

Institutionalizing the Ombudsman: An Analysis of Two External Facing Ombudsman Offices in  
the U.S. Federal Government

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**Abstract**

The number of Ombudsman offices in U.S. federal agencies rose dramatically in the 1990s. This study investigates why, despite the efforts of policymakers to force staff reductions across the federal government, Ombudsman offices continued to be established to the point that almost every agency has an Ombudsman. This study uses neo-institutionalist theory to pinpoint indicators that explain what has triggered the proliferation of external facing Ombudsmen in the federal government. The results of this historical retrospective investigation, which uses a mixed methods approach, indicate that the offices were created to ensure procedural justice and as a response to both: stakeholder pressures (since the population became more vocal and active, demanding access to the government, transparency, and accountability) and congressional mandates (such as the Administrative Dispute Resolution Act (ADRA) of 1990 and 1996 the Alternative Dispute Resolution Acts from 1998). This is consistent with neo-institutionalist expectations that organizations change as the result of pressures from forces in the environment combined with the drive for survival. As change accelerates, isomorphism occurs as organizations and agencies adopt strategies that have worked for other similar organizations in their environment.

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**General Audience Abstract**

This study investigates why, despite the efforts of policymakers to force staff reductions across the federal government, external facing Ombudsman offices continued to be established in the U.S. federal government, to the point that almost every agency has an Ombudsman. This study uses neo-institutionalist theory to pinpoint indicators that explain what has triggered the proliferation of these entities. The results of this historical retrospective investigation indicate that the offices were created to ensure procedural justice and as a response to both: stakeholder pressures (since the population became more vocal and active, demanding access to the government, transparency, and accountability) and congressional mandates (such as the Administrative Dispute Resolution Act (ADRA) of 1990 and 1996 the Alternative Dispute Resolution Acts from 1998).

## **Dedication**

With love to Eric Anderson, Bertha Sánchez, José Luis Garzón, Romina Anderson (puppy), and Olivia Anderson (soon to be born). All the hard work and sacrifices to complete this degree were worth it and the outcome of it is dedicated to you for being the best husband, parents, and daughters.

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If I have been able to reach this milestone is thanks to you.

Bertha

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## **Introduction**

In the 1960s and 1970s, members of the U.S. Congress held opposing views regarding the role of the Ombudsman, and whether it could fit in American government (U.S. Congress, 2016). However, this organizational idea was tested at the federal level during a period of evolving dynamics between the government and citizens. The population had become more engaged in government actions, demanding transparency and accountability, in the middle of the Vietnam War (Stieber, 2000) and during the civil rights movement (Gadlin & Levine, 2008). Nevertheless, a real expansion of the Ombudsman offices did not occur until the 1990s (ibid; Meltzer, 1998). To situate the investigation and results of this study, it is important to note that there are two types of Ombudsman offices in the federal government: those dealing with internal facing issues such as human resource matters and employee mediation, and those managing external facing issues such as engaging with customers and stakeholders outside the organization to address their needs and resolve their grievances. This investigation uses the lens of neo-institutionalist theory to explore external facing Ombudsman offices. In order to gather a holistic view of these entities, a historical retrospective study was conducted to analyze two particular cases, the IRS (Internal Revenue System) National Taxpayer Advocate office and the USCIS (U.S. Citizenship and Immigration Services) Ombudsman office, in combination with interviews of staff from other Ombudsman offices. This investigation describes how the U.S. government goal of increasing stakeholders' sense of justice was a product of external coercive forces. This analysis shows how the objective of increasing a sense of procedural justice was met through authorization and, later, improvement of Ombudsman's offices to buffer external pressures, while fulfilling the needs of the government to maintain or increase legitimacy in response to these pressures.

## **Chapter 1: Logic for Research Analysis**

### *Research Question and Focus*

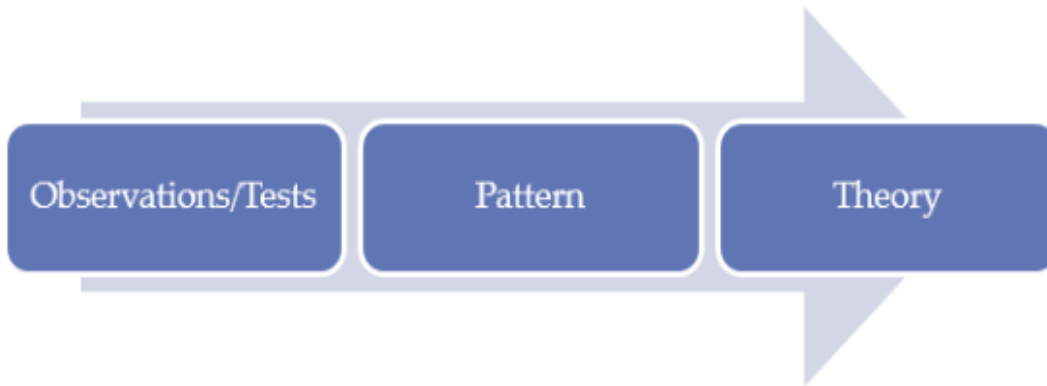
This study uses neo-institutionalist theory to explain the institutionalization of external facing Ombudsman offices in the U.S. federal government. The objective is to advance our comprehension of external facing Ombudsmen offices as institutions through an analysis of the USCIS Ombudsman office and the IRS National Taxpayer Advocate office. To narrow the scope of this investigation, it is essential to point out that there are two types of Ombudsman offices in the federal government. The first one deals with internal facing issues such as human resource matters and employee mediation; and the second one manages external facing issues such as engaging with customers and stakeholders outside the organization to address their needs and resolve their grievances. This study's population of concern is the 38 externally facing Ombudsman offices in federal agencies (COFO, 2016 & GAO, 2009).

