to the creation of five (21 percent) state EPP offices. A U.S. Department of Justice program initially fostered the NJCs (Primm 1992-1993). Three founding directors identified NJCs as giving them their start, providing them with both ADR training and the opportunity to gain experience in the ADR field. As discussed earlier, the director of the NJC in Hawai`i and a high level court employee who was a board member for the NJC worked together to create a statewide office. In New Jersey, an NJC applied for and received an NIDR grant in order to expand into a statewide office. The third founding director received his first training and ADR experience through a NJC.

The existing church infrastructure was generally not as formally organized as the NJCs, but nonetheless, two directors identified it as infrastructure that allowed champions

to facilitate the creation of offices within their states. One director discussed the work of churches responding to conflicts in small rural communities as providing the atmosphere and credibility needed for creation of a state office. The founding director of another state office talked about a long history of conflict resolution in their churches, activity which led to the formation of a state Council of Churches that ran the federal agricultural mediation program for their state. As the federal program's paperwork and reporting requirements formalized over the years, however, the Council decided to step away from the formalized government ADR work and a university office engaged in extension work was asked to take over the ADR activity. From this convoluted beginning, the founding director and staff began to build on the previous work of the church council, expanding their activities over the years, and ultimately growing into a state office that now engages in a variety of activities, including EPP work. While the transfer of Council of Churches' ADR work was the impetus for a state university to engage in this work that eventually lead to the creation of an office, just as important is the fact that the church infrastructures initially provided legitimacy to the activity. Champions were not introducing entirely new constructs, but instead were building upon past successes of ADR constructs familiar within their state.

It is quite possible that the present exploratory research was not sensitive enough to detect other forms of low profile infrastructures that may have played influential roles in the origins of state offices. One director, for example, stated that he “viewed the community and NJCs as the primordial mud that led to all other activity, except in the labor management area, that has a different history.” In each instance, an important characteristic of the champions was their ability to bring about change while operating

within the existing institution, either seeing an incongruity or envisioning something new within the existing infrastructure. While there is no singular explanation for what motivated the champions, nor singular external influence that shaped their activities, the above factors provide insight as to what framed their perceptions and facilitated their work.

Catalytic Events

The majority of interviewees discussed the origins of their offices in the terms noted above, i.e., as the result of multiple factors coming together to motivate champions and enabling them to bring about change. However, four states (17 percent) experienced explicit catalytic events that their respective champions built upon.

Iowa was hit particularly hard by the farmers' debt crisis during the 1980s. The founding director of that state's office was involved with a neighborhood justice center during the 1970s, and conducted agricultural mediations on a voluntary basis in the 1980s during the mounting farmer debt and foreclosure crisis. Tragic events within the state captured national headlines. One such story was of a sixty-three year old farmer whose land, animals, and equipment had been foreclosed upon, who then killed his banker, his wife, his neighbor, and then himself (NYT Dec. 15, 1985). Similar tragedies linked to the debt crisis were happening elsewhere in the state and throughout the country as well. This atmosphere motivated the Iowa governor and legislators to pass an emergency bill requiring mediation before foreclosures and appropriations. From this beginning emerged a farmer-creditor mediation services office, which grew into a state office that engages in EPP issues.

While Iowa clearly experienced a catalytic event, a statewide crisis, it also experienced three of the enabling conditions discussed earlier: the presence of a champion, the existing infrastructure of an NJC that provided the champion with the training and experience needed to respond to the crisis, and a widespread perception that a new decision-making method was needed. Litigation and foreclosures were no longer acceptable methods of addressing farmer debt conflicts.

Nearly a decade later, in Maine, conflicts arose over state regulation of private land. At the time, Maine, along with other parts of the country, was experiencing increased tension between government regulation of private land use vs. a growing “wise use movement” (Brick 1995). The Maine legislature responded to constituent complaints by adding a land-use mediation program to an existing ADR office, thus expanding the office’s work into EPP issues. The new program gave the legislature a means of addressing private landowners' concerns over government regulation by providing an ADR process as a channel for disagreements. As with the Iowa example, in this state, too, there was a perceived need for changing how decisions were made, and the new system was built upon an existing infrastructure.

Around the same time (mid-1990s), the U.S. Forest Service was engaging citizens in the planning process for the Nantahala National Forest land in North Carolina. It became a highly contentious project, and disparate views on the inherent issues resulted in groups forming sides around their positions. Faculty at North Carolina State University, University of Georgia, and University of Kentucky started talking about the need to foster leadership and skills at the state-level in order to address such contentious issues. A few years later, several faculty submitted a proposal to the Kellogg Foundation

to develop infrastructure that would improve North Carolina's capacity to handle complex EPP conflicts, resulting in the Natural Resources Leadership Institute. Early on, this Institute had provided training in consensus process with the intent of fostering current and future state leaders with the necessary skills to address complex EPP conflicts effectively. Later, the Institute staff found that state leaders were interested in utilizing collaborative approaches, but that there was now a need for process support. The Institute therefore started designing, facilitating, and mediating stakeholder processes across the state. Again, a shared perception of the need for new decision-making methods motivated champions to galvanize around a catalytic event in order to alter the existing institutional conflict resolution arrangement.

One final example of this catalytic event mode of origin occurred in Oklahoma; two state legislators who knew that ADR processes had been used effectively in agricultural issues (crop arbitration) wanted to try mediation for a specific agricultural conflict and requested help from the existing ADR office. However, the staff was not able to help because of their limited mandate and current regulations. To rectify the impasse and fill a perceived need, the legislators worked to pass legislation that expanded the office's mandate. As with the other examples, office origin occurred because there was an enabling catalyst, the state had prior experience with ADR, there was a perceived need for new decision-making methods, and there were individuals motivated to take action.

Thus, the stories of origin of these state-level offices share certain themes, i.e., of individual champions in each state who were able to take advantage of broader factors that occurred in their state and were occurring elsewhere in the country, rather than

emerging along the federal model of a top-down mandate. It is not surprising that heterogeneity was an early characteristic noted by researchers; yet as discussed in the previous chapter, this research found shared characteristics to the extent that the framing of heterogeneity is no longer germane. The analysis of this research, therefore, shifts from origins to current influences on these offices.

Current Influences

The semi-structured, in-depth interview used in this research had two questions in particular that focused on influences; twenty-two of the twenty-three directors (96 percent) responded to these items:

- What influences from outside the state are there on your program?
- When you have questions, who do you brainstorm with?

Fifty-eight influences were identified and these fell into six categories: national associations, federal government, foundation, state EPP offices, academic sector, and private sector. In order to highlight those influences having a broader impact than others, Table 5.1 summarizes those influences cited by three or more directors (The number after the dash indicates the number of directors who identified the entity). For example, the Policy Consensus Initiative (PCI) was identified by sixteen directors (73 percent) as being influential. PCI is set apart in Table 5.1 because it stands apart from all other influences given its breadth of influence on the state EPP office population. The category of *national associations* refers to organizations that have a national focus and are not part of the federal government. The other categories of *federal government*, *foundation*, and *state EPP offices* are self explanatory. Table 5.1 does not contain the categories of

academic or private sector, as no broad influences were identified; that is, there were not three or more directors identifying the same influence in these categories.

Table 5.1
Director-Identified Influences on EPP Offices*

Policy Consensus Initiative – 16 (73 percent)
<i>National Associations</i>
• Association for Conflict Resolution – 7 (32 percent)
• American Bar Association – 5 (23 percent)
<i>Federal Government</i>
• U.S. Institute for Environmental Conflict Resolution – 7 (32 percent)
• Federal Agriculture Mediation Program U.S. Dept. of Agriculture – 4 (18 percent)
<i>Foundation</i>
• National Institute for Dispute Resolution – 3 (14 percent)
<i>State EPP Offices</i>
• Ohio Commission on Dispute Resolution – 3 (14 percent)

* Number after dash in table indicates the number of directors citing the entity.

Policy Consensus Initiative (PCI)

PCI is a non-profit organization created in 1997 with significant financial assistance from the Hewlett Foundation; PCI “builds and supports networks that provide states with leadership and capacity to achieve more collaborative governance.” (Policy Consensus Initiative 2007) The organization engages in numerous activities focused on state-level collaborative governance, such as consultation and technical assistance; it also fosters networks, serves as an information hub, hosts workshops and trainings, provides advocacy, and conducts some applied research. The founding director (Chris Carlson) and now senior adviser (semi-retired) was the director of the Ohio state EPP office prior to creating PCI (Davenport 1998). While the organization's activities are broader than strictly state EPP offices, PCI has had a focus on institutionalizing collaborative processes via state ADR offices. These efforts have included consulting, providing networking opportunities, drafting newsletters, creating directories of EPP state

initiatives, and issuing reports focusing directly on and related to state EPP offices. Over the years, PCI has hosted a variety of workshops for state EPP office staff. Some workshops were inclusive of all offices, while others targeted sub-groups, based on affiliation. More recently, the focus has been on university based offices. Multiple directors stated that based on their discussions with PCI, the directors had the impression that housing an office within a university was currently viewed as a strong model. PCI's direct focus on state-level collaborative processes explains its broad influence among the directors. Additionally, as mentioned, Chris Carlson directed the Ohio state EPP office before founding PCI, thus she understands the state EPP office perspective.

Throughout the interviews, directors would ask, "Have you talked with Chris? She knows more about that than I do." Or, "I talk with Chris when I have a question about that sort of thing." While PCI is the organization referenced in this discussion, Chris Carlson has been the force behind PCI's work. Based on this research the sixteen directors who identified PCI or Chris Carlson as influential, as well as references throughout other parts of the interviews, PCI has the broadest influence on state EPP offices. One of the unique aspects of an emerging population is its isolation, i.e., networks can be limited and organizations to imitate may not exist (Fligstein 1997; Maguire, Hardy et al. 2004). PCI has helped to fill that gap, acting as a nexus of networking, as educators and advocates of state-level collaborative governance, and as a source of information for state directors who have an inward state focus.

PCI has helped to give identity to and frame the work of both the new organizations and the emerging population. While no centralized, top-down mandate at the state-level influenced institutionalization, with so many offices having interacted with

and relied on PCI for information, PCI stands out as having the broadest influence on this population. Yet, PCI is not the only entity having influenced multiple directors; national associations, federal government, foundations and a state office all have some influence.

National Associations

Association for Conflict Resolution (ACR)

The Association for Conflict Resolution (ACR) is a relatively new professional organization to the field of ADR. It originated in 2001 through the Hewlett Foundation's advocacy for the merger of three ADR associations; Academy of Family Mediators, the Society for Professionals in Dispute Resolution, and the Conflict Resolution Education Network. The resulting organization has become the “primary professional membership association for conflict resolution professionals” (Kovick 2005, p. 44) with over 6000 members. ACR is still a young organization and, with the ending of the Hewlett Foundation’s conflict resolution funding, has faced some financial challenges. Nonetheless, as a professional association, ACR offers an annual conference and membership groups, guidelines, advocates for the ADR field, and publishes a magazine and journal. Seven directors (32 percent) identified ACR as having an influence on their offices, predominantly through networking and ACR's efforts to develop guidelines for ADR practices. ACR's current supplemental position of influence is not surprising for two reasons. It is broadly defined since it is an association for all ADR practitioners, and thus, has not focused on state offices in the same way as PCI. Additionally, PCI established its role as the networking nexus for directors before ACR's founding.

American Bar Association (ABA)

Five directors (23 percent) identified the ABA as influencing their offices. Four of these directors hold the degree of Juris Doctor (JD) and the fifth director has office staff with JD degrees. The ABA serves as a professional organization for the legal community; the directors discussed its influence in the context of the ABA's Dispute Resolution Section which has provided office staff with networking and on-going education and learning opportunities.

Federal Government

While the federal government has never implemented a top-down mandate requiring states to create ADR offices, nor has it directly allocated funding to sponsor the state EPP offices, it nonetheless wields some influence because of work between the U.S. Institute for Environmental Conflict Resolution, state EPP offices, and funding provided through the Federal Agricultural and Mediation Program.

U.S. Institute for Environmental Conflict Resolution (USIECR)

The most direct federal influence on the EPP offices and staff comes from the activities of the U.S. Institute for Environmental Conflict Resolution (USIECR). Seven of the directors (32 percent) stated that their offices had been influenced by USIECR, which began operating in 1999. The Institute has three goals:

- To resolve environmental conflicts and improve environmental decision-making through collaborative problem-solving approaches (commonly referred to as environmental conflict resolution [ECR]);
 - To increase the capacity of agencies and other affected stakeholders and practitioners to manage and resolve conflicts; and
 - To provide leadership within the federal government to improve environmental decision-making and policies through ECR.
- (United States Institute for Environmental Conflict Resolution 2007)

The Institute is funded by Congress, and its primary focus is federal government and environmental conflicts involving federal agencies.

