#talkLOUD

Fall 2020

OVW

Office on Violence Against Women

U.S. Department of Justice

DEMOCRACY

Pluralism

Civic Republicanism

Presidentialism

AJUDICATION

Administrative Law

Supreme Court

Procedures Act

BACKGROUND

The Office on Violence Against Women (OVW) was formed from Legal Momentum, initially known as the NOW Legal Defense and Education Fund. It was established in 1995 after the Violence Against Women Act (VAWA) was enacted in 1994. The National Association of Women Judges, President elect Joe Biden, and the Senate Judiciary Committee were pivotal in creating these laws to protect women beginning in 1990 (U.S. Department of Justice, n.d.a; Legal Momentum, n.d.).

VAWA was founded on the fourteenth amendment and passed with the Commerce Clause. Crimes against women, especially domestic violence, place a burden on taxpayers upwards of five to ten billion dollars for health, criminal justice, and other costs (Legal Momentum). But, in 2000, Chief Justice Rehnquist ruled its provision in the original legislation was unconstitutional in the U.S. v. Morrison Supreme Court case.

1 IN 3 women experience physical violence every year in the United States

Women are **5X** more likely to be killed if abuser owns a gun

College students are **10%** more likely to be victims of domestic violence or stalking

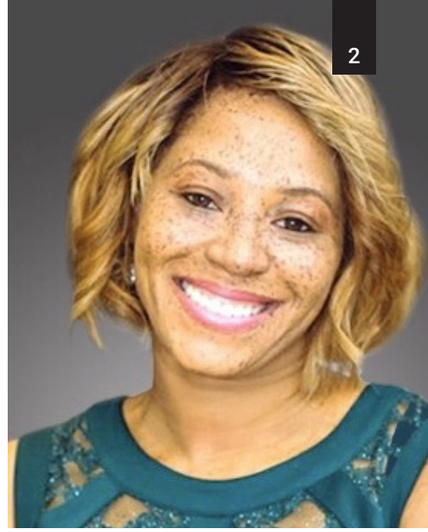
DOMESTIC VIOLENCE HOTLINE: 1-800-799-SAFE

VAWA was reauthorized in 2000, 2005, and 2013 with more stringent protections for tribal, Native Americans, immigrant, minority, student, and LGBT women (Legal Momentum).

In 2002, OVW moved under the jurisdiction of the U.S. Department of Justice to provide "federal leadership in developing the national capacity to reduce violence against women and administer justice for and strengthen services to victims of domestic violence, dating violence, sexual assault, and stalking" (U.S. Department of Justice, a).

www.justice.gov/ovw ***202-307-6026*** ***ovw.info@usdoj.gov***

BE EMPOWERED



PROGRAMS

OVW outlawed charging rape victims for sexual assault examinations, created laws for cyber stalking and interstate custody orders for domestic violence victims, provide resources for marginalized victims, enforce protection orders across state and tribal lines, and train government agencies (Legal Momentum).

A primary goal for OVW is to create coordinated community responses (CCR) that show intentional jurisdiction collaborations among "advocates, police officers, prosecutors, judges, probation and corrections officials, health care professionawls, leaders within faith communities, and survivors of violence against women" (Legal Momentum).

OVW provides "financial and technical assistance to communities across the country" providing resources to stop domestic violence, dating violence, sexual assault, and stalking.

The four programs administered by OVW:

STOP: Services - Training - Officers -Prosecutors
SASP: Sexual Assault Services Program
State Coalitions
Tribal Coalitions

OVV also administers discretionary programs to "support victims and hold perpetrators accountable" by providing funding to support direct services, crisis intervention, transitional housing, legal assistance to victims, court improvement, and training for law enforcement and courts.

www.justice.gov/ovw ***202-307-6026*** ***ovw.info@usdoj.gov***

Domestic Violence is a pattern of abusive behavior in a relationship that is used by one partner to maintain power and control over another current or former intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behavior that intimidates, manipulates, humiliates, isolates, frightens, terrorizes, coerces, threatens, hurts, injures, or wounds someone.