### *Methodology and Data Collection Process*

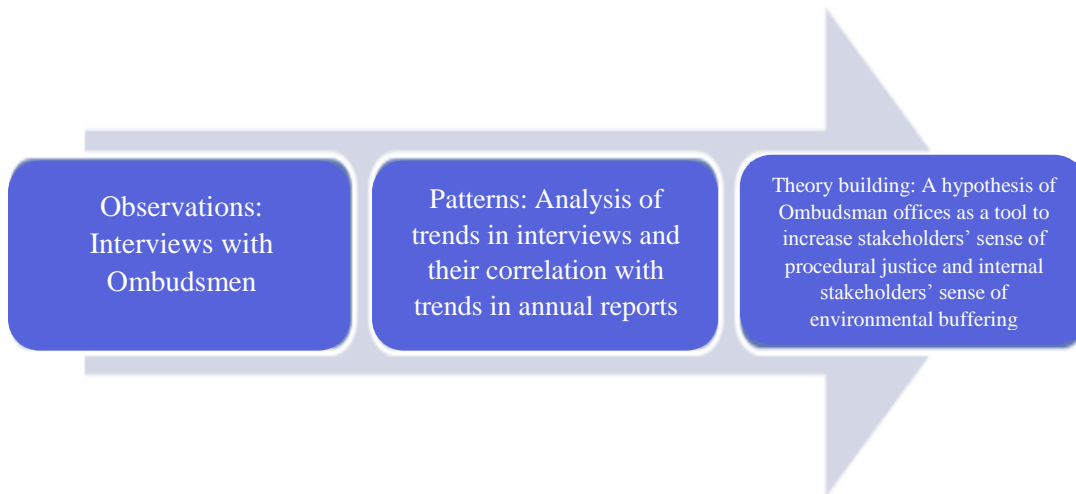
An inductive reasoning approach was chosen for two reasons. First, very little systematic research has been done on the external facing Ombudsman offices in the U.S. federal government. Thus, this analysis can be seen as an exercise in theory building for this institution. Second, the large body of institutionalist theory gives researchers many potential avenues for analysis, and the optimal set of concepts and approaches was not obvious for analysis of this institution. Therefore, the inductive methodology can help to gain knowledge from specific observations that later on could be used to draw conclusions or theories towards the end of the research process. Given the

nature of inductive reasoning, it is exploratory and open-ended –in particular, at the beginning of this process (George & Bennett, 2005).

*Figure 1: Representation of Inductive Process (Lodico, Spaulding, & Voegtle, 2010).*



*Figure 2: Representation of Inductive Process for this Analysis*



This exploratory investigation used a historical retrospective analysis of two cases to create an in depth examination of two Ombudsmen offices. In order to achieve this work, two data collection processes were used to triangulate evidence (Eisenhardt, 1989) and enhance construct

validity (Yin, 1994). This included an exploratory cross-case comparison, which required collecting, validating, and synthesizing historical evidence focused on the external forces influencing federal agencies to adopt Ombudsman offices and fifteen interviews to obtain anecdotes, impressions, and observations that archival records did not provide.

Comparative case analysis was engaged to determine the factors driving the institutionalization of the USCIS Ombudsman office and the IRS National Taxpayer Advocate office. This methodology was used to improve case study methods, since there is no framework to organize and evaluate these types of entities, and it helps to ensure accuracy. This approach provided an opportunity to identify patterns, or as Donald Campbell (1975) labeled it, “pattern matching.” The cross-case study also allowed a systematic assessment to describe findings, make inferences, contrast information, and discriminate relationships for a holistic interpretation of the proliferation of external facing Ombudsman offices in the U.S. federal government (Miles & Huberman, 1994). Comparative cases are flexible in their design and permit a variety of techniques to extract data such as archive data and interviews (Yin, 1994), which extended the information collection potential for this study.