This research found the clearest influence of USIECR on state EPP offices comes from a Hewlett Foundation grant which the Institute received to develop an evaluation system. In developing the system, the Institute worked with both federal agencies and some state EPP offices. The collaborative effort ended, however, with the nationwide economic downturn of the early 2000s; states could no longer afford to put staff resources into the USIECR research project. Nonetheless, the Institute is starting to emerge as a resource for information regarding technical EPP expertise.

Federal Agriculture and Mediation Program

Four directors (18 percent) identified the Federal Agriculture and Mediation Program, based at the U.S. Department of Agriculture, as being an influence on their offices. While this federal program does not have an active research or evaluation program like that at USIECR, its annual national meeting for those engaged in agricultural mediation provides a networking and learning opportunity for office staff. The federal government has never directly allocated funding to support state EPP offices, yet some directors in this research reported that the revenue generated from the agricultural mediation programs plays an important role in state EPP office budgets.

Foundations

National Institute for Dispute Resolution (NIDR)

While the focus of this research question is on current influences, obviously the questions on origins also elicited data on early influences. Three directors (14 percent)

identified NIDR as influencing their offices. NIDR was created between 1981-1983 (Dillon 1994; Barrett and Barrett 2004; Kovick 2005) and closed in 1999. Larger foundations, such as Hewlett, Ford, AT&T, and others, created NIDR as a broker foundation focused on ADR related activities; its founding was an effort to more effectively channel the “bewildering variety of proposals ... NIDR attempted to bring some order to this chaos.” (Barrett and Barrett 2004, p. 222) One of its initiatives, and part of its funding, went to institutionalize ADR processes at the state-level. The directors in this research described NIDR’s influence in terms of the impact of this funding on the origin of state offices. Review of state office documents indicates that the NIDR ultimately played a role in funding at least eight of the state offices. Unfortunately additional analysis is necessarily limited, as many NIDR documents are not readily available.

While NIDR is primarily remembered as a funding source, NIDR staff also served as sources of information, forming a network hub for the state office directors. NIDR’s advocacy of ADR and other initiatives contributed to the ADR wave, which champions then built upon in their states. The ADR field and the state EPP office population would likely look significantly different had it not been for the efforts of NIDR staff. However, NIDR's origin itself produced significant challenges to its effectiveness. As David Kovick (former Hewlett Fellow) explains in his report, The Hewlett Foundation Conflict Resolution Program Twenty Years of Field-Building;

NIDR never developed into the central infrastructure organization initially envisioned by its sponsors. NIDR struggled in its early performances.... Initial activities focused narrowly...which, according to many was not a particularly bold or ambitious agenda.... [A further problem was] NIDR's lack of a natural constituency within the field. Several leaders in the field observed that NIDR was a largely foundation-driven initiative. (Kovick 2005, p. 36)

Thus, while this research found that PCI currently has the broadest influence, foundations have had the greatest historical influence. Foundations supported NIDR and PCI specifically, and invested more than 160 million dollars in the ADR field. Foundations have directly financed the ADR private sector, research infrastructure, practitioner arena, and institutionalization efforts (Kovick 2005, p. 36). NIDR claimed that they did not have a specific model for state-level institutionalization. However, given the combination of monetary incentives and the fact that foundation supported organizations such as NIDR and PCI served as networking hubs and sources of advice, it is not surprising that the state EPP offices have shifted from their initial heterogeneity and now exhibit signs of convergence. Regulation is not necessary to bring about such change, funding and centralization of networks and of ideas can result in a convergence.

State EPP Offices

While no individual state EPP office emerged as having a broad, overarching influence, three directors identified the Ohio office as being influential. Two of the directors discussed that influence in terms of colleagues in that office they felt comfortable talking with, the personal connection they had with individuals at the Ohio office. The third director who identified the Ohio office as influential indicated that the influence came from studying the office. This director was engaged in a process of starting an office and so studied three existing offices, Ohio being one of them.

Based on the above and the framing by the other directors in their discussions, the influences stemming from other state EPP offices are due to relationships based upon personal connections; talking with others that they can relate to, understand, and are comfortable exchanging ideas with. In other words, there is no single, idealized office that all others in the population are trying to emulate.

Discussion

This chapter has focused on the two research questions; what factors explain the emergence of this population, and what are the current influences that continue to shape it? Findings revealed that, lacking a federal mandate, institutionalization of the ADR construct at the state-level emerged in a bottom-up, decentralized manner. This research built on that of O’Leary and Yandle (2000) who found that champions were crucial to the creation of the offices; it sought additional insight to what factors facilitated the success of those champions. Creation of the offices ultimately came down to individual actors with the passion, vision, and leadership skills necessary to affect change within their state. However, the importance of actors must be balanced by the importance of a broader organizational population analysis, thus avoiding a skew toward hero imagery. Instead, this research has tried to take into account the themes that cut across the champion stories, linking them back to factors in the larger population which shaped champions' motivations and drove the enabling influences of each situation.

The localized nature (state-level) and the unique factors within each state prevented any single formula for creating an office. Instead, this research indicates that a variety of paths existed. Some champions tapped into a catalytic event in their state, others were facilitated by one or more factors:

- Perception that new decision-making methods were needed;
- ADR wave was occurring;
- Foundations offered resources; and
- There was existing ADR infrastructure.

In addition to these enabling factors that shaped the emergence of the population there continue to be current influences on the population. This research showed PCI to have an unmistakably broad current influence, while foundations have a legacy influence. The latter have invested well over 160 million dollars into the ADR field in general, and specifically funded NIDR and PCI in an effort to foster state-level ADR. The common theme found in this research that cuts across the past work of foundations and today's work of PCI is one of a soft influence, particularly through information and funding. The influence exerted through funding is important, in that funding institutions were and are a centralized source of resources where none previously existed. Although neither NIDR nor PCI has put forth any "ideal" office model for grant seekers to emulate, still, the centralization of funding has meant that fewer people are making these decisions, rather than multiple staff with multiple experiences and goals. In addition, a centralized source is defining for the industry what are the attributes of a "successful" state office. Combining the foundation legacy influence with PCI's central role as found in this research, the soft influences on state-level offices may explain their shift away from heterogeneity.

Similarly, the foundations' historical and current role as network hubs, providing workshops and serving as centralized sources of advice, exercises their soft influence by identifying "good ideas" among state EPP offices and relating this information to the population. Office directors do not have to follow the advice or integrate the ideas into

their offices; however, given that sixteen directors (73 percent) identified PCI as being influential, it appears that the soft impact of ideas can, in fact, be influential. Ideas and framings are particularly influential during times of emergence;

... the widespread adoption of new practices may be problematic: there may not be leading organizations to imitate (Trist, 1983) or widely shared agreement as to what is appropriate practice for actors.... (Maguire, Hardy et al. 2004, p. 660)

While champions benefited from the fact that they did not have to create offices in a highly dense, highly competitive population, they were challenged to give these new organizations meaning and identity. PCI and NIDR helped with both, giving identity to the emerging population and framing the work of the new organizations as meaningful. The implications of these influences will be discussed more thoroughly in Chapter Eight.

Chapter 6

COGNITIVE MAPS – AN INVISIBLE POPULATION

This research has identified twenty-three state-level offices that utilize alternative dispute resolution (ADR) processes to address and public policy (EPP) issues. There was no centralized guiding force, no single model for these offices; instead state-level champions tapped into a national wave of changing dispute resolution practices, newly offered foundation resources, and catalytic events within their states to shape the creation of state EPP offices. The result was a diverse, decentralized emergence of a new population. Using cognitive map analysis, this chapter focuses on the question, *how do the directors make sense of their office within the broader population and do they share any norms?* In order to better understand the framing used by directors, this chapter concludes by framing the population in terms of affiliation and the affiliation changes that have occurred for the population.

Cognitive Maps of Directors

The term *cognitive map* refers to a mental representation of an environment which the mind creates to provide simplified representations of a complex world. Identifying and probing the cognitive maps of the state directors provides insight into how they make

sense of the many EPP offices and their place among them. This understanding is useful because the way individuals mentally organize their environments in turn influences their perceptions and decisions (Kaplan and Kaplan 1983; Kearney and Kaplan 1997). What cognitive maps have the state-level office directors created regarding their office and its place in the broader environment of state EPP offices? Do the directors view their offices as unique, or as part of a larger population?

Two questions in the semi-structured in-depth interviews were designed to elicit the cognitive maps of the directors. *When you are sitting in your office, looking out at the U.S., how do you make sense of all the offices out there?* In order to focus the directors' responses, a follow-up question asked, *How would you organize or group the offices?* Twenty-two of the twenty-three directors (96 percent) responded to the two questions, though three stated they did not know enough to organize or group the offices in detail. One director discussed a method of organizing activities within his state, but did not discuss anything dealing with other state EPP offices. The responses of the eighteen directors (78 percent) who did discuss some sort of method of mentally organizing state EPP offices formed the basis for this analysis.

Twenty-Three Dissimilar Offices or a Single Population?

The data indicate that the majority of the directors do not view themselves as part of a single population of twenty-three offices. The majority of the directors (eleven or 61 percent) make sense of the larger office environment based along narrower lines. The other third of the directors, (six or 33 percent) view their offices as unique. One director stated, for example, "I don't think there is another program in any other state that is like us." Another said, "[We are] very separate from other programs ... Does own thing."

These six directors do not view their offices as being part of a unified population of state offices.

Several factors may explain why there is not a strong sense of a single population. No federal mandate drove the creation of the offices; instead, many grew from state based initiatives that received start up support, but no forced direction, from foundations (Dillon 1994; Kovick 2005). Additionally, the focus of these organizations are state-based, leaving staff mostly focused inward on their state. Finally, most offices have a small staff, with more demands than time and resources, which further limits their opportunity to explore. As one director stated during her discussion of other state offices, “I don’t have anybody that can do that kind of research for me on my staff, that can call [other offices] and do that kind of research project.” All of these factors have created a dynamic in which the directors developed cognitive maps suggesting dissimilarity.

Yet, as discussed in Chapters Three and Four, the state offices do exist in a larger field of practice, where forces such as PCI serve to bridge them. This research found that the majority of directors do see themselves as part of sub-groups. How does this majority, (twelve or 67 percent) organize the state offices? What connections do they see? The two dominant frames these directors use to make sense of the larger office environment are *affiliation* and *subject matter*. *Affiliation* takes into account how the office is housed organizationally, while *subject matter* organizes offices according to the types of issues in which the offices specialize. While some directors used only one framing, some used both frameworks in their cognitive maps of state-level EPP activity.

Two Types of Framing

Affiliation Framing

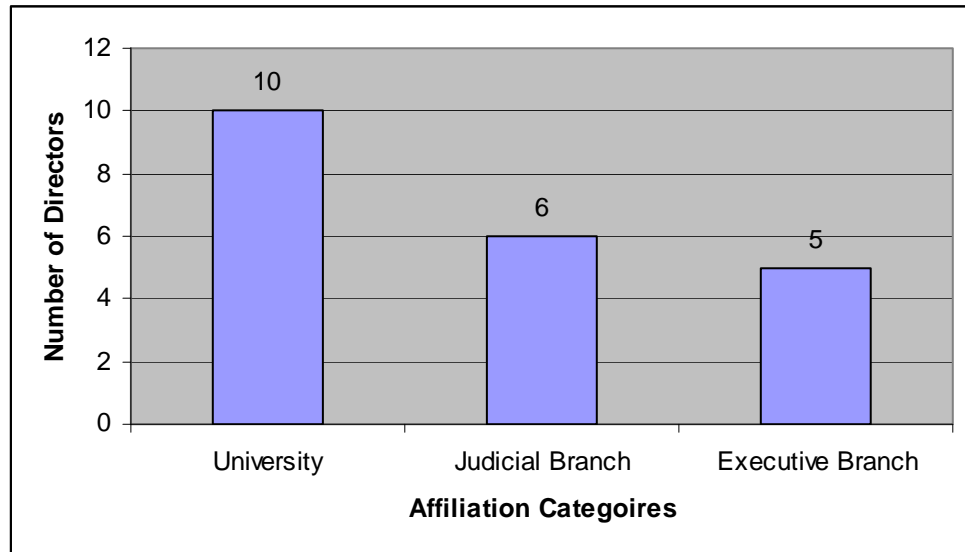
Affiliation was the single most common method of organizing the state EPP office environment among twelve of the responding eighteen directors (67 percent). This framing is based on where an office is housed and or the office's predominant funding source. One director provided the following typology, "University, court, non-profit and executive branch." A different director provided the following explanation,

Another way I might think about it is who they are affiliated with because that's typically how I have always categorized it in my mind. Okay, there are those that are aligned with universities, those that [are] aligned with state government whether judiciary or executive branch ... but typically those are the ones I think about.