Sexual Assault is any type of sexual contact or behavior that occurs without consent of the recipient. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, molestation, incest, fondling, and attempted rape. It includes sexual acts against people who are unable to consent either due to age or lack of capacity.

Stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear. Stalking is dangerous and can often cause severe and long-lasting emotional and psychological harm to victims. Stalking often escalates over time and can lead to domestic violence, sexual assault, and even homicide. Stalking can include frightening communications, direct or indirect threats, and harassing a victim through the internet.

Dating Violence is violence and abuse committed by a person to exert power and control over a current or former dating partner. Dating violence often involves a pattern of escalating violence and abuse over a period of time. Dating violence covers a variety of actions, and can include physical abuse, physiological and emotional abuse, and sexual abuse. It can also include "digital abuse", the use of technology, such as smartphones, the internet, or social media, to intimate, harass, threaten, or isolate a victim.

OVW programs have significantly reduced rapes and assaults. "Legal assistance, protection order enforcement, and access to medical forensic examinations" have the best cost-benefit analysis.

The four priorities for FY 2021:

1. ***Investing in law enforcement and increasing prosecution***
2. ***Victim empowerment and self-sufficiency***
3. ***Stalking prevention***
4. ***Combating challenges in rural communities*** (U.S. Department of Justice, n.d.a).

There will be three challenges in FY 2021:

1. ***High incidence of sexual assault***
2. ***Criminal justice reform***
3. ***Scarce resources for victim services***
4. ***OVW infrastructure***

(U.S. Department of Justice, n.d.a).

Problem:
Gender-based crimes receive little national support, therefore, victims rely heavily on administrative law to protect them as executors of the law.

Solution:
The delegation of authority from legislators to administrators requires "an intelligible principle to which an agency is directed to conform (Supreme Court, U.S v. J. W. Hampton, Jr. and Company).

Budget:
The operational budget has remained relatively stable over the years without much increase. The FY 2020 budget request for OVW was $492.5 million, a 0.1% increase over FY 2019. The enacted FY2020 budget was $502.5 million. There were 66 positions and five attorneys requested for the office, but 70 positions were enacted in FY2020. FY2021 has a $4.0 million (0.7%) reduction in its operational budget to $498.5 million. The position total will remain at 70 personnel (U.S. Department of Justice, n.d.b).

Constitutional Rights

A person's most fundamental rights are security, nutrition, health, and education. In 1787, President James Madison argued that the strength of the United States Constitution had a more dominate elasticity than any faction.

The Tenth Federalist Paper protected the Republic stating: ***as long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government*** (Bill of Rights Institute, n.d.).

All citizens have a constitutional right to pursue interests that give their lives "meaning and purpose while limiting the potential for domination that accompanies those activities." Therefore, public administration is critical to afford all citizens these rights "whatever the mechanism"(Metzger and Stack (2017). Similarly to Tenth Federalist Paper, constitutional rights must include a deliberative democracy that prompts balance between all parties. A person's grievances decreases the impact of dominating authorities.

A democratic minimalist approach presents non-domination as an ideal rather than justice, the most basic form of Republic ideals. The Accardi doctrine mandates public agencies must comply with its own rules, thus treating all citizens with equity and due process. The principle as mentioned, must be honorable to the law and abide by the oath office. The U.S. Department of Justice headquarters is engraved, "where law ends tyranny begins."

Subsequently, agency decisions must be deliberate and judicious, ensuring it wills "open discourse" … address[ing] all significant concerns reflected in the record, and [provide] a persuasive explanation of why its decision furthers the public interest." As such, Chief Justice Roberts reports "the growth of the Executive Branch, which now wields vast power and touches almost every aspect of daily life, heightens the concern that it may slip from the [the law], and thus from that of the people" (Mathews, 2016).