#### *a) Case Studies*

Case studies “investigate a contemporary phenomenon in depth and in its real-world context” (Yin 2004, p. 237). This investigation utilized a small qualitative non-random sample (Miles & Huberman, 1994) of two cases to evaluate whether the elements of neo-institutionalism such as coercive pressures and stakeholders demands were present in both cases. For this purpose, boundaries were defined to identify the two organizations that fulfilled the four sample criteria for the cross-case comparison. First, it was necessary to select two Ombudsman offices within the

parameters of the research question. This entailed Ombudsmen within the federal government that deal with external facing issues, rather than internal facing issues. This was crucial to facilitate an equitable comparison between cases given the nature of their work and type of assistance that the Ombudsman offices offer. Second, to accurately represent a historical view, the selections included one of the first Ombudsman offices established in the federal government back in the 1970s, and an Ombudsman office established in 2002. These parameters provided an opportunity to analyze if the institutionalization of these entities suggests isomorphism, where the creation of one Ombudsman office has led to the proliferation of other Ombudsman offices. Third, as I expect that institutionalization is represented through the language and patterns of documentation used by offices over time, it was necessary to select two offices that had been diligent at disclosing their records to the public on a yearly basis for at least ten years. This was important to ensure fulfilling the purpose of the study; especially, since this investigation is aimed to analyze information from two Ombudsman offices between 2004 and 2015. Fourth, it was essential to have two organizations with a meaningful volume of work— while fostering diversity in perspectives based on the topics covered on a daily basis, and providing the opportunity to strengthen this study’s grounding in theory. The latter parameter was key to be able to identify emerging patterns in data during the process of constant comparison.

The above criterion led to the selection of the USCIS Ombudsman Office for the first case study and the IRS National Taxpayer Advocate Office for the second. These two cases required an extensive search of publicly available records, gathering pertinent primary and secondary sources. The materials were obtained directly from both Ombudsman offices or via online databases. The primary sources comprised annual reports, factsheets, executive summaries, memorandums, minutes from meetings, and brochures from the Ombudsmen offices. Also,

General Accountability Office (GAO) reports, Congressional archives, databases from Ombudsman associations and think tanks; as well as media coverage. The two case studies were the secondary sources. The information extracted from these sources addressed the establishment of the two Ombudsman offices, the reasons that led to their creation, the role envisioned for these offices, any signs of institutionalization, and their accountability measures.

#### *b) Interviews*

As Kvale (2008) explains, interviews in social sciences provide “a unique access to the lived world of the subjects, who in their own words describe their activities, experiences and opinions” (p. 9). Interviews are useful to obtain a well-rounded collection of information for analyses (Turner, 2010). For an area of inquiry like this one, where prior analyses and prior data were scarce, interviews provided the richest source of information about the offices. This investigation completed interviews as part of the data collection for the two cases, and as a complement to the analysis of the historical record. Semi-structured interviews were conducted to keep the discussion conversational and exploratory, which matched the inductive reasoning approach taken. To provide comparable structure, the interviews did follow a questionnaire designed to gather similar points of reference across participants (Miles & Huberman, 1994). This process sought to obtain participants’ views on the proliferation of external facing Ombudsman offices in the U.S. federal government. It covered how these types of offices have been established and formalized, and helped identify any variations among them. Furthermore, the interviews targeted concepts from neo-institutional theory not uncovered by the archival collection process. The subject pool for the informational interviews comprised fifteen current and former Ombudsmen and their staff with at least one year of experience in external facing Ombudsman offices. Interns and contractors were

excluded from this study. This sample was chosen to provide diverse perspectives and was constrained by what was practical given time and resource limitations. Prospective research informants were identified using the Coalition of Ombudsmen in the Federal Government's directory, publicly available federal agency directories, referrals, and other published material providing contact information of Ombudsman office staff. Each interview lasted 60 minutes on average. See Appendix A for the Script and Questionnaire for Interviews.

### *Data Analysis*

Content analysis is a research technique used in social sciences to understand language data in contextualized interpretations of documents. Some of its advantages are that it offers an unobtrusive method to analyze data. It allows for the evaluation of large amounts of material or textual information, as well as to systematically identify the property of texts (such as the most used words and its categorization) for future interpretation. Content analysis involves three distinct activities: designing, executing, and reporting. However, there is not necessarily a temporal logical sequence among these activities, given the frequent back and forth, to make adjustments to the requirements of the investigation. Once the design is completed, that drives the process for the execution. Then, what is executed leads to the findings; and finally, the results are the driver for the report (Krippendorff, 2004).