As with any cognitive mapping, the map is based on the perceptions of the observer. The focus of this discussion is not to determine which director's cognitive map most accurately reflects the environment, but to understand how the directors view their environment.

The research identified three main typologies within the affiliation framing (Figure 6.1), with the university framing is the most cited affiliation among ten of twelve directors. While there are twelve university offices, accounting for fifty-two percent of the total EPP offices, a weighting bias does not appear to be the reason for the preponderance of university affiliation framing. Only six of the responding directors (50 percent) were in university offices, while the other six responding directors (50 percent) were evenly split between court and executive branch offices. Court affiliation was the other most cited affiliation, with six of the directors (50 percent) using this as a cognitive map category.

Figure 6.1
Summary of Directors' Affiliation Categories



Subject Matter Framing

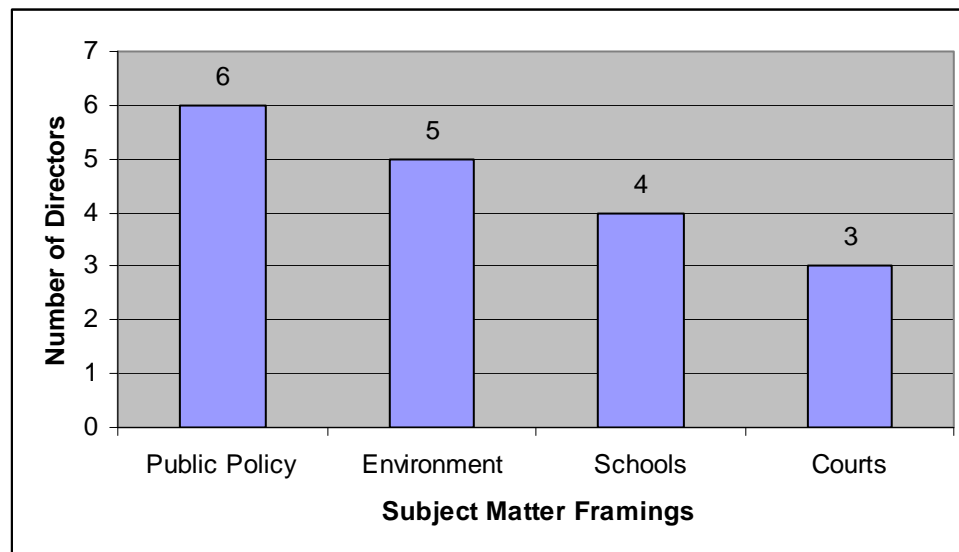
The other main method used by the directors to mentally organize the state EPP offices was subject matter. This framing categorizes the offices by their primary type of work, such as public policy or court. Nine of eighteen directors (50 percent) used subject matter as a method of organizing the EPP offices in their cognitive maps. One director described this category as, “Work done, court or more environmental ... broader public policy.” Another stated,

One [type of framing] would be like, the subject matter they are dealing with, like the services they provide. In which case, I would put those together that do public policy and then those that do everything else, because I don't think there is a whole lot more than that, a lot of them are doing public policy work. Not a lot of them are doing school work or court and community together.

Figure 6.2 provides a summary of the four most common subject matter framings. Several categories were highlighted by multiple directors: public policy was identified

by six of nine directors (67 percent); environment by five (56 percent); schools by four directors (44 percent), and courts by three (33 percent). Because the focus of this research is the institutionalization of ADR processes at the state level to address EPP issues, it is not surprising that public policy and environment were the two most identified categories. Two points of clarification, the term “schools” refers to K-12 conflict resolution programs and in this context, the term “court” refers to a programmatic focus on court ADR programs.

Figure 6.2
Summary of Director’s Subject Matter Framings



Invisible Population

The directors' primary mental construct is not one of a single population, but rather, one of smaller groupings defined by affiliation and/or subject matter, while one-third of them view their offices as unique and not part of any group. There was an exception: one director stated, “I felt like I have been a part of a network...at least part of what has been called state offices of dispute resolution...but I tend to be flexible and

inclusive about what constitutes a program.” This research suggests a construct different from that used by the majority of the directors, i.e., *that all twenty-three offices constitute an organizational population*, albeit one that is invisible to most directors.

The world is full of organizations: churches, logging companies, fire departments, banks, restaurants, universities, hospitals, etc. While each organization has its own staff, its own procedures and norms which make them unique, there are also some commonalities. Banks are typically more similar to each other than they are to fire departments. This does not mean that all banks are identical, but analyzing them as a single population can provide insights that would be obscured if each were instead viewed as a unique organization.

The organizations in this population all have the same common sense definitions (EPP offices), the same geographical bounding (state level), and similar technical cores (all use ADR processes to address EPP conflicts). The twenty-three organizations in this study (see Table 1.1 in Chapter 1, page 7) constitute an organizational population, even if their group membership is invisible to some within the population.

Norms

Using a population framing raises the question: If these organizations constitute a population, have any norms evolved since their origins over the last twenty-five years? Norms are informal expectations that tell people what behavior is acceptable. “Unlike externally enforced rules and laws, norms are internalized by participants; behavior is guided by a sense of what is appropriate, by one’s social obligations to others, by commitment to common values.” (Scott and Davis 2007, p. 260) Given that most

directors do not view their offices as part of a single population, have norms emerged within this population?

The following question was used in the interviews to gain insight to provide insight into norms of the directors.

Currently, there are no formal national policies that regulate or influence state programs, are there any informal influences or norms? For example, there is an informal rule or norm among art museums that you never sell a piece of art work to cover operating costs, only to purchase other artwork. It would be considered inappropriate to cover the air conditioning bill by selling artwork.

Twenty-two of twenty-three directors (96 percent) responded to the interview question. An example was provided in the question to serve as a mental primer to assist the directors' mental shift from sensory observation to internal reflection. Use of the primer was important; very few directors responded with quick or succinct responses, but after thinking about the question and talking out loud for a bit, most respondents identified norms they felt were shared among the state EPP offices. There were two exceptions: two (9 percent) of the twenty-two directors who responded to the question felt that there were no norms. One director stated, "Way too early for field ... Not quite ready yet." The other director said flatly, "There aren't any." Even though there was a wide gamut of responses from the rest of the directors, two norms were identified, along with the possibility of an emerging law.

Best Practices Norm

Fourteen of the directors (64 percent) felt there was a norm of best practices with regard to the offices' various processes. "Best practice" was a phrase used by many of the directors. This norm focuses on promoting best practices in mediation, facilitation, or

other collaborative decision-making processes. An open and transparent process is a best practice that some directors stated they would like to see consistently. In discussing the best practice as a norm, one director stated:

Well they all want, we all want to have really high standards for our mediators. We want...mediation and arbitration [to be] used properly ... I think all of the state offices are very conscious of quality

Another director stated, “The norms that I recognize are around the nature of the practice. Neutrality, integrity of process, all the issues around the nature of the practice.” While directors discussed a variety of process issues, there was a clear focus on ensuring that best practices were being promoted,

I think there is the unwritten norm that we should try to supply and encourage the selection of qualified neutrals or facilitators. That there are...that we all know of processes that are conducted by people who are not qualified. Sometimes they are successful and sometimes they are not. Sometimes they end up, kind of spoiling the waters for the conduct of further ... processes.

Other process issues that directors identified in their discussion of best practices were: voluntary participation, inclusiveness, order to the steps and conducting assessments before intervention.

The broader ADR field is still in a stage of refining terminology and practice methods. Since the offices are themselves the centralized promoter of ADR processes for their states, they would of course all have an incentive to promote best practices. However, this can be a challenging situation for an office staff. Many directors have concerns about becoming state regulators of ADR, given the resources such regulation would require and the fact that there is such a wide variety of effective ADR methods. For example, within mediation, some practitioners use a directive model, while others prefer a facilitative or transformative model. The repertoire of collaborative processes is

equally broad and each may be altered to fit the needs of the situation. While such flexibility is a cornerstone of ADR processes, this necessary trait also makes it difficult to delineate specific guidelines that all agree with. Not surprisingly, no single source of best practices was consistently cited, although three directors discussed the Uniform Mediation Act in the context that it may herald in more standards.

The Uniform Mediation Act (UMA) is a still emerging law that attempts to create uniformity among state laws with regard to mediation. While the UMA is not a norm, if ratified by enough states, it could potentially influence norms in the future. Currently ten states have ratified this act. One director stated, “Well, I think the thing that is happening now is the uniform mediation act ... I think that is the kind of thing that is going to be the shared norm” The Uniform Law Commission has stated, “The UMA’s prime concern is keeping mediation communications confidential.” (National Conference of Commissioners on Uniform State Laws 2009, p. 1) The focus of the UMA is on “promoting predictability with regard to the process and the level of confidentiality that can be expected by participants.” (National Conference of Commissioners on Uniform State Laws 2009, p. 2)

Support Others and Share Information Norm

Another norm that appears to be emerging, discussed by some directors (six, or 27 percent), was a norm of supporting each other and sharing information. This norm embraces the expectation that office staffs will help each other, by collaborating when appropriate or sharing information. One director stated, “I think there is a supportive kind of norm. I feel like if I call another state office, they are going to respond and be helpful and I certainly would do the same.” Some examples of this sharing of

information were reports, training materials, or just the willingness of directors to brainstorm and share experiences and lessons learned with each other. Another director stated, “Shared learning, we are in this together.” However, as stated above, this is a small number of directors, six (27 percent). Given the earlier finding that the majority of the directors do not view themselves as part of a single population of twenty-three offices, it is not surprising that this norm is not more prevalent. This ability to support and share information is partially driven by the fact that some of the directors perceive themselves as functioning in different markets; “Because they are called state offices and they are so focused state by state, that kind of cooperation is easier because we don’t see ourselves in a competitive framework.”

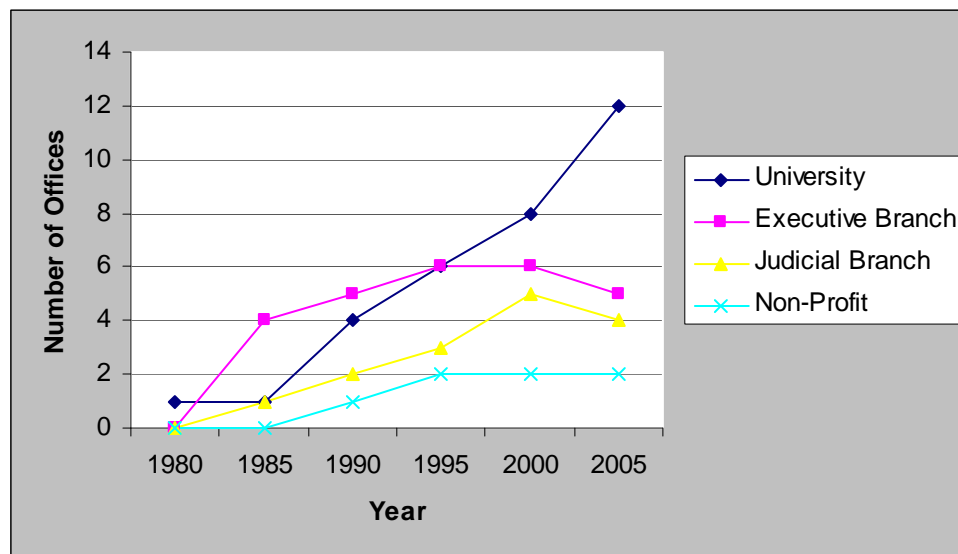
At this stage in the field's development, it is not surprising that only one norm was shared by the majority, best practices regarding process. This is still a young population, the first office created in 1980. Additionally, as the cognitive map analysis showed, the directors do not see themselves as a unified population, thus reducing the perceived number of colleagues with whom to collaborate, and reducing the dominance of the support others and share information norm. The best practices norm also may be more dominant because this issue is influenced by the larger field's lack of universal standards.

Affiliation Changes for Population

As discussed earlier, this research found organizational affiliation was not a predictive characteristic, that is, no strong patterns were detected in this study that indicated a particular affiliation made an office more likely to exhibit other specific characteristics. Yet, where an office is housed is an important aspect of the population leaderships’ cognitive maps. This population has been relatively stable; twenty-three of

twenty-five created offices (92 percent) survive. However, the population has not been static, experiencing two growth shifts, in 1995 and in the early-2000s (Figure 6.3). From 1985 until 1995, the most numerous affiliation forms were offices housed within the executive branch, totaling six in 1995. However, in 1996 university based offices became dominant in terms of number due to continuous growth of university based offices while the executive branch offices have experienced a decline in terms of number. This trend seems to be continuing, i.e., at the time of this research, there are twelve university offices and only five in the executive branch.