FEDERALIST PAPER NO. 10

Fair hearings submit to a democratic regime with principled outcomes

DEMOCRATIC MINIMALISM

Justice is the ideal to prioritize over an unattainable democracy

PLURALISM

Democratic ideals are achieved through interest groups versus individually

ADJUDICATION

Judicial review of an agency's merit

QUIS MAXIMIL IM-

Ferspe nissi quiasse list rerum que volupta temque de parum erum.

MAXIMIL IMINVE

Ferspe nissi quiasse list rerum que volupta temque de parum erum.

IGENIMIN CTATEMO

Ferspe nissi quiasse list rerum que volupta temque de parum erum.

MAXIMIL IMINVE

Ferspe nissi quiasse list rerum que volupta temque de parum erum.

The Supreme Court ruled in Schechter Poultry Corporation v. U.S. states "Congress is not permitted to abdicate or to transfer to others the essential legislative functions with which it is vested, and there must be limitations of the authority to delegate, if our constitutional system is to be maintained" (Rosenbloom, 2013).

The Supreme Court ruled in Delaware v. Prouse that "unconstrained discretion in law [is] evil," and public officials as human beings have the potential to be tainted with their self-interests, untoward influences, conflicts of interest, ego and pride, or simply poor decision-making vulnerabilities (Rosenbloom).

Pluralism

Democracy was theorized in the 1920s and 1930s with pluralism, the ideology that diverse individuals with opposing interests are not capable of finding common interests related to political theory or advocacy, unless they are grouped together collectively in interest groups. Pluralism is considered effective by some as there are multiple "access points in government" for interest groups to express themselves (Metzger).

Adjudication

An increase in public access to government deliberations in the 1960s and 1970s was expanded in Supreme Court case Office of Communication of the United Church of Christ v. FCC, stating, a "congressional mandate of public participation is realized not through writing letters to the Commission"; and the 1970 Clean Air Act provided the Environmental Protection Agency (EPA) with the power to make its own rules regarding administrative procedures of the agency (Metzger). Likewise, in 1970 Judge Leventhal stated courts must provide legal scholarship when it "becomes aware, especially from a combination of danger signals, that the agency has not really taken a hard look at the salient problems, and has not genuinely engaged in reasoned decision-making."

Likewise, in 1970 Judge Leventhal stated courts must provide legal scholarship when it "becomes aware, especially from a combination of danger signals, that the agency has not really taken a hard look at the salient problems, and has not genuinely engaged in reasoned decision-making." Thus, the Americam Procedures Act (APA) mandates the courts to set aside agency actions that are "arbitrary, capricious, [or] an abuse of discretion"… leading to implausible decisions (Metzger).

Common law courts are the “guardians of individual liberty” because administrative law has marginalized the justice system (Kessler, 2016). In effect, administrative law has become authoritarian with its fluctuating existence dependent on the ruling party’s political affiliation. Further, Kessler reports time has increased executive controls, leaving public administrators in positions of heightened influence, regardless if elected or not.

These New Deal politics emerged in the 1920s and 1930s when Solicitor General Stanley Reed stated “claims of individual liberty may in reality be claims to domination over others” (Kessler). Therefore, public administrators or executives must create substantial evidence of rules and regulations from which they base their practices.

Eliciting regulated protocols and quasi-judicial procedures allows judges to “make sure that administrators remai[n] within constitutional and statutory bounds” (Kessler). Unlike present-day critics, Justice Frankfurter believed administrators were the ideal resolve to balance the tension between all three branches of government, even greater than the judicial system (Kessler).

The balance between public and private interests is crucial to avoid an authoritarian government. Ernst Freund, original theorist of administrative law, also believed “judges should leave matters of detail to [administrators]” (Kessler; Ernst, 2009, October 19).

In the 1936 Supreme Court case, Morgan v. U.S., Chief Justice Hughes stated “wise administrator[s] should act in the spirit of [a] just judge” (Kessler).