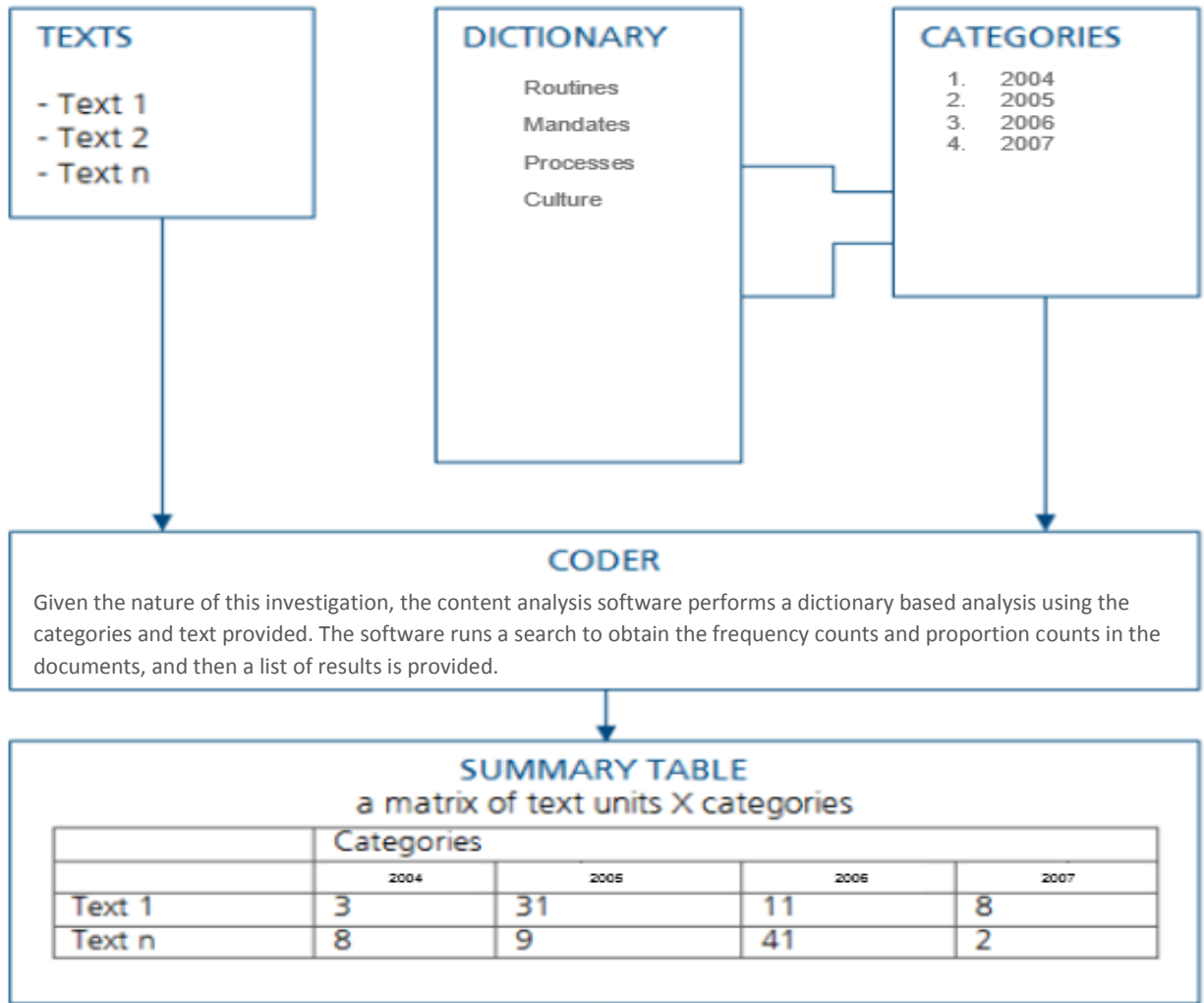
Content analysis was used to code and analyze the data collected from the interview transcripts and archival records from the case studies. What made this technique particularly meaningful was that it allowed for a systematic method to extract, measure, categorize, and scrutinize the material to draw conclusions about institutionalism of external facing Ombudsman offices in federal agencies. Additionally, content analysis allowed for systematic evaluation of the



reasons for the establishment of these types of offices, the timing and sequence to understand if and how they have become formalized, as well as to identify if there are any variations or patterns among them. Therefore, content analysis offered the possibility to deconstruct cases to find evidence that institutionalist theory predicts should be there to explicate this phenomenon and describe it (ibid).

Regarding the design for the content analysis, this investigation used Klaus Krippendorff's model (2004) in combination with neo-institutionalist concepts to design the coding schema. This data analysis tool required four stages. The first one was the *data making and gathering*, which comprised the information obtained from the case studies and the interviews. This method was used to gather the words and phrases that were mentioned most often and categorize them using codes. These labels assigned units to measure the inferential information compiled during the case studies and interviews (Miles & Huberman, 1994). Hence, this investigation was dictionary based. This means that within the context of content analysis, a set of words or phrases were mapped to word categories that shed light on the phenomenon studied. Since this research project is exploratory in nature, the dictionary approach allowed for a systematic method to analyze the data, among other things: count words and proportions, sort data, and run statistical tests to establish concrete results of the content in text. The categories used to encompass reoccurring terms and phrases provided specificity and the ability to provide counts for each category. Then, the various annual reports and interview transcripts were cross-compared within each category (Lowe, 2002). Following Krippendorff (2004), a framework of the quantitative content analysis representation is possible on Figure 3.

Figure 3: Description of Dictionary Based Analysis with Content Analysis Software for this Study (MAXQDA, 2017).



The codebook and dictionary terms were both theory guided and intuitively guided. They were first theory guided because the dictionary term categories were pulled from indicators for neo-institutionalist concepts and then applied to the review of literature review, making the relationship to neo-institutionalist theory explicit in items such as annual reports. It allowed for tracking the systemic issues identified by each office over time. It also helped segment the data into smaller units of analysis. Second, the codebook and dictionary terms were intuitively guided.