Figure 6.3
Number of EPP Offices Based on Affiliation



The other major shift occurred in the early 2000s, due to an economic downturn that resulted in state government budget cutting, including funds for many state EPP offices. During this period Massachusetts' office shifted from the executive branch to a university in 2003 as did Oregon's office in 2004. In both cases, lack of funding was an important factor in the move. A third office was being funded by a foundation grant and the court system had made a decision to reduce its management of grant programs, so the

office was attached to an executive branch agency that had staff with a favorable view of ADR processes.

Clearly, university offices have increased steadily; several factors explain this growth. Increased interest among students and faculty in studying conflict analysis has resulted in more academic programs. Hosting an EPP office provides the university with an on-site lab for research and experiential learning. Additionally, PCI has highlighted the university offices in its reports and has sponsored conferences for university offices. Further, economic forces have pushed offices to look for new settings; the Massachusetts and Oregon offices moved to university settings in the hopes of stabilizing their office budgets, which were cut while housed in the executive branch. One director described looking at a lot of different possible locations but choosing a university for several reasons. The first reason mentioned was based on conversations with PCI that viewed the university affiliated offices as a sound choice. Another reason was that the director viewed the university host organization as a more stable place, out of the direct line of threats, such as having budget reduced or zeroed out by a governor looking to reduce the executive branch budget. There is the perception of a symbiotic relationship. The offices can bring specialized training knowledge and applied work while the university offers a home that is generally viewed as a very credible place to work and staff are perceived as experts with minimal bias. Finally, it was felt that moving to a university provides access to grants and foundation resources that were not available before as part of the executive branch.

While the number of offices affiliated with universities is on the upswing, it is not without its own challenges. The second oldest university office, Florida, experienced

significant financial hardship in the 2000s. Additionally, some offices already housed within a university, albeit on the service side, or extension, indicated interest in moving to the academic side to create more stable funding; the academic side is perceived to be the more financially stable. However, such a move could change the expectations of the host institution; the offices could become more deeply embedded within the university system, and as such they would be less insulated from the host's norms and expectations. Few offices presently engage in research to the extent that most universities would expect of an academic unit. If housed on the academic side, would senior office staff be expected to achieve tenure? If so, this would change the focus of the staff. Additionally, teaching and other duties which are norms on the academic side might reduce the ability of staff to engage in practice. Would staff perceive such a change as positive or negative? The reality is, becoming more embedded within any host organization means less flexibility, because both the office and the host must adapt, integrating their activities more into their organizational routines.

Discussion

Analysis of the directors' cognitive maps provides insight into how leaders are making sense of their environment, while developing a population framework provides the ability to analyze the norms and evolutionary changes the offices are experiencing. This collection of organizations constitutes a population since they have a similar common sense definition, geographic bounding, and technical core. However, such a perspective is not shared by all of the population's leaders. The majority of the office directors frame the offices in sub-groups based in terms of their affiliation and/or their subject matter. Organizing the offices by these smaller categories allows the directors to

better understand them and perhaps to provide more nuanced learning opportunities. However, stepping back provides a bigger picture, allowing insight into broader themes.

Currently, this population only has one shared norm: best practices regarding process. While there is no universal agreement on specific standards, some are hoping the UMA may eventually be adopted by a majority of states, thus helping the field to unify around some laws, rules, and norms. While all the offices have similar technical cores and provide similar services, their state based focus results in minimal competition. A small number of directors identified a second norm of supporting others and sharing information. The lack of strong norms is not surprising, given that this population is relatively young, still growing and evolving.

Offices affiliated with universities are the most prevalent method of institutionalization within state government. While university affiliation is dominant, like any organization, it provides advantages and disadvantages for champions interested in organizing focused activity around ADR processes.

Chapter 7

INSTITUTIONAL LOGICS

It is common to look to mission statements in an effort to gain better insight into organizations. These public statements are often the most accessible declarations that signal aspirations, though these declarations typically do not explain the underlying assumptions and organizing principles of organizations. In other words, what is driving an organization; why do organizations do what they do?

Institutional logic is a framework that can provide insight into the underlying assumptions or logics behind stated goals. Scott (1998) builds upon Friedland and Alford's work and explains institutional logic as "the cognitive frames and underlying assumptions that constitute the 'organizing principles' for pursuing goals in a given arena...." (Scott 1998, p. 223) For the purposes of this research, Scott's definition will be used.

Public statements of state officials and mission statements of the state environmental and public policy (EPP) offices indicate conflict resolution as a primary goal. In creating the Montana Consensus Council, Governor Racicot's executive order stated the mission of the council was, "To provide assistance for building agreement on natural resource and other public policy issues; To anticipate and resolve controversial issues...." (Montana Consensus Council 2006) Another common mission statement for

the offices is, “serves as the state office of dispute resolution” (Alabama Center for Dispute Resolution 2006). Some mission statements were more detailed. Regardless of the level of specificity, conflict resolution is a primary goal of these organizations. While understanding that conflict resolution is a primary goal of the state EPP offices is a useful first step in understanding these organizations, this chapter focuses on understanding what lies behind the public statements of the offices, what are the underlying assumptions driving the offices. In other words, what are the institutional logics of the offices?

While the state EPP offices share a focus of conflict resolution, it is not clear if the offices share similar institutional logics. Is the institutional logic that is driving the goal of conflict resolution improved decision making processes? Perhaps an office has the goal of conflict resolution because the driving institutional logic is meaningful citizen engagement? Or is the goal of conflict resolution driven by the institutional logic of efficiency? Do the offices share the same institutional logics or is there diversity in the population? Is there a pattern between office affiliation (university, executive branch, court, independent) and related logic? For example, do offices housed in courts have a logic of reduced case load? Institutional logics are more than an academic intellectual exercise; institutional logics can provide a useful framework for practitioners to reflect on their choices and the possible paths those choices lead them down. As Thornton (2002) explains, “... institutional logics determine which answers and solutions are the focus of management’s attention.” (p. 83)

This chapter first focuses on the five institutional logics identified by this research. The chapter then uses a population level framework to identify the overarching primary logic for the population of state EPP offices. Continuing with a broader

population framework, the chapter then focuses on what shifts in institutional logic have occurred over time.

Institutional Logics

During the semi-structured in-depth interviews, each director of the state EPP office was asked, “What are the goals of the office?” After their responses, they were asked, “Why are the stated goals important? What were the driving motivational forces behind the goals?” Given the non-traditional nature of the question, many people wanted more clarification. An example would be provided that was unlikely to be relevant to their office in order to minimize bias. For example, if the interview was with the director of an office housed in a university, the clarification would be, “For example, an EPP office in the court might say it wants to resolve conflicts, and its driving force for this goal is that it wants to reduce the docket case load.” The iterative process of coding, categorizing, and condensing the responses of the directors resulted in the identification of five institutional logics:

- Improved Decision Making
- Capacity Building
- Efficiency
- Meaningful Citizen Engagement
- Improved Outcome

Table 7.1 lists the logics in the left column and identifies the number of directors that discussed the logics in the left column. For example, nineteen directors (83 percent) discussed the institutional logic of improved decision making. The rest of this section defines the institutional logics and provides quotes from the directors in order to place the logics in context.

Table 7.1
Institutional Logics

Institutional Logic	# of Directors that Discussed
Improved Decision Making	19 (83 percent)
Capacity Building	15 (65 percent)
Efficiency	11(48 percent)
Meaningful Citizen Engagement	10 (43 percent)
Improved Outcome	8 (35 percent)

Improved Decision Making

The improved decision making logic has a focus on improving the decision making processes available to individuals, groups, and state government in order to improve the effectiveness of state government in general and particularly when involved in conflicts. Directors often cast their discussion in comparison with litigation. Their focus is generally on utilizing ADR in an effort to make state government more responsive to the needs of its citizens. As one director put it, “See the courts working effectively in the best interest of people who come to the courts. Sometimes going through litigation is not the best way to settle their problems, so offering them an alternative....” Nineteen out of twenty three offices discussed this institutional logic. The improved decision making logic is an underlying assumption that is in part driving 83 percent of the state offices in pursuing their goals. This does not mean that this institutional logic is the only logic driving these state offices. Twenty out of twenty three offices (87 percent) discussed at least two institutional logics.

The institutional logic label of improved decision making emerged from the words of the interviewees through in vivo coding (Strauss and Corbin 1990). For example, one director stated, “Find better ways of decision making” Another director

explained the underlying assumption of their goal as, “Think that it [ADR] is a better decision making process.” While all of the interviewees did not use such direct language, improved decision making was coded from nineteen offices. One director talked about helping people solve problems collaboratively and that their staff was trying to help people move beyond the typical decision making processes of “dividing the pie down the middle.” Many of the discussions focused around providing ADR processes as an alternative to adversarial decision making processes, helping people achieve the “highest common good” in terms of process and outcome.

Capacity Building

The institutional logic of capacity building is focused on developing the knowledge and skill of agency staff and citizens to address conflicts, typically utilizing a collaborative process that may or may not involve an impartial third party such as a mediator or facilitator. With fifteen out of twenty-three offices (65 percent) discussing capacity building, it is the second most discussed institutional logic. Early on, the focus was primarily training mediators and facilitators, creating a trained corps of professionals that could intervene in conflicts. While this type of training still happens, capacity building is now also seeking to increase the knowledge and skill base beyond an elite corps. Capacity building includes working to increase the ability of the general public to understand, accept, and have the ability to engage in collaborative processes. Building the skills of individuals and promoting understanding beyond these individuals is interlinked in this logic. For example, one director stated:

Raise awareness and understanding of public dispute resolution as a field.... Within that it is helping people be better negotiators and problem solvers on their own....

Another example of a shift from a solely elite corps framing to a framework that includes a broader base, “We are not interested in the work for the sake of contracts, we are interested in work that will help us build knowledge and improve the capacity of other people.” A motivation expressed by directors for capacity building beyond an elite corps was the belief that this will have a positive effect on EPP issues. If the public learns collaborative processes, applies it on a daily basis in their personal lives, then the public will expect this from government in general, ultimately impacting broad EPP issues.

This framework is articulated by the following director,

How people are interacting, a day to day basis, then their mindset will change, and they will start thinking about how they can do everything differently, and hopefully with enough time we can change the way that we are dealing with the environment We just need to learn how to do collaboration with big public policy and environmental policy disputes.

The institutional logic or underlying assumption of capacity building has both a micro and macro framework. At the micro level, the focus is on building capacity within individuals so that they can engage in collaborative processes when appropriate. The macro framework focuses on developing knowledge and understanding in broader audiences in the state.

Efficiency

Efficiency as an institutional logic has several components: money, time, and process. The institutional logic of efficiency was discussed by eleven offices (48 percent). Efficiency can be a savings of money, “less expensive on the taxpayer.”

Efficiency is also measured by time,

Create efficiencies, there are groups that meet for months and years that do not get anything done. ... If you can effectively bring people together, then you can in a well facilitated process get twice as much done in half the time if not better.

Efficiency can also be viewed in terms of the efficiency of the process. For example, one director stated, “both in a cost effective and secondly dealing with underlying issues.” In this context an efficient process is a process that addresses underlying issues in order to prevent the same conflict from reemerging again and again because one or both parties are not satisfied with surface level resolutions.

During the early years of the EPP population, efficiency was often cited as a reason to try ADR processes (Susskind and Weinstein 1980, p. 321; Talbot 1983, p. 100). Over the years, efficiency had become a mantra in the ADR field; “Perhaps the single most common assertion ... is that they (ADR processes) are cheaper and faster than litigation.” (Bingham 1986, p. 127) While efficiency has been debated (Harter 1982; Coglianese 1997; Harter 2000; Coglianese 2001), efficiency has become less prominent in the EPP literature while other factors of evaluation and analysis of ADR processes have emerged (Innes and Booher 1999; Susskind, McKearnan et al. 1999; Wondolleck and Yaffee 2000). While the 48 percent of offices discussing efficiency would indicate that the institutional logic still has prominence, perhaps it is not as strong as Bingham (1986) noted in the 1980’s. One explanation for the continuation of efficiency is that while offices are driven by institutional logics such as improved decision making and capacity building, the expectation of efficiently using taxpayer dollars is constant. “Certainly cost savings is a factor and still we have to justify ... with federal and state dollars.”