The 1939 Administrative Procedure Committee formed by the U.S. Justice Department explained that “the ideal of even-handed justice... required a pretty thoroughgoing separation of the prosecuting and the judicial staff” (Kessler). Another Supreme Court ruling by Justice Rehnquist, Vermont Yankee Nuclear Power Corporation v. Natural Resources Defense Council, Inc., shows the judicial system does not have authority to “impose upon the agency its own notion of which procedures are best or most likely to further some vague, undefined public good” (Shobe, 1979).

In contrast, Georgetown Law Professor Daniel Ernst’s study opposes ideals of expanding and sustaining administrative law.

Sunstein and Vermeule’s 2015 article, Libertarian Administrative Law shows philosophy and case law supports a decrease in administrative law before its practices destroy the purported ideals of the American forefathers.

The 2009 Tea Party mobilization created the “Constitution in Exile” reformation which disregards “the principles of individual rights, limited government, and due process” into administrative bureaucracy (Kessler).

Justice Clarence Thomas and Professor Philip Hamburger oppose administrative law expansionists, stating, these ideals are “illegitimate because it departs from founding-era conceptions of good government, which include a highly formalistic separation of powers and rigorous procedural protections for regulated parties,” according to essler.

Accordingly, the conflicting theories of

Constitution In Exile

administrative law lead to bipartisan debates as a “legal crisis over the relative independence of administrative decision-making from judicial and, at times, legislative control” remains in the forefront of American politics. The Administrative Procedure Act (APA) signed by President Truman created a statutory conflict between agencies and courts,” according to Kessler. Columbia Law School Professor James Freedman reports that “American people remain perennially unconvinced that administrative decision-making is appropriate, proper, and just” (Kessler).

Consequently, strategic checks and balances are critical for the executive branch. The 1946 APA Act established a public notice and comment mandate to increase public trust, provide a minimal level of transparency, and subsequently aid in agency accountability processes But, the Act did not establish criteria to measure agency operations or personnel management for fairness and due diligence (Metzger).

In 1932, the American Bar Association collaborated with the U.S. Congress to author the Walter-Logan Bill, which aimed to decrease the expansion of public administration without strict checks and balances (Elias, 2016).

The McNollgast theorists (Mathew McCubbins, Roger Noll, and Barry Weingast) posit with synchronous thoughts to the Walter-Logan ideology that lawmakers are able to maintain their political authority over administrative or procedural bureaucracy by relying on internal administrative accountability versus subsequent ex post controls similar to oversight and appropriation hearings. (Metzger and Stack; McNollgast, 1999; Postell, 2019)

Postell states, “Congress [has delegated] its powers widely to administrative agencies for over a century, and yet it is a constitutional issue that will not go away.” Without reforming the legislative branch, Postell believes will bot be able to duly uphold its powers as elected officials, stating, the “delegation suggests [an abdication of] authority rather than clinging to it and grasping at more.

Rather than caring about the constitutional rights of their office, members seemed happy to reduce their power and expand the influence of the bureaucracy” (Postell).“

“[Lawmakers] care more about re-election than about maintaining control of policymaking authority. Members, therefore, are relatively indifferent to the policy choices made by administrative agencies,” until something affects them directly (Hawley, 2016).

The expansion of administrative law threatens the Republic with the transfer of legislative power to administrative agencies because its infrastructure lacks accountability, and the executors are often not elected by the people. Therefore, according to Marbury v. Madison, “it is emphatically the province and duty of the [judiciary] to say what the law is” (Metzger).

Even so, as the enfranchisement of mandated public comments supported the balance of public authority, procedures are yet to address the second half of administrative laws and procedures, personnel management and administrative operations. Metzger states just as internal administrative law “enable[s] managerial accountability” and public administration operations and logistics, it can also yield to executive abuse, “with agency officials using internal issuances as a means of avoiding external legal or political constraints.”

ADMINISTRATIVE ACT

To truly understand how potential abuse, non-strategic operations, and poor delegation of law procurement can exist, one must truly analyze the content of the Administrative Procedure Act.