This is based on the contextual knowledge acquired throughout the interviews. Hence, the interviews justify the use of a dictionary to evaluate and obtain meaningful information (Krippendorff, 2004).

*Table 1: Content Analysis Codebook*

<b>Variable Category</b>	<b>Code</b>	<b>Description/Coding Schema</b>
1. Year of establishment of Ombudsman Office	<ul style="list-style-type: none"> <li>• Year (YRE)</li> </ul>	Useful for timeline with all the Ombudsman offices to pin point when the proliferation of these entities occurred
2. Reasons that led to the creation of the Ombudsman office	<ul style="list-style-type: none"> <li>• Mandates from Congress (MNC)</li> <li>• Demands from citizens (DMC)</li> <li>• Effectiveness from other agencies (EOA)</li> <li>• Pressures from non-profits (PNP)</li> <li>• Pressures from for-profits (PFP)</li> </ul>	Identify the type of external forces in the environment that that led to the rise of Ombudsman offices and shape organizations: Also, coded into the following categories: <ul style="list-style-type: none"> <li>• Coercive Pressures</li> <li>• Normative Pressures</li> <li>• Mimetic Pressures</li> </ul>
3. Role or purpose of the Ombudsman office	<ul style="list-style-type: none"> <li>• Address dispute resolution (ADR)</li> <li>• Enhance customer service (ECS)</li> <li>• Answer inquiries from stakeholders (AIS)</li> <li>• Ensure government accountability (EGA)</li> </ul>	This will help to understand what drove the decision to create such office and if these are satisfying drivers.
4. How has the institutionalization occurred?	<ul style="list-style-type: none"> <li>• Legitimization (IBL)</li> <li>• Government accountability and effectiveness (IBG)</li> </ul>	Identify the reasons that led to the isomorphism

	<ul style="list-style-type: none"> <li>• Establishment of processes and procedures (IBP)</li> <li>• Employees embracing mission (IBE)</li> <li>• Routines (IBR)</li> <li>• Coercive isomorphism (ICI)</li> <li>• Mimetic isomorphism (IMI)</li> <li>• Normative isomorphism (INI)</li> <li>• Strengthening the institutional capacity of federal government (IIC)</li> </ul>	
5. Accountability measures at the Ombudsman office	<ul style="list-style-type: none"> <li>• Annual report (AAR) <ul style="list-style-type: none"> <li>- Addressing and tracking case inquiries</li> <li>- Identifying systemic issues</li> <li>- Making recommendations</li> </ul> </li> <li>• Stakeholder engagements held (ASE)</li> </ul>	Understand what are the mechanisms for compliance and manage pressures

The second stage in this process was the *data reduction*, which was used to eliminate information that did not relate to the research question, and data that did not address any of the elements in the coding schema were discarded. This included removal of photographs, graphs, headers/ footers, formatting, stop words and punctuation. This step was particularly key, given the large volume of documents, and enabled a manageable design. The third stage applied in this process was *inference* to assess how the data were related. To facilitate this work, ATLAS.ti, a content analysis software designed for computer-assisted qualitative and mixed methods data investigation, was used to ingest all the documents gathered and converted into text files. This included the annual reports from the IRS National Taxpayer Advocate’s office and the USCIS Ombudsman office between 2004 and 2015, as well as the transcripts from each one of the

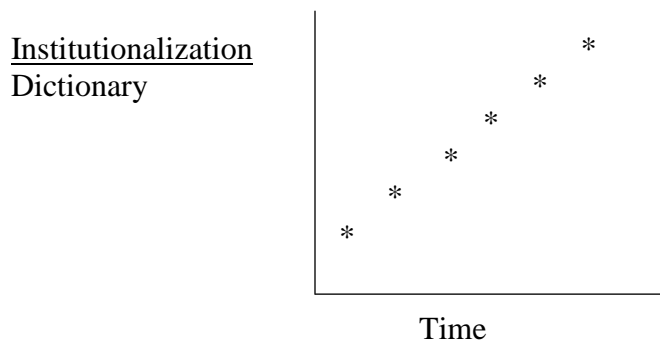
interviews. Then, it was required to document every coding unit from each matrix to develop the dictionary with categories; this step was time consuming, but it was essential in order to be able to search words with the software, and later on be able to make inferences based on frequency counts and proportion counts. The frequency counts represented the attempt to find out the total number of occurrences of specific units (i.e., words) in the context of language use or references, in documents (Neuendorf, 2002). Tracking word frequencies is the most straight forward form of content analysis (Lowe, 2002). Frequency analysis presents the analyst and reader with a straightforward way of gauging the importance of particular terms for communicating a concept or process. In this case, the relative importance of particular terms was also relevant, hence proportions of institutional words in a document were assessed. Proportion counts refer to the fraction of the sample that has a particular attribute being assessed (Neuendorf, 2002). The content analysis software was critical in the inference stage, since it allowed for cross-casing patterns that reflected key insights from the information gathered.