Meaningful Citizen Engagement

The meaningful citizen engagement institutional logic focuses on using collaborative ADR processes in order to improve the experiences of people using decision making processes and improve the quality of their lives because of outcomes. Meaningful citizen engagement was discussed by ten directors (43 percent). The focus on meaningful engagement is both on the individual and societal level. At the individual level, there is a desire to provide processes that are not excessively institutional, obscure or feed into conflict. One director succinctly said, "... much more human friendly." Providing decision making processes that engage those directly involved in the conflict with their humanity intact. One director emphasized the engagement aspect:

As far as our motivation, we have seen through other studies, participants are quite satisfied with the process, they like the process, they like the fact that it allows them to participate to a greater extent.

At the societal level, meaningful citizen engagement seeks to create a more civil and peaceful society. "To reach as far as we can to extend ADR in a prudent way and to provide these tax payer dollar services to help as many lives as possible."

Improved Outcome

The institutional logic of improved outcome is focused on creating decisions that are implementable, durable, and considered wiser. This logic was discussed by eight offices (35 percent). While different offices emphasize different aspects of implementation, outcome is an underlying assumption or logic motivating these offices. For example, one director said, "The reason for this ... it is an opportunity to really improve public policy outcomes." An aspect of improved outcome is a recognition that ADR processes can help build and maintain relationships, resulting in more durable

outcomes. This is contrasted with decision making processes that make a decision but do not have the support for implementation. Put another way by a director,

Better public policy. Sound decisions based on a better process with greater public participation and less obstacles to implementation. Public policy that isn't well done does not get implemented well and that increases costs and more often than not leads to further controversy in subsequent policy decisions

The above quote highlights that there is some interplay between logics, showing components of efficiency, improved decision making, and outcomes. Even though there is interplay, the framing of “better public policy” and “less obstacles to implementation” reflects a logic focused on improved outcomes.

Patterns in Institutional Logics

A majority of the offices share the institutional logics of improved decision making and capacity building. While some offices do share the other three logics, these logics are less common. While there are some shared logics across most of the offices, there are also a diverse set of underlying assumptions driving the offices. Given the diversity of logics and diversity of office affiliation (university, court, executive branch, independent), this leads to the question, is there a pattern between institutional logic and affiliation? There are no discernable patterns based on the office affiliation and institutional logic. Given that logics are not tied to a particular office affiliation and there is a diverse set of logics, what does this mean for the interaction of the logics?

Hybrid Logic

The chapter up to this point has focused on the individual institutional logics. While understanding the individual logics is useful, it is also important to understand the

logics in the context of the population of state EPP offices. Some research has focused on a single dominant logic (Scott, Ruef et al. 2000), while other research has focused on hybrid logics (Thornton, Jones et al. 2005; Cloutier and Langley 2007). Hybrid logics are “logics which combine the attributes of different logics....” (Cloutier and Langley 2007, p. 17)

The institutional logic of improved decision making was discussed the most, by 83 percent of the offices. However the level of discussion does not make improved decision making the de facto dominant logic. Another factor to consider is that most offices discussed multiple logics. Twenty out of twenty three offices (87 percent) discussed at least two institutional logics. Table 7.2 shows that multiple logics per office is the norm. The left column of Table 7.2 shows the number of logics discussed by an office, while the right column lists the number of offices that discussed that many logics. For example, there were eight offices that each discussed four logics during the interview. In contrast, only two offices discussed a single logic. Thus, most offices are driven by multiple logics. There were no discernable patterns among these groupings.

Table 7.2
Number of Coded Logics per Office

Number of Logics Discussed by an Office	Number of Offices
4	8 (35 percent)
3	5 (22 percent)
2	7 (30 percent)
1	2 (8.7 percent)
0	1 (4.3 percent)

Utilizing a hybrid logic framework, the question is, what attributes do these individual logics represent?

- Improved Decision Making
- Capacity Building
- Efficiency
- Meaningful Citizen Engagement
- Improved Outcome

These logics seem to contribute to an overall hybrid logic of effective collaborative governance. There is no single definition for collaborative governance (Agranoff and McGuire 2003). For the purpose of this research, collaborative governance means the process of government, citizens, and non-governmental organizations making decisions together. While future research is needed to see if, indeed, this population develops a dominant hybrid logic of effective collaborative governance, at this point, the logics support such an overarching theme.

The statement that the hybrid institutional logic of the population is effective collaborative governance may seem obvious and uneventful. What else would a state office of dispute resolution be concerned with than fostering effective collaborative governance? However, this research is focused on the U.S. population of statewide offices of dispute resolution that have environmental and public policy programs. It would have been conceivable for an institutional logic focused on environmental and public policy to emerge as dominant. The first office in this population, the Institute for Environmental Negotiation, was created in 1980 because of environmental problems and by an environmental foundation that wanted to “inject mediation as a coolant in the highly charged atmosphere of environmental politics.” (Williams 2002, p. 28) Adding to the emphasis on the environment, VEE brought Gerald Cornick (one of the early

environmental mediators) in to talk with people in Virginia about environmental mediation and a VEE fund to support environmental mediation (Williams 2002, p. 28).

One organizational theorist has argued that those organizations in line with the dominant logic are more secure:

Those that are in conformity with the dominant institutional logic are more likely to be legitimate and competitive and immune from change pressures. (Thornton 2002, p. 97)

An implication of Thornton's point is that those offices moving in a different direction will either find themselves on the cutting edge if the population's logic shifts in their direction or will experience pressures to conform. While state offices do need to consider their place in the population, this is a young and still emerging population. Established populations can develop standards of what is acceptable and unacceptable; however, as discussed in Chapter Six, the EPP population has yet to fully crystallize standards. It is important for state EPP offices to understand institutional logics because they influence the focus and direction of the offices. However, since there are no regulations, at this stage it appears that institutional logics are most relevant at the state/office level, and the population level is currently not as much of a driving force as would be the case in an established population.

Shifts in Institutional Logic over Time

As discussed earlier, institutional logics are not static; they can change. For example, Scott et al. (2000) identified a shift in the San Francisco bay area medical field's institutional logic from quality of care to efficiency. Have shifts occurred in the institutional logics for the state EPP office population? In order to answer this question, an early historical buoy must be identified so that there is a point of comparison.

Just as the first major wave of state EPP offices was emerging in the mid 1980's, Goldberg et al. outlined what they saw as the four main goals of the dispute resolution movement at that time in their 1985 book, *Dispute Resolution*:

- (1) to relieve court congestion and undue costs and delays;
 - (2) to enhance community involvement in dispute resolution;
 - (3) to facilitate and improve access to justice; and
 - (4) to provide more effective forums for conflict resolution
- (Goldberg, Green et al. 1985, p. 5)

Eight years later, Peter Adler wrote "State Offices of Mediation: Thoughts on the Evolution of a National Network." (Adler 1993) In this article Adler identified Goldberg's four goals as still being the broad goals of "the dispute resolution field..." (Adler 1993, p. 6) and that "[i]n some ways ... this list [four goals] defines the national agenda as it has developed thus far." (Adler 1993, p. 7)

These four goals are being utilized as a historical buoy since they were put forward just as the first offices of the state EPP office populations were emerging. The fact that Adler cited these four goals eight years later provides additional credibility that these goals do provide a valid historical point of comparison. Finally, Adler cited these goals in the context of an article focused on the evolution of state offices of dispute resolution. Many of the offices Adler discussed are also part of this research.

Before comparing these historical goals with the current institutional logics of the state EPP offices, a more thorough understanding of the goals is needed. Given that the field and our personal experiences and frameworks have changed since 1985, it is also important to read the goals in the context in which they were written.

- (1) *to relieve court congestion and undue costs and delays*

Goldberg et al. felt that it was worth using ADR methods to “stimulate the settlement of court cases...” (Goldberg, Green et al. 1985, p 6) since the processes held considerable promise.

(2) to enhance community involvement in dispute resolution

The motivation for this goal was the hope that “greater participation by lay persons in the dispute resolution process as a means by which a lost sense of community can be regained and community power enhanced....” (Goldberg, Green et al. 1985, p. 6)

(3) to facilitate and improve access to justice

This goal was driven by a desire to ensure all had access to justice, minimizing the number of people with legal standing who choose not to address the conflict because of barriers within the legal system.

(4) to provide more effective forums for conflict resolution

It was felt that there was a general agreement that an “effective dispute resolution mechanism is one that is inexpensive, speedy and leads to a final resolution of the dispute ... procedurally fair, efficient (in the sense of leading to optimal solutions), and satisfying the parties.” (Goldberg, Green et al. 1985, p. 7) Process is emphasized in this goal. Concern was not just with an outcome but with whether an effective process was used to achieve the outcome.

The early goals provide historical markers, allowing a comparison with the current institutional logics of the state EPP office population. However, it is important to remember that institutional logics and goals are not identical concepts, but they are interwoven since logics guide goals. “Logics specify what goals or values are to be pursued....” (Scott, Ruef et al. 2000, p. 171) We can see if the past goals are in line with

any of the current logics as a method of comparison. By looking at past goals and current logics, insight can be gained in regard to historical shifts. This comparison makes the assumption that the early goals of the field are reflective of the early goals of the state EPP offices.

This comparison is visually depicted in Table 7.3. In the left column are the goals from 1985 in the same sequential order from 1-4 as stated by Goldberg et al. (1985). In the right column are the current logics identified by this research in sequential order based on frequency of discussion.

Table 7.3
Early Field Goals and Present Institutional Logics in Sequential Order

FIELD GOALS 1985	INSTITUTIONAL LOGICS 2005
Relieve Court Congestion, Cost, Delay	Improved Decision Making
Enhance Community Involvement	Capacity Building
Facilitate & Improve Access to Justice	Efficiency
Provide More Effective Forums	Meaningful Citizen Engagement
	Improved Outcome

Nineteen of the offices (83 percent) discussed the institutional logic of improved decision making. The focus of this logic is on improving the decision making processes available to individuals, groups and state government in order to improve the effectiveness of state government in general and particularly when involved in conflicts. This logic is most closely aligned with the fourth goal, “(4) to provide more effective

forums for conflict resolution.” While not stated explicitly by Goldberg et al., a ranking system of 1-4 implies an ordering. This implies that while the logic of improved decision making is not new, it has become a more dominant focus today in comparison with 1985. Table 7.4 provides a visual depiction.

**Table 7.4
Connection Between Improved Decision Making and Early Goals**

FIELD GOALS 1985	INSTITUTIONAL LOGICS 2005
Relieve Court Congestion, Cost, Delay	Improved Decision Making
Enhance Community Involvement	Capacity Building
Facilitate & Improve Access to Justice	Efficiency
Provide More Effective Forums	Meaningful Citizen Engagement
	Improved Outcome

The institutional logic of capacity building is currently the second most prevalent logic with fifteen offices (65 percent) discussing it as a driving force. This logic is focused on building the capacity of individuals and organizations to address conflicts in an effective manner. Capacity building has several components; capacity building of individuals, promoting understanding and knowledge in broader audiences, and developing ADR programs within and across state government. The second goal, “(2) to *enhance community involvement in dispute resolution,*” is in line with the capacity building logic. Table 7.5 highlights this connection and shows that enhanced community

involvement and capacity building has remained relatively constant as a secondary focus over time.