In 1937, two studies "recognized and extolled internal administrative law's virtues, emphasizing the importance of internal law for improving the executive branch's operation and the quality of governance" (Metzger). The two studies were commissioned by the President's Committee on Administrative Management (commonly known as the Brownlow Committee) and the Attorney General's Committee on Administrative Procedure after the prolific expansion of bureaucracy from President Franklin D. Roosevelt's "New Deal" administration in 1932.

It was found that delegating controls to administrative offices created "significant managerial and oversight problems," according to Metzger. President Roosevelt initiated the New Deal studies to create solutions for executive management with political science scholars Louis Brownlow, Charles Merriam, and Luther Gulick. Their research prompted the origin of the scholastic study known today as public administration (Metzger). The leaders found it critical to protect "citizen[s] from narrow-minded and dictatorial bureaucra[cy]"…with a core "obligation of democratic government,…

PEREZ V. MORTGAGE BANKERS ASSOC.

Public officials that fail to abide by their agency's regulations, in turn make the agency's actions invalid. Thus, if an agency or public official does not follow its public transcript, it will be deemed that procedural law was violated Wilenzick, M. (1991). The Supreme Court ruling Perez v. Mortgage Bankers Association ruled it is the agency's sole responsibility to follow its procedures without external influences of the judicial system. But, when needed, the courts of law should analyze an agency's decisions when the agency has implemented laws by which to be evaluated (Metzger).

Nonetheless, administrative law has internal and external components. Externally, agencies must prioritize the rights of citizens and third parties so they may have recourse to ensure their constitutional rights are not violated. It is also manifested largely from legislative actions and the judicial system. External law mandates legal statutes to an agency's operations. Internal administrative law asserts accountability to the lawlessness bureaucrats. It formalizes agency personnel and operations, but unlike external law, it is not promulgated with public participation (Metzger).

THE ACCARDI DOCTRINE

MANDATES ADMINISTRATIVE AGENCIES TO FOLLOW ITS INTERNAL ADMINISTRATIVE LAW RULES AND REGULATIONS.

AMERICAN BAR ASSOCIATION THE DEMOCRATIC PROCESS

requir[ing] "a clear line of conduct laid down for all officialdom to follow" (Metzger).

Thus, almost like a fourth branch of government, given its impact, site, and consequential impact on the lives of citizens everyday, administrative procedural mechanisms has become autocratic at times. In the Reorganization of Executive Departments (Brownlow, Merriam, and Gulick, 1937, p. 84):

Management is a servant, a means, not an end, a tool in the hands and for the purposes of the Nation. Public service is the service of the common good…higher human happiness and values are the supreme ends of our national life, and by these terms this and every other system must finally be tested.

Further, the results of the study continued, "strong executive leadership is essential to a democratic government," and …"it is essential to provide for direction and control" (Metzger). Arthur MacMahon, former president of the American Political Science Association, is cited by Metzger for his recognition of the "importance of stronger oversight within agencies." Yet, only one personnel finding was included in the final report, albeit it emphasized vetting administrators to for their ability to make "discretionary choices" (Metzger).

Against the 1933 New Deal ideologies, the American Bar Association convened "a Special Committee on Administrative Law [to] oppos[e] the expansion in federal government and regulation" (Metzger). In 1937, the American Bar Association (ABA) began an administrative procedural reform campaign led by the Dean of Harvard Law School, Roscoe Pound, to increase judicial review in order to constrain the "administrative absolutism" that President Roosevelt was attempting in their opinion (Metzger).

The ABA Committee recommended that judicial review "should generally be available to speak the final word on interpretation of law" (Metzger). Additionally, the ABA found that administrative resolve should not be dependent on judicial review, rather "internal controls…to assure enforcement of the laws by administrative agencies, … like greater internal law development which is published and transparent." Metzger further highlights that the ABA study included internal memorandums, staff trainings, and all correspondence as official documentation and subject to administrative law public scrutiny.