Lastly, the *analysis* aimed to identify patterns that explained or described the phenomena. Again, this stage was achieved using the content analysis software to find the units previously coded and retrieve the text into a list of results. In this case, the analysis evaluated whether the rise of the Ombudsmen in the federal government was consistent with neo-institutionalist arguments which suggest that the offices would use more institutionalized speech over time as they became institutionalized., Table 1 shows the content analysis schema and codebook with the variables used on this investigation. Similarly, these variables represent venues for change in each Ombudsman office over time, and they evolve every year, as has been represented in the documents gathered as part of the historical retrospective analysis. Below is a representation of what we are expecting could happen with the content analysis (per frequency count and per proportion count).

For example, the USCIS Ombudsman office uses key terminology or acronyms to handle inquiries such as: the “REFs” or Requests for Evidence, the “EADs” or Employment Authorization Document or the “USCIS’ processing times” to make a determination (to adjudicate or decline) an immigration benefit. The same occurs at the IRS National Taxpayer Advocate’s office. This office refers to the “TRFP” or Trust Fund Recovery Penalty, the “LITs” or Low Income Taxpayers, and the taxpayers’ rights, which have to be respected, but often time their violation by the IRS leads to inquiries to the NTA.

### Graphics with the Expected Results from Frequency Counts and Proportion Counts

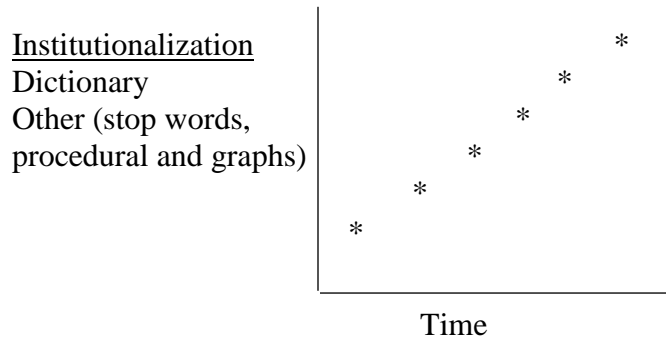
*Graphic 1: Frequency Counts*



$H_0$  = There is no change in the frequency of institutionalist terms use in the annual reports over the period of analysis

$H_1$  = The frequency of use of institutionalist terms increased annually over the period of analysis

Graphic 2: Proportion Counts



$H_0$  = There is no change in the proportion of institutionalized vs non-institutionalized language used in the annual reports over time

$H_1$  = There is an increase in the proportion of institutionalized language vs. non-institutionalized language in the annual reports over time

## Chapter 2: Literature Review

The rise in the number of ombudsman's offices coincided with changes in the external pressures placed upon agencies by a more active citizenry. The activism of the 1960s and 1970s meant that citizens sought additional opportunities for redress of their problems with federal government agencies and demanded additional transparency and accountability for government actions. In response to the implementation of civil rights concerns, federal agencies became increasingly focused on offering solutions to problems of injustice that relied on fair and transparent procedures. In this chapter, a theoretical two step approach is used. First, describe how theory of procedural justice explains why the institution of the Ombudsman is necessary, as a vehicle for satisfying citizen stakeholder demands; and second, elaborate on the key concepts from neo-institutionalist theory to explain how Ombudsman offices were created—as an external buffering mechanism and to legitimize the government,— which established a procedurally just response to calls in the external environment for accountability and transparency.

### *Procedural Justice: A Path for Conflict Resolution*

Procedural justice encompasses the notion of fairness in the process applied to manage disputes. It influences how decision making is made and how policies are implemented, since it encompasses a holistic view supported by the premise that the decisions to be taken are the most appropriate and fair. Procedural justice aims to ensure transparency and to promote procedures that take into consideration the opinions and views from all the parties involved to guarantee equitable outcomes. The key principles around procedural justice are independence, accuracy, and participation. This means that disputes between parties should be resolved with neutrality (based



on facts and consistent with policies), and that disputes are in fact an act of stakeholder engagement—citizens must have the opportunity to be heard to achieve fairness. The impact of procedural justice is considerable because when individuals know that problems or grievances will be addressed in a fair and honest way, they will accept and abide by the decisions. Moreover, offering the opportunity to be heard throughout the procedural justice process influences the perception of fairness in conflict resolution and contributes to legitimize institutions (Bone, 2003). In Lawrence Solum's (2004) words, "procedural justice is deeply entwined with the old and powerful idea that a process that guarantees rights of meaningful participation is an essential prerequisite for the legitimate authority of action-guiding legal norms" (p. 183).