**Table 7.5
Connection Between Capacity Building and Past Goals**

FIELD GOALS 1985	INSTITUTIONAL LOGICS 2005
Relieve Court Congestion, Cost, Delay	Improved Decision Making
Enhance Community Involvement▶	Capacity Building
Facilitate & Improve Access to Justice	Efficiency
Provide More Effective Forums	Meaningful Citizen Engagement
	Improved Outcome

Efficiency as an institutional logic has several layers: money, time, and process. The monetary and time components are fairly self explanatory. An efficient process is a process that addresses underlying issues in order to prevent the same conflict from reemerging again and again because one or both parties are not satisfied with surface level resolutions. While this institutional logic is not as prevalent as improved decision making or capacity building, eleven offices (48 percent) did discuss efficiency. As shown in Table 7.6, the logic of efficiency is in line with two of the goals from 1985:

- (1) to relieve court congestion and undue costs and delays*
- (4) to provide more effective forums for conflict resolution*

The fact that these goals have been carried forward to present is not surprising given that efficiency had become a mantra in the early years of the ADR field; “Perhaps the single

most common assertion ... is that they [ADR processes] are cheaper and faster than litigation.” (Bingham 1986, p. 127)

Table 7.6
Connection Between Efficiency and Past Goals

FIELD GOALS 1985	INSTITUTIONAL LOGICS 2005
Relieve Court Congestion, Cost, Delay	Improved Decision Making
Enhance Community Involvement	Capacity Building
Facilitate & Improve Access to Justice	Efficiency
Provide More Effective Forums	Meaningful Citizen Engagement
	Improved Outcome

While the institutional logic of meaningful citizen engagement has less emphasis today, it does overlap with some early goals. The meaningful citizen engagement logic deals with improving the experiences of people using decision making process and improving the quality of their lives because of outcomes. It was discussed by ten of the office directors (43 percent). As highlighted in Table 7.7, the following goals are in line with meaningful citizen engagement:

- (2) *to enhance community involvement in dispute resolution;*
- (3) *to facilitate and improve access to justice; and*
- (4) *to provide more effective forums for conflict resolution.*

Table 7.7
Connection Between Meaningful Citizen Engagement and Past Goals

FIELD GOALS 1985	INSTITUTIONAL LOGICS 2005
Relieve Court Congestion, Cost, Delay	Improved Decision Making
Enhance Community Involvement	Capacity Building
Facilitate & Improve Access to Justice	Efficiency
Provide More Effective Forums	Meaningful Citizen Engagement
	Improved Outcome

The institutional logic of improved outcome is focused on creating decisions that are implementable, durable and considered wiser. This logic was discussed by eight offices (35 percent). Yet, there does not appear to be a clear connection to the past. At first, there appears to be a connection to the historical fourth goal of the field, “(4) to provide more effective forums for conflict resolution.” However, as discussed earlier, the effective forums goal is focused more on process than outcome:

... effective dispute resolution mechanism is one that is inexpensive, speedy, and leads to a final resolution of the dispute ... procedurally fair, efficient (in the sense of leading to optimal solutions), and satisfying the parties. (Goldberg, Green et al. 1985, p. 7)

Process is emphasized in this goal. There is a hint at quality outcome in the statement of “efficient (in the sense of leading to optimal solutions),” but the focus at the time appeared to be predominantly on process in regard to effective forums. While there were likely people discussing improved outcomes as an important goal, these discussions were

not as dominant as other goals. It appears that a focus on improved outcomes is something that has evolved or become more prominent with time.

Table 7.8 provides a graphic summary of the connections between early field goals and present institutional logics. There are two points worth highlighting in Table 7.8. First, the logic of improved decision making has roots in the past. However, the logic's historical roots were ranked fourth in 1985 while today the logic was the most discussed logic by the state EPP office directors. Thus, a re-ordering has occurred. Second, although the rest of the institutional logics of today grew out of the early field goals, the logic of improved outcome apparently does not have prominent historical roots.

Table 7.8
Comparison Between Early Field Goals and Present Institutional Logics

FIELD GOALS 1985	INSTITUTIONAL LOGICS 2005
Relieve Court Congestion, Cost, Delay	Improved Decision Making
Enhance Community Involvement	Capacity Building
Facilitate & Improve Access to Justice	Efficiency
Provide More Effective Forums	Meaningful Citizen Engagement
	Improved Outcome

Discussion

This chapter utilizes institutional logic as a framework of analysis in order to highlight multiple motivational drives of the state EPP offices and their extension beyond conflict resolution. In the words of one director, “Working on governance, what we want is a more efficient, effective collaborative governance. This is the tool for achieving that.” While conflict resolution is a major goal for these offices, conflict resolution processes are tools to help the state engage in more effective collaborative governance. The five institutional logics identified in this research are the “cognitive frames and underlying assumptions that constitute the ‘organizing principles’ for pursuing goals....” (Scott 1998, p. 223) In a similar vein as the characteristics, this data suggests that the framing of heterogeneity is no longer germane given the shared logics. In spite of the fact that there are no regulations forcing a convergence, it appears a shift has nonetheless occurred.

An historical analysis using the 1985 goals of the field (Goldberg, Green et al. 1985; Adler 1993) in comparison with the current institutional logics provides insight into evolutionary changes in the state EPP office population. In 1985 Goldberg et al. identified the first goal of the field as to relieve court congestion and undue costs and delays; however, during the interviews for this research very few directors of state EPP offices talked about relieving court congestion. Only one out of the four offices housed in the judicial branch even discussed court congestion when they discussed their motivations. As a point of contrast, a director of an office housed in the judicial system stated the following as the driving forces for the work of the office:

... help create a more civil and peaceful society ... real opportunity around participatory democracy around involving people and decision making and really grappling with the highest common good....

The emphasis of the field in the early years on court congestion has been replaced with an emphasis on improved decision making as the most commonly held institutional logic given that nineteen of the offices (83 percent) are influenced by it.

Another change noted in the historical comparison is the development of improved outcome as an institutional logic. While people likely discussed concepts of implementation, durability, and considered wisdom of the decisions in the past, this focus was not listed in the early goals of the field as articulated by Goldberg et al. (1985). With only eight directors (35 percent) discussing improved outcome, it was the least discussed institutional logic. However this logic is something to watch over the years. Is this logic going to gain prominence with time or was this just a blip in the larger historical timeline?

In contrast, capacity building and efficiency have seemed to stay relatively the same over the years. Both ranked high in the past. Today the institutional logics of capacity of building (fifteen offices, 65 percent) and efficiency (eleven offices, 48 percent) are also emphasized a fair amount. The change for improved decision making and lack of changes for the other logics indicate that radical change has not occurred. While improved decision making has taken a more prominent role, the concept was not a radical introduction but more of a recalibration. With capacity building and efficiency still playing significant roles, radical evolution does not appear to be the case for this population of offices when measured by goals and logics.

While there does not appear to be much change in emphasis regarding capacity building, there appears to be a re-adjustment in regard to what capacity is being built. During the early years of the dispute resolution field, there was a focus on creating mediators so that there would be experts that could parachute in and help resolve conflicts (Wells and Liebman 1996). The institutional logic of capacity building suggests that a while a corps of professional and volunteer mediators is still being trained, there is now also a focus to increase the ability of the general public to understand, accept, and have the ability to engage collaborative processes.

This analysis of slow evolution as opposed to radical change is in line with the survival rate of the offices. Over a twenty-five year period (1980-2005), twenty-five offices were created, and twenty-three survived, a 92 percent survival rate. That is an astonishingly high survival rate, particularly given the budget cutbacks that occurred across state governments with the economic down turn of the early 2000's. If there had been a high mortality rate and corresponding high rate of new offices, radical change would have been more likely. This is not say that changes have not occurred in this population. While twenty-three offices have survived, many have undergone changes. For example, in Oregon, the ADR infrastructure was housed in the executive branch of state government as commission, but the legislature abolished the commission in 2003 as a cost savings measure. However, champions and public pressure on the legislature resulted in the public policy and community mediation programs being temporarily saved. The public policy program found a home in Portland State University and in 2005 regained the financial support of the legislature with the passage of SB 247B. While

change has occurred, it appears that the institutional logics have had minor realignment and small changes.

This chapter has focused on developing a deeper framework beyond the image of the state EPP offices as conflict resolution offices. Based on the institutional logics, the majority of these offices cognitively frame their work as facilitating effective collaborative governance at the state level. While effective collaborative governance is the dominant logic, there are other logics at play, and every state has its own unique needs and interests. Understanding the institutional logic can provide a useful framework for office directors to reflect on their choices and the possible paths those choices lead to. As Thornton (2002) explains, "... institutional logics determine which answers and solutions are the focus of management's attention." (p. 83)

Using institutional logic to conceptualize the cognitive frameworks of the state EPP offices has provided a unique perspective. The framework highlights that the majority of the offices do have some shared underlying assumptions but that the offices also utilize a variety of logics. Using the institutional logic framework has also shown that while there have been some evolutionary changes over the years; the changes have not been radical changes. This work has created a historical buoy that can serve as a reference point for future researchers interested in studying the state EPP offices and the evolutionary changes of the population. Additionally, this chapter demonstrates that while applying the institutional logic to an emerging population creates additional challenges in comparison to studying an established population, the framework is useful in providing insight into emerging populations. For practitioners, this framework allows

EPP office staff and state officials to have a clear and robust discussion about the organizing principles driving the offices.

Chapter 8

CONCLUSIONS

During the 1970s and 1980s, ADR emerged as a new decision making construct for EPP conflicts. Based on some successful EPP mediations, this construct was embraced by some, and as a result, there is a long and varied history of efforts to institutionalize ADR. While diverse organizations and ADR infrastructures have emerged in the private sector and state and federal government, this construct has not become fully institutionalized for EPP conflicts in the United States. The literature indicates that institutionalization at the federal level has occurred in a top-down manner (Nabatchi 2007). However, there has been far less research on the institutionalization of ADR at the state level (O'Leary and Yandle 2000).

The focus of this dissertation has been on state-level EPP offices, an understudied but well established set of twenty-three organizations that constitute an organizational population. The overarching question of this research is, *what insights can be gained about institutionalization of ADR from the experiences of state EPP offices?* This research seeks to fill a gap in the literature, about the process by which ADR becomes institutionalized. By applying lenses of analysis not typically utilized in the ADR literature, this research provides new insights and suggests additional avenues of

research. Additionally, given the expansion of state-level ADR infrastructure, this research provides policy makers with a more detailed understanding of a phenomenon occurring in nearly half the states. Finally, practitioners can benefit from a new perspective on the population they are operating within and a better understanding of the evolutionary changes that are occurring. This chapter summarizes the core findings of this research and what they suggest about the broader question of the process by which ADR potentially becomes institutionalized.

Summary of Findings

Given the limited information on state EPP offices, this research started with the question, *what are the characteristics of the offices?* This initial characterization provided a foundation for the research and a detailed analysis of the existing state-level infrastructure for the ADR literature. The six characteristics measured were:

- Office affiliation (host organization)
- Staff size
- Budget
- Type of conflicts addressed
- Definition of success
- Activities the offices engage in

The data indicated that the characteristic of affiliation (university, judiciary, executive, independent) is not predictive of an office's purpose, logic, activities or budget. This is noteworthy since this research found that affiliation is the dominant framing used by directors to segregate offices. The data also indicated that the early framing of the offices as heterogeneous in the literature is no longer germane since a convergence is occurring around the activities of the offices.

While the offices ranged in size from one to fifteen full-time employees (FTEs), the average office is relatively small at 4 FTE. Again, while there was a range of budgets from \$62,500 to \$3,000,000, dropping the two multi-million dollar outlying budgets results in an average of \$349,184. No distinction could be made between offices focused solely on environmental issues versus public policy issues. However, there was a nearly even split in the population with eleven offices having a primary focus on EPP conflicts while twelve offices have a track record of EPP work, but also engage in other types, such as school-based mediation programs and civil or small claims court mediation programs. Outcome and client satisfaction were the two most common definitions of success used by directors. Thirteen directors (59 percent) indicated they used outcome as a measure of success; outcome deals with settlement rate and changes that directors can point to as an outcome of their efforts. Twelve directors (55 percent) discussed client satisfaction, which tends to be more systematically tracked with surveys and follow-up phone interviews. Finally, the three most common activities of the offices are consultation and conflict assessment (twenty-three offices), education-training-classes (twenty-one), and direct service-collaborative processes (nineteen).

In order to gain better insight to the process of institutionalization, this research next asked the question, *what factors explain the emergence of this population, and what are the current influences?* The literature has identified champions as important actors in institutionalization in general, and specifically in the creation of the state-level EPP offices (O'Leary and Yandle 2000; Rogers 2003; Policy Consensus Initiative 2005). However, there was still a gap in understanding the emergence of the offices in terms of

what broader factors facilitated the efforts of champions in creating these organizations.

Four factors were identified as facilitating the work of champions:

- States' perceptions of need for new decision-making method
- ADR wave
- Role of foundations
- Existing ADR infrastructure

Twelve directors (50 percent) specifically discussed the perception that a new decision-making construct had been needed in their state. Existing methods were seen as inadequate, thus creating an environment ripe for change and providing individuals the personal motivation to effect that change. Seven directors (29 percent) indicated there was a perception in their state that an ADR wave was occurring across the United States and that this perception was one factor enabling the founding of an office; these champions were able to tap into a broader national trend to energize change efforts within their own states. Eleven directors (46 percent) identified the availability of National Institute for Dispute Resolution (NIDR) and Hewlett Foundation resources as a motivation in creating their offices. Finally, the existence of ADR infrastructure provided opportunities for champions in five states to either use that infrastructure as a launching point for change or to actually change the infrastructure into a state office.

Additionally, in four states, specific catalytic events, such as a statewide farmers' debt crisis, polarization over a forest planning process, and state legislators requesting the service, were identified as facilitating the work of state champions in creating an office. This research indicates that these offices did not emerge along the federal model of a top-down mandate, but instead, individual champions in each state were able to take advantage of factors that occurred in their state and were occurring elsewhere in the country.