CONGRESSIONAL OVERSIGHT

The fundamental prelude for the theory of agency constraints is shown with Metzger's summary of the research conducted by Curtis Bradley and Trevor Morrison. The studies conclude that administrators must exert their decision-making powers as a context of law. Yet, "unchecked, arbitrary, abusive, and unconstitutional" practices within the administrative sectors of government …expose a "lack of congressional oversight of agency rules and regulations, and judicial review and the disappearing federal courts" (Dobkin, 2008).

Gageler (2017) reports increased bureaucracy is intertwined further with ombudsmen who are obligated to investigate and report maladministration.

With more than 70,000 pages of bureaucratic discovery, legislators are ill-equipped to warrant or suggest oversight from their branch of government. Instead, it is crucial for the administrative sectors to self-regulate themselves by engaging legal assistance for judicial theory if statutes are ambiguous, or rely on the administrators expert knowledge to clarify legislative procedures. For the argument that the administrative section is unconstitutional because of its size, according to Dobkin, this article yields to a "de facto fourth branch of government,"… "the very essence of tyranny."

The delegation of lawmaking to public administrators creates a paradigm of public executive independence without checks and balances.

Dobkin, on the other hand, yields to the fact that the "Constitution does not mention agencies at all," … stating agencies are in tension with basic constitutional principles by creating its own "rules that have the force of law." This will unknowingly expedites unilateral authoritative government controlled only by a judicial review when a matter of disloyalty is made public according to the Chevron deference.

Article 1, Sec. 8 and Article II, Secs. 2 and 4 "make[s] all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof." Accordingly, the Legislative Reorganization Act and the Congressional Review Act give precedence to legislators "to exercise continuous watchfulness over programs and agencies under their jurisdiction [and] authorized professional staff for them" (Dobkin).

Reports the U.S. Court of Appeals ruling of INS versus Yang (Dobkin): though the agency's discretion is unfettered at the outset, if it announces and follows--by rule or by settled course of adjudication-a general policy by which its exercise of discretion will be governed, an irrational departure from that policy (as opposed to an avowed alteration of it) could constitute action that must be overturned as arbitrary, capricious, [or] an abuse of discretion within the meaning of the Administrative Procedure Act, 5 U.S.C. S. 706(2)(A).72.." …Further, "the INS has not, however, disregarded its general policy here; it has merely taken a narrow view of what constitutes entry fraud under that policy" (Metzger).

MORTON V. RUIZ

The U.S. Supreme Court (1974) ruling of Morton v. Ruiz shows that not only do agencies have legal mandates to follow its internal laws, there is also a "judicially enforceable obligation of agencies to comply with its internal procedural manual when individual interests are clearly affected" (Metzger). A lexicon of strict regulations is paramount for situational leaders and crisis planners when developing and amending internal laws to deter potential litigation costs placed upon the agency when a judicial review is required.

Metzger explores examples of administrative law abuses including: deviant behaviors, lack of public transparency in agency actions, ambiguous regulations, and exploiting loopholes. The opportunity for lawlessness in administrative government is described by "several justices [as] "the danger posed by the growing . . . administrative state" … is "a[n] administrative arrogation of power" (Metzger).

Dobkin's report of the U.S. Court of Appeals ruling of Allentown Mack Sales & Service, Inc. v. NLRB shows that "an agency must utilize reasoned decision-making and consistency in adjudication," … even when it is "difficult [for] employees [to be] impartial to decisions made by their employers."

Ethically, judicial decisions are considered legitimate because judges are impartial and practice procedural law. Likewise, the quasi-judicial proceeding of agencies should also be impartial. Therefore, when agency adjudication is required, the reviewing court's obligation is not balance or rationality, but equitable due diligence that does not "systematically disregard or arbitrarily harm" a person's basic interests (Gageler).