Procedural justice is related to the idea of *due process* in the United States. Due process in the U.S. Constitution is found in the 5<sup>th</sup> and 14<sup>th</sup> amendments, which represent the legal requirement that balances the power of the law and guarantees the strict administration of justice to safeguard the citizens' rights and protect individuals from undue violation of their rights (life, property, and liberty) by the government (Orth, 2003). The U.S. Supreme Court explains these due process clauses ensure the following: a prohibition against vague laws, procedural due process, substantive due process, and as the medium for the introduction of the Bill of Rights. Due process in the U.S. is traced back to the Magna Carta in England in Clause 39, which states that, "No man shall be arrested or imprisoned...except by the lawful judgement of his peers or by the law of the land" (n.d.). Procedural justice provides an opportunity to reconcile administrative error, and therefore, should guide our system of dispute resolution (Solanum, 2004). As Tom Tyler (2007) describes, "We live in an era of scarce resources and high levels of mistrust. Procedural justice approaches provide a mechanism for managing conflicts that produces authoritative decisions while sustaining, and even building, trust and confidence in the courts and the law" (p. 31). Since

the 1970s, the American legal system started an evolution on its rationale towards the procedures to resolve disputes; particularly, considering informal third party options, such as Administrative Dispute Resolution (ADR). Behind this way of thinking, there was a desire to decrease the workload in courts and avoid reaching lawsuits against the government (Vidmar, 1992).

ADR refers to the variety of processes and techniques of conflict management employed to resolve disagreements in lieu of litigation or administrative adjudication. Alternative dispute resolution involves a third party who is neutral to the issue at stake aiming to reach a fair solution for both parties (Nabatchi, 2007). Michael McManus and Brianna Silberstein's (2011) purport that, "The wide range of innovative mechanisms commonly employed to settle disputes outside the courtroom is illustrative of the larger potential for organizational innovation in other fields designed to enhance governance..." (p. 100). Alternative dispute resolution encompasses a wide array of approaches, such as facilitation, mediation, and arbitration, in an effort to reach a solution without having to incur an expensive and lengthy legal process. This is a reason why it has been incorporated as part of the structure of public organizations. One of the venues to offer dispute resolution within the federal government is throughout Ombudsman offices (Nabatchi, 2007). In fact, the rise of ADR options in the United States has been significant, particularly during the second half of the 20<sup>th</sup> century, and it has led to considerable changes in the manner in which the U.S. federal government addresses grievances with its stakeholders (Senger, 2000). Consequently, different views have been expressed about ADR in the public sector. Those who support ADR claim that it results in a new generation within the government ensuring better customer service, accessibility, and transparency. It is less expensive, confidential, and more flexible over litigation (Senger, 2004). Contrastingly, there are some scholars who argue that empirical studies are insufficient to ascertain the advantages of dispute resolution (Bingham, 2002).

*How can we explain the institutionalization of Ombudsmen offices?*

Institutional theory is defined by Phillip Selznick (1996) as the framework that “traces the emergence of distinctive forms, processes, strategies, outlooks, and competences as they emerge from patterns of organizational interaction and adaptation. Such patterns must be understood as responses to both internal and external environments” (p. 271). Hence, institutional theory describes the ways in which organizations respond to multiple stakeholders’ demands given the institutional pressures, constraints, and expectations; as well as explain how the environment can deeply affect the creation of formal structures in organizations. As a consequence, rules, traditions, routines, norms, and innovations can become customary and shape organizations (Scott, 1987).

Interestingly, there are different perspectives within institutionalism. Old institutional theory focuses on organizational forms from a functional and rational viewpoint. According to this perspective, the environment is the source of norms and principles influencing organizations and their actions, and power dynamics and informal structures within an organization also have an influence (Ashworth, Boyne, and Delbridge, 2009). Institutionalization leads to the development of formal structures, the definition of recruitment protocols, and the establishment of rituals based on myths and culture. However, the main contribution of institutionalization is the added value that it might bring beyond expertise in a particular field; since the challenge is the level of readiness that the organization will have to respond to new conditions (Selznick, 1996).

Neo-institutionalism describes the ways organizations respond to *internal and external demands*. This theory stresses the ceremonial evolution of organizations, isomorphic transformation, and *satisficing behavior* (Frumkin & Galaskiewicz, 2004). It differentiates from the old institutional theory because it includes concerns around continuity, change, and complex

processes influencing an organization. This new approach to institutionalization recognizes the fact that individuals operate with a bounded rationality and use routines to manage the mimesis or uncertainty in the organization. Likewise, neo-institutionalism focuses on legitimacy as a powerful influence for stakeholders (Selznick, 1996). Organizations seek *legitimization* by “conforming” to the forces in the environment (Ashworth, Boyne, & Delbridge, 2009). Their main contribution is the distinction between two types of conformity: compliance and convergence. “Compliance suggest that, over time, organizations are moving in the direction that is consistent with isomorphic pressures... This requires the identification of the direction of movement that is “required” by prevailing institutional norms and the “target” organizational characteristics that are expected to change. The term convergence refers to the extent to which all organizations in a field resemble each other more closely over time. This can happen with or without compliance” (Ashworth, Boyne, & Delbridge, p. 169). As Frumkin and Galaskiewicz (2004) insist, “organizations do not always embrace strategies, structures, and processes that enhance their performance but, instead, *react to and seek ways to accommodate pressures following external scrutiny and regulation*” (p. 285). As a result, this theory deviates from the transaction costs model, population ecology, and resource dependence theory which are based on rational choice.