With no top-down mandate driving these offices, the other component of this research question, the influences upon them, is central to their shaping. The broadest influence reported by the directors of the offices is the Policy Consensus Initiative (PCI), a non-profit organization with historical funding ties to the Hewlett Foundation and an organizational focus of supporting collaborative governance initiatives at the state level. PCI has played an important role, serving as a central source of information, as advisor to office directors, and as a networking hub for offices. PCI has helped to give identity and to frame the work of these new organizations as an emerging population. While there was no centralized, top-down mandate at the state level influencing their institutionalization, with so many offices having interacted with and relied on PCI and foundations for information and funding, PCI and foundations stand out as having the broadest influence on this population.

This population, comprised of twenty-three separate state EPP offices, has evolved from a handful of offices scattered across the country into a state-level ADR tapestry blanketing the United States. Given that these organizations operate at the state level, i.e., having separate domains, this research asked the question, *how do the directors make sense of their office within the broader population and do they share any norms?* Based on the cognitive mappings, most directors do not view their offices as being part of a larger population. Instead, most directors frame their office as unique, or they segregate the offices into groups based on affiliation. This research also determined that the majority of directors share only one norm, best practices regarding process; however, there is no universal agreement on what specific standards constitute “best practices.” The lack of clear norms reflects the emerging nature of this population.

The final question explored by this research is, *what are the institutional logics?*

In other words, what are the underlying assumptions that influence office leadership?

Five logics were identified:

- Improved Decision Making
- Capacity Building
- Efficiency
- Meaningful citizen engagement
- Improved Outcome

The improved decision making logic focuses on improving the decision-making processes available to individuals, groups, and state government in order to improve the effectiveness of state government in general and particularly when involved in conflicts; this was discussed by nineteen directors (83 percent). Fifteen directors (65 percent) discussed the logic of capacity building, which focuses on developing the knowledge and skill to address conflicts, typically using a collaborative process that may involve an impartial third party, such as a mediator or facilitator. Efficiency as an institutional logic has several components: money, time, and process. The institutional logic of efficiency was discussed by eleven offices (48 percent). The meaningful citizen engagement institutional logic focuses on using collaborative ADR processes in order to improve the experiences of people using decision making processes and improve the quality of their lives because of outcomes. Meaningful citizen engagement was discussed by ten directors (43 percent). The institutional logic of improved outcome focuses on creating decisions that are implemented, durable, and considered wiser. This logic was discussed by eight offices (35 percent).

Taken together, these five discrete logics suggest a hybrid logic of effective collaborative governance for the population. The implication being that the underlying

assumption for this population is to foster the process of government, citizens, and non-governmental organizations making decisions together. While not a radical assumption, it is a different assumption than reducing court docket load or preserving the natural environment. Future research is needed to verify if effective collaborative governance becomes a dominant logic for this population. The institutional logic lens of analysis provided a more textured understanding of the offices by highlighting the multiple logics of the state EPP offices beyond the mission statement of conflict resolution. Further, the analysis indicated that the framework of heterogeneity among the offices is no longer appropriate; instead, a convergence is occurring, as demonstrated by shared logics of improved decision making (83 percent), capacity building (65 percent), and efficiency (48 percent). Additionally, this analysis allows a comparison between current logics and the early goals of the field, which also indicates evolutionary changes in the direction of a convergence. Finally, identifying the institutional logics is key to providing the directors with a new and more accurate framing of the offices; by elevating these assumptions, management can reflect on where they focus their attention and resources.

Insights about Institutionalization of ADR

The overarching question of this research is, what insights can be gained about institutionalization of ADR from the experiences of state EPP offices? This research has shown that pathways to institutionalization can emerge organically from the bottom-up and do not always occur in a top-down manner. Institutionalization can occur in an emergent and organic manner. This speaks to the roots of the institutionalization of ADR. Under the top-down mandate at the federal level, some government procedures have changed and mandates have been met, but federal actors and organizations have not

always embraced the construct of ADR (Nabatchi 2007). In contrast, the champions fostering an organic institutionalization at the state level were not responding to a mandate but instead saw a need in their states and focused on trying to help people solve conflicts collaboratively. The roots of institutionalization did not stem from a step-by-step prescription of what had to be done; instead, the motivation was the idea that EPP decision making could occur in a new way through the institutionalization of ADR. This dynamic has resulted in an unfortunate phenomenon in which state-level champions across the U.S. were engaged in similar institutionalization efforts, yet the decentralized, state-by-state origin of their offices blinded directors to their commonalities and forestalled development of a network among them. It has also perpetuated myths about the offices' origins and characteristics.

Myth of Affiliation

While this research shows that institutionalization in an organic manner has managed to create a new ADR infrastructure, this approach has also led to a myth of affiliation. The literature frames the offices by affiliation (Susskind 1987; Drake 1989; Dillon 1994). Likewise, the directors' cognitive maps indicate affiliation is the dominant method they use to make sense of the offices. Schein (2004) cautions that artifacts can be misleading, and for the EPP ADR office population under study, the caution rings true. This research indicates that, despite the common frame and expectation that the affiliation of an office indicates the activities in which it engages, affiliation is not predictive of other characteristics, such as logics or activities. At this stage of institutionalization, most of the offices are fairly independent of their hosts, and as a result they are not being solely driven by the host characteristics or norms. For example,

very few of the university offices are located in academic units, but instead exist as institutes or within extension units. Similarly, most offices in the executive branch are loosely attached to an agency, but they are not deeply tied into that agency. Two of the court offices reported having chief judges who insulated the offices from the larger judiciary, allowing the offices to engage in ADR activity beyond traditional judiciary activity. Herein lies a paradox of affiliation. Close affiliation and integration with the host agency may increase the security of an office's budget and continued existence, but at the expense of flexibility. It appears that by retaining some degree of independence from the host these offices have been able to maintain flexibility and responsiveness albeit at the expense of budget security. Because the offices are not bound by the routines of their state government hosts, the offices generally have broad latitude to engage in a variety of activities. However, this also means that the offices' functions (and, therefore, their funding as well) are likely not viewed as essential during periods of cutbacks, which explains the feeling of financial vulnerability expressed by many directors and their reliance on direct service as a funding mechanism. An ideal form of institutionalization would be one where an office was able to secure a permanent line-item in the budget while still maintaining flexibility.

Champions are Crucial, but are Only One Component of Institutionalization

Champions had the passion, vision, and leadership skills to advance the ADR construct at the state level. Because there was no mandate, these offices have only come about through the Herculean efforts of champions. These individuals have developed coalitions, educated funders, and created new organizations in order to alter entrenched

institutional arrangements. As O'Leary and Yandle (2000) observed, champions are crucial for the creation of offices.

While champions have played an important role, it is important that hero imagery not obscure the fact that emergence is a complex event and many factors have come together to advance the institutionalization of ADR. Champions are necessary but not the sole element of the institutionalization process. Foundations, PCI and catalytic events are all part of the institutionalization story. Occasionally some individuals have the vision and the political and social capital to advance institutionalization on their own, but it would be a mistake for those interested in institutionalization of the ADR construct to think that a champion alone is enough. This research indicates that institutionalization occurred when champions tapped into existing factors such as an ADR wave or, if appropriate, developed some of the factors identified in this research.

Role of Entrepreneurship in Institutionalization

Few people have the skill, energy, and determination to transform ideas into reality. When institutionalization of ADR occurs through an organic process, the role of an entrepreneurial founder is important because the founder focuses the efforts of multiple champions in order to take the first steps towards institutionalizing new ideas and practices. Institutionalizing ADR through an emerging and organic process requires champions to engage in a dynamic process with no script, delineated mandate, or clear goals to provide guidance. Thus, a talented and charismatic leader is often needed to effectively function in such an environment.

This fluid approach to institutionalization means that resources can be adjusted to address unforeseen issues; however, if the organization relies too heavily on the

charismatic nature and leadership of the entrepreneurial founder, it can suffer from founder syndrome. The potential problem with founder syndrome is that if a succession plan is not created, the steps towards institutionalization may not last when the founder leaves. This dynamic is particularly relevant for the state offices because fourteen of them (61 percent) are still run by their founding directors, and only one director discussed a specific transition plan. In contrast, a top-down approach can minimize founder syndrome because mandates can help organizations focus on the prescribed goals and not be driven solely by the founder. For those interested in institutionalization, a more conscious focus on the role of entrepreneurial founders and transition planning is important for long-term institutionalization.

Soft Convergence of an Invisible Population

The dominant framing in the literature and among the directors of the offices is one of heterogeneity (Susskind 1987; Dillon 1994; Policy Consensus Initiative 2005). As one researcher noted, “No two offices are alike and there is no single model for creating and structuring an office.” (Dillon 1994, p. vi) This framing still exists, “Indeed, no two programs are alike.” (Policy Consensus Initiative 2005, p. 3) Additionally, the segregation of offices by affiliation has meant that the larger population has remained invisible to most directors. Yet, there is a strikingly similar set of activities and institutional logics among the offices. This research does not suggest that the offices are identical; however, a soft convergence is occurring at this stage of institutionalization, despite the absence of a national standard or federal regulation forcing any degree of convergence at all. This research uses the phrase “soft convergence” because change is occurring through the informal sharing of ideas that work instead of through a forced,

hard change typically associated with regulations. Put another way, change is occurring, not from a top-down mandate but from the belief that the change is in the office's best interest.

PCI currently serves as the central hub for accumulating and relaying information and ideas among the office directors. Sixteen directors (73 percent) identified PCI as an influential advisor; PCI also has helped to give identity to and frame the work of the offices. Thus, directors have been drawing on PCI for ideas and advice as a centralized and trusted source, which provides a unifying influence. Additionally, in the past, the Hewlett Foundation acted as the largest source of funding, serving as a unifying force on PCI and the offices. Thus, even though there was no national regulation and the population has been invisible to most, the centralizing force of PCI today and foundations' resources in the past have contributed to a soft convergence.

While varied paths for institutionalizing the ADR construct have emerged at the state level, thus far, these paths share a common vision and end. In each state, actors were responding to similar dynamics of EPP conflicts not being adequately addressed. They all used the ADR construct as a way to address the conflict dynamics, yet regional differences influenced each response. Thus, while different paths were chosen for the institutionalization of the ADR construct, a soft convergence has thus far led to a similar end point, in spite of geographic separation and regional differences.

Concern of Rigidity

As the formation of state EPP offices was just beginning, some expressed concern that efforts to institutionalize ADR would lead to rigidity (Bingham 1986; Institute for Environmental Negotiation and RESOLVE: Center for Environmental Dispute

Resolution 1992). The underlying concern was that if ADR processes were housed within a rigid state bureaucracy, they would no longer solve the shortcomings of traditional institutionalized decision-making processes. This research indicates that at this phase, rigidity has not occurred.

The analysis of institutional logic indicates that the underlying assumptions have not remained static when compared to the early goals of the field. Additionally, even though Purdy (1994) noted an “ideal model” emerging due to the influence of the National Council of State Dispute Resolution Programs, the council ceased to exist soon after Purdy’s work concluded, and the ideal model has not been perpetuated. A convergence is occurring, but given that it is a soft convergence instead of a forced one, the offices have retained their ability to adapt to promising new ideas and changing external influences.

More time needs to pass in order to see how this population matures. For example, some of the office directors have supported the Uniform Mediation Act (UMA); however, only ten states have adopted this act. Even if every state adopts the UMA, it will not necessarily lead to rigidity since it has a narrow focus on confidentiality and does not regulate the EPP offices. However, could this be an early formalization of the ADR construct that is a bellwether of regulation? Future research should investigate whether this population remains adaptable as it matures or if regulations or strong norms emerge and lead to the rigidity that some have feared.

Implications for Furthering Institutionalization

For those interested in furthering institutionalization of the ADR construct, this research suggests that more effort is needed to increase the visibility of the population and that continued effort is needed to enhance the network among the offices.

Increase Visibility of Population

When institutionalization of ADR occurs through an organic approach, it is largely invisible as a larger population. While cognitive maps are indispensable for simplifying a complex world, practitioners must remember that all maps have limitations; they highlight certain characteristics and obscure others. The findings of this research indicate that cognitive segregation of state EPP offices has unnecessarily isolated them, which has led to missed opportunities for cross-fertilization of ideas and networking. Practitioners would benefit from challenging their assumptions given the cognitive maps of the state EPP offices. Changing one's framing, however, can be difficult. As Kearney and Kaplan (1997) note,

People tend to ignore or reinterpret new information that contradicts their current understanding ... when contradictory information is attended to and processed, it may be stored in relative isolation; this 'inert' knowledge is not integrated with existing cognitive maps and hence is presumably less accessible and less likely to influence thought and behavior. (p. 580-581)

The static nature of the narrow perspective is evident given that in 1994 Purdy noted that directors had "a local view of what they were doing ... not having a sense of the place in the bigger picture of these kinds of offices" (Purdy 1994, p. 119), and this research finds that the population is still invisible. Bringing the cognitive maps to the surface may facilitate examination and discussion among directors and other actors involved with this

population, expanding how directors conceptualize their environment. While a state office naturally has an inward state focus, this research may provide the impetus for some directors to see the broader population and their position within it.