Yet, Gageler concludes that "courts should depart from the norm of relaxed review when a party plausibly claims that an agency inappropriately disregarded its legitimate interests, or otherwise acted so arbitrarily as to constitute an abuse of power, resulting in serious harm to the party." Further, Gageler states the fundamental question court should ask, "Did the agency give an adequate, contemporaneous response to the arguments made by the claimant? Has the agency demonstrated that it considered alternatives that are less burdensome to the adversely affected? Has it given adequate reasons for choosing the policy it selected over those alternatives?"leave matters of detail to [administrators]" (Kessler; Ernst, 2009, October 19).

It is an agency's duty to ensure it takes account of the interests of all stakeholders affected by its decision. The agency must give due diligence to all "relevant, important factors and other blatant errors [that] could be grounds for setting aside its decision, since truly arbitrary uses of power that cause potent harms can also amount to domination." Judicial review garners a "collaborative instrumen[t] of justice" that enhances public good and serves an agency's mission, vision, and values, without prejudice for either party (Gageler).

In Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., Supreme Court Justice Stevens ruled that courts should defer to reasonable agency interpretations of ambiguous statutes that they administer. The Supreme law yielded "new roles for the legislature, court, and executive" branches, stating, "interpretive questions amount to policy choices."

Thus, in efforts to prevent domination and the abuse of power, a court's primary resolve is to ensure "one's basic interests [are not] systematically disregarded in contexts where they should matter" (Gageler; Metzger).

The "dialogue" or "serial litigation" between an agency and reviewing court is a quality-enhancing exchange that legitimizes administrative law. The "statutory judicial review of regulations, unlike constitutional review of legislation, [is] an iterative process, in which the agency can respond to the court's critique with new justifications" using deliberative

Deliberative democracy was introduced in the 1980s and 1990s along with civic republicanism. Both theories challenge an agencies to more "clearly explai[n] itself and how its actions relate to a previous court order, interested parties, Congress; and the courts can more easily understand and respond to their reasoning" (Metzger). The American forefathers used deliberative democracy when constructing the Constitution.

Unlike presidentialism, the republicanism ideals join stakeholders "in a public-minded exchange of views [to] better understand their interlocutors' perspective, and their own as well, making it possible to find

Agency Due Diligence

common ground" without dictatorship influences. The caveat is robust citizenry with progressive civic virtues and discernment" (Metzger).

Presidentialism, according to University of Virginia law professor Friedrich Schauer, the gap between politics and the deliberative ideal is exhaustive and drastically contrary to the actual political circumstances which one lives (Metzger). Presidentialists theorize a plebiscitarian ideal with democratic voting even though the majority of the population are not robust actors of citizen advocacy. Schauer's argument that pluralism and republicanism is too unrealistic because the majority of the population are disinterested in politics is true, but is it equitable to the public for a non-majority ruler to become authoritative as a result.

Presidentialism requires a sole governmental official to represent the people who is "electorally accountable." Metzger reports on Justice Elena Kagan's argument of plebiscitarian as "a President has not only won a national election, but will face a second one, and to maintain favor with the national constituency will predictably choose policies that reflect the preferences of the general public, rather than merely parochial interests."

Other theorists state presidentialism is democratic minimalism because it treats "national elections, by themselves, as sufficient to legitimate the subsequent acts of the President." … and "a democracy this thin offers no principled basis for a critique of autocratic government, so long as it features periodic elections" (Metzger). Joseph Schumpeter created the Schumpeterian Minimalism theory, stating, "the common good and the will of the people were chimerical… and [the] best efforts to aggregate individual preferences into policy are unlikely to yield what people really want (Metzger).

Additionally, the Schumpeterian Minimalism Theory states the acute failure of citizens "to take a sober and serious interest in the finer points of national political issues affects is the panglossian reality for minimalistic political values and persons whom are "entirely absent" from democratic procedures. Thus, democracy is nothing more than a "disciplining force of a market [for] votes" … which incentivizes leaders to align against abusive or autocratic rule". Therefore, "competitive elections prevent any one group from monopolizing power over the long term, and thereby dominating others" (Metzger).