For ADR scholarship, re-framing decentralized activities as a population can shift the analysis from a micro to a macro level, which can provide new insights, such as identifying the broad factors that facilitate the work of champions or that fuel an unseen soft convergence. Future research on institutionalization should identify and explore broader influences that increase understanding of decentralized ADR activities. Understanding where populations exist is the next step in improving understanding and evaluation of decentralized ADR infrastructures. For example, the historic framing of heterogeneity among state EPP offices promoted a perception of entities so different that a collective evaluation of the offices was not possible. Nevertheless, this research indicates that, while the offices are not identical, a national evaluation of state-level offices would be possible given their similar activities and logics. Another future research direction is to determine what other decentralized ADR infrastructures exist in the United States that are currently considered heterogeneous, though they may in fact share common characteristics.

Enhance Networks

Given that a broad network among the offices has not emerged organically, continued effort is needed by those interested in promoting the decentralized institutionalization of ADR. While PCI has made major contributions to the population in regard to enhancing networks, the networks are still largely segregated along the lines of host affiliation. Peter Adler argued that one function of the second-phase office was to

operate as part of a national network, to “ensure a flow of useful information to, from, and between state offices.” (Adler 1993, p. 1025) It appears that phase two has not yet fully developed.

Final Thoughts

For thirty years, advocates of ADR processes have been trying to alter how society addresses EPP conflicts. Some have worked as practitioners to provide ADR services. Others have engaged in research to better understand the benefits and limitations of different processes. Still others have focused on institutionalization, encouraging the more routine use of ADR processes for EPP conflicts. One approach has focused on institutionalizing ADR within government. This research has focused on the institutionalization of ADR for EPP conflicts at the state level.

A state-level ADR infrastructure for EPP conflicts has been built in nearly half the states. While full institutionalization, i.e., the routine use of ADR for EPP conflicts, has not occurred, a set of similar activities is occurring across the country. Additionally, in spite of the fact that most directors have a cognitive map that segregates offices, resulting in a myopic view of state level EPP ADR, the directors share similar institutional logics.

While the literature indicates that champions are a crucial component of institutionalization (O’Leary and Yandle 2000; Rogers 2003; Policy Consensus Initiative 2005), this research indicates that many factors come together to facilitate the efforts of champions to institutionalize ADR. Given the unique history, politics, economy, and social factors of every state, a detailed prescription of facilitating factors cannot be written. What this research does indicate about the institutionalization of ADR is that the

origin story of every state's ADR office starts with champions but likely also involves facilitating factors and catalytic events to help champions shift the existing conflict resolution institutional arrangements. Champions should be alert to catalytic events they can use to promote their vision and they should work to foster development of the facilitating factors that can ease the institutional transition from traditional conflict resolution methods to the use of ADR.

This research has focused on state-level institutionalization of ADR, yet institutionalization can occur in a variety of ways. ADR clauses are now written into contracts, such as credit card agreements and employment contracts. Some real estate agents now require their clients to agree to mediate any home purchase disputes during the first 90 days of ownership. Schools have peer mediation programs, and universities offer degrees in conflict resolution. Countless place-based collaborative groups have emerged throughout the country. The ADR construct is slowly altering our society. While state level institutionalization is important since state government has the ability to impact so many citizens, this research has focused on only one thread in the tapestry of conflict resolution being woven across the country.

Appendix A

Introduction Letter Pre-Interview Sent to Directors

Date here

Director's Name

Address

Dear Director *Name*:

I am a doctoral student at the University of Michigan's School of Natural Resources & Environment. My dissertation research is focused on state ADR offices that incorporate public policy/environmental dispute resolution (EDR) programs. In 1984, state ADR offices with EDR programs were created in five states. While small in number, there was a rich diversity of program focus, activities, and administrative structure among these programs. Over the last two decades the state EDR field has grown from 5 to approximately 35 programs with an increasingly rich diversity.

The overall goal of my research is to learn about the characteristics and evolution of these programs and in so doing to gain insight into the emergence of what appears to be a new field of organizations.

I would like to interview you about your program and will be calling in a couple weeks to see if we can schedule a time that is convenient for you. During this interview I would like to explore questions in these five areas:

- **Evolution of state EDR programs**

These programs came about and have evolved over time in different ways. I would like to ask you questions about why your program was created? Who started it and why? What was your program's original mandate and has that mandate changed?

- **Motivational forces**

There is variation in the goals of state EDR programs. What are your program's specific goals and why were they chosen?

- **Diversity of settings**

Since state EDR programs are housed in different organizational settings (courts, universities, state agencies, etc.) I am interested in learning about the range of variations associated with the organizational homes. What do you see as the advantages and challenges associated with your program's "place?"

- **Shared norms and expectations**

State EDR programs have emerged in an organic state-by-state manner, not as a result of formal national mandates or policies. Consequently, there is no single template regulating the functioning of these programs. I am curious to learn if an informal set of norms have become engrained that generally guide or influence state programs.

- **Longevity**

I am interested in learning about state programs that are no longer in existence and why.

I hope that this research will provide valuable insight for both practitioners and scholars and that you will be willing to share your thoughts with me. I will call to see if we can arrange a time for a telephone interview.

Sincerely,

Nick White
whiten@umich.edu
(734) 998-xxxx

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Dana Building
University of Michigan
430 E. University
Ann Arbor, MI 48109-1115

P.S. If there is a particular question that you think would be valuable to answer in the context of this study, please let me know (via email or with the enclosed self-addressed postcard). I will look for a theme in the responses and include a relevant question into my research.

Appendix B

Semi-Structured Interview Protocol

- Can you tell me about your background and how you became involved with the program?
 -
- The program was created in 19xx, by who? Explore why created, original intent, and who started/catalyst?
 - Get names of others involved
 -
- Why was the program housed in x (institutional home)?
 -
- What was the original organizational structure, that is, who reported to whom, how were daily decisions made and long term goals set?
 -
- How has the organizational structure changed over time, why?
 -
- Currently your program provides x, y, z services, am I missing anything?
 -
- Has this changed over time, why?
 -
- Are you thinking about changes in the future?
 -
- What is the current staff size (FTE's)?
 -
- What are your program goals?
 - Why, what is the motivation for these goals? (reduce case load, reduce # conflicts, change conflict resolution methods, save money, reduce delays/stalemate, improve env., improve resource mngt., improve human quality of life, etc.)?
 -
- Have your program goals changed, how?

-
- How do you measure success?
 -
- What publications/journals/books do you read for work, how often?
 -
- What professional affiliations/memberships do you and your program have?
 -
- What have you or would you look for in a new employee that would be a part of the environmental ADR program?
 - Academic credentials
 - Past career experience
 - Skills
 -
- What constitutes a qualified ADR practitioner?
 -
- State programs have emerged in a variety of forms (crt, univ., gov. off., state agency, etc.), what advantages do you see in your program form?
 -
- Challenges?
 -
- Do you think your program form or structure influences what services you provide?
 - In what way?
 - Why?
 -
- What type of cases/conflicts do you handle?
 -
- How do you identify cases?
 -
- What criteria do you use to decide whether or not to intervene in a case?
 -
- Over the last 20 years there have been some state programs that started but are no longer active, do you know of any of these programs?
 -

- What do you think were the forces that contributed to the end of the programs?

- What has allowed other programs to avoid the same outcome?

-

I'd like to turn to the email document you created.

- Why did you organize the field like this?

-

- How do programs or clusters communicate with each other?

-

- When you have questions, who do brainstorm with/turn to for answers?

-

- What influences from outside the state on your program?

-

- Have you interacted with Policy Consensus Initiative (PCI) or the U.S. Institute for Environmental Conflict Resolution (U.S. IECR), why?

-

- What influence have they had on you?

-

- What influence have you had on them?

-

- What other influences besides PCI or U.S. IECR have there been on your program?

-

- On the larger field of ADR programs (nationally)?

-

- Currently there are no formal national policies that regulate/influence state programs, are there any informal influences/norms? For example, there is an informal rule/norm among art museums that you never sell a piece of art work to cover operating costs, only to purchase other artwork.

-

- If so, how emerge, how influence (source of power)?

-

- Do any professional standards influence your program (legal, ACR, etc.)

-

- What impact do you believe your program has had in your state?
 -
- Any impact outside of your state?
 -
- How is your program funded?
 -
- How does your funding source evaluate your program, has this changed over time?
 -
- How has funding changed over the years?
 -
- What other criteria do you think is important when thinking about success?
 -
- Many of the state programs were created as experiments, has your program produced unexpected outcomes?
 -
- How much does it cost per year to operate your office?
 -
- Which do you think are the top three programs in the country?
 - Why, based on what criteria?

Appendix C

Email Sent to Interviewee 24 hours before Scheduled Interview

Hello,

In preparation for our interview on xx at xx I have attached a Microsoft Word document that has a 5-10 minute exercise that will help me with my research.

It would be helpful if you could complete the exercise and email it back to me as an attachment before our interview.

My goal with this exercise is to better understand how you view/organize the field of state ADR programs that have environmental dispute resolution/public policy programs. You may use what ever criteria you want, examples could be lines of communication, by program type, by date of creation, geographically, or a variety of other ways; what ever makes sense for you.

The exercise is contained entirely on the first page. Since I do use abbreviations for state names, I have included a reference key for state abbreviations on the second page.

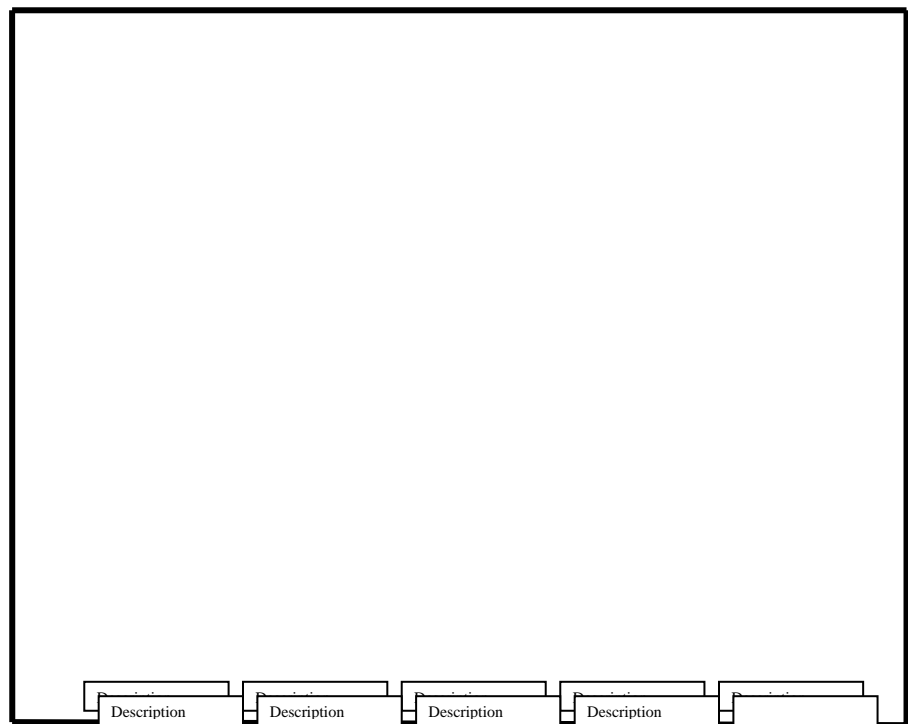
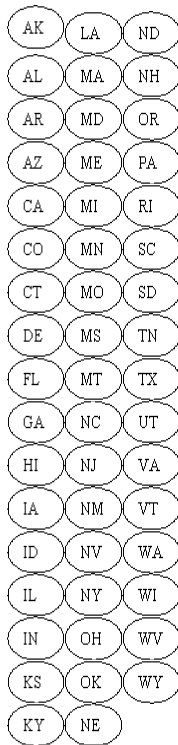
If you have any questions, please feel free to email (whiten@umich.edu) or call 734-998-7179.

Thank you,
Nick White

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Attachment referenced in email:

I am interested in learning how you organize/view the field of state level ADR programs that have environmental dispute resolution/public policy programs. There is a circle with the abbreviation for each state on the left side of the screen. Please move the state programs into the box and organize them as you view the field of state EDR programs. If you cluster any of the programs together, please click and drag one of the small rectangles with the word "Description" and place it by the cluster. You can double click on the word "Description" and type in a short description of the cluster. If a state has multiple programs or you want to place a state in multiple clusters, feel free to copy and past the state icon.



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