In general, proponents of neo-institutional theory explore how elements of social behavior within organizations are created, adopted, and adapted over time. Institutions are defined as regulative, normative, and cognitive structures that offer stability and meaning to their members. *Legal and political forces* are relevant during the institutionalization of an organization. As a consequence, an organization may comply with external pressures because the approval of external constituents enhances its legitimacy and provides the necessary confidence to conduct activities and subsist in the environment (See Figure 4). The term legitimacy denotes the degree to which an

organization's actions are socially recognized and accepted by the internal and external stakeholders. Therefore, institutional myths are recognized ceremoniously by stakeholders in order to obtain legitimacy in the institutional environment. In some instances, these formal structures of legitimacy can decrease the organization's efficiency. To lessen a negative outcome, organizations must frequently decouple their technical core from the legitimizing structures (Meyer & Rowan, 1977). On a similar path of investigation, Ashworth, Boyne, and Delbridge (2009) suggest that, "in an era of 'high performance management,' it is useful to remember that shifts in organizational characteristics are pursued for political as well as technical reasons and that public managers seek formal legitimacy as well as substantive results" (p. 184).

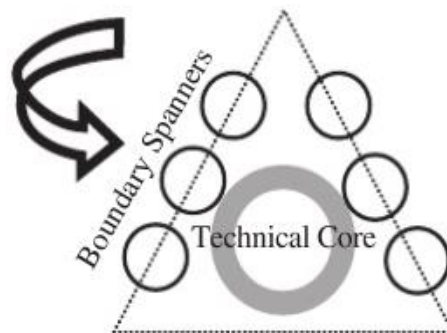
Institutional responses often result in *isomorphism*. This is the process that forces an organization to resemble others facing similar environmental conditions. When entities are subject to scrutiny, they tend to adjust. Institutional pressures lead to the expansion of homogeneous organizational structures in a common institutional environment. This suggests that at the beginning of the organizational life cycle, there are substantial differences in organizational forms, but over time, there is considerable uniformity in organizational structures and practices across organizations due to institutionalization. Given this phenomenon, organizations face three types of isomorphic pressures, which in many instances overlap. *Coercive pressures* arise from official mandates or from superior organizations, and conformance with these pressures is seen as a necessity for legitimacy. *Mimetic pressures* influence organizations to imitate successful arrangements used by other similar organizations, and these are adopted as a rational response to environmental uncertainty. *Normative pressures* cause organizations to follow best practices and professional standards and focus on how things should be done (DiMaggio & Powell, 1983).

Following the neo-institutionalist framework, Frumkin and Galaskiewicz (2004) explore the degree of susceptibility of government organizations to mimetic, normative, and coercive pressures when they are assessed in the categories of non-profit and for profit organizations. Their results indicate that public organizations are more susceptible to the institutional forces than the other two types of organizations. These scholars investigate the research from other prominent scholars to highlight the importance of public sector organizations in triggering symbolic and isomorphic changes caused to other organizations such as inspections, regulation, and funding. Delving further on this intricacy, Gupta, Dirsmith, and Fogarty (1994) evaluate how the institutionalization of the environment helps to structure the organization, such as when Congress mandated the existence of the USCIS' Ombudsman or the IRS National Taxpayer Advocate to negotiate with multiple actors to allow successful dynamic interactions between these two agencies and their stakeholders.

*Buffering* refers to the “regulation and/or insulation of organizational processes, functions, entities, or individuals from the effects of environmental uncertainty or scarcity” (Lynn, 2005, p. 38). The organizational structure is loosely coupled with work and perceived roles and traditions, such as increasing factors to spread across organizations (Meyer & Rowan, [1977] 1991). Similarly, organizations pay attention to their work and functions to assess the organizational characteristics (core and peripheral) that might be exposed to institutional pressures (Hannan & Freeman, 1984). The core is “the organization’s identity and value system” (Ashworth, Boyne, & Delbridge, 2009, p. 171), and the periphery are any other factors in the environment that influence the organization. The main types of organizational change are around structure, culture strategy content, and strategy content. However, organizations encounter a paradox: On one hand they need to be efficient, and this requires internal order and stability (ibid). On the other hand, to be

effective, these entities need external adaptability to change (Thompson, 1967). Interestingly, an alternative to managing this paradox is through buffering by protecting the technical core of the organization from the institutional environment. Therefore, loosely coupling their core functions and exposing the external activities or peripheral parts, which assist with the change and adaptation of the organization (Thompson, 1967; Meyer & Rowan, 1977). Organizational buffering can be depicted as organizations with three sections or layers of exposure to the environment. The first layer comprises the boundary spanners, which is the outermost layer. The purpose of the boundary spanners is to exchange information about changes in the environment and send information back to the environment to convey a favorable image of the organization. Boundary spanners manage tasks of external engagement (Daft, 2013). The second layer represents the managers in the organization, who are in between, and assist in adapting to organizational shifts such as new regulations. The third layer refers to the technical core at the center to fulfill the mission of the organization. Boundary spanners are intended to buffer the organization from its central activities and protect the organization from external disturbances (Scott, 1987). Buffering represents organizational autonomy and internal decision making to protect the organization and absorb uncertainty (Thompson, 1967; Oliver 1991).

*Model 1: Buffering Model (Lynn, 2005).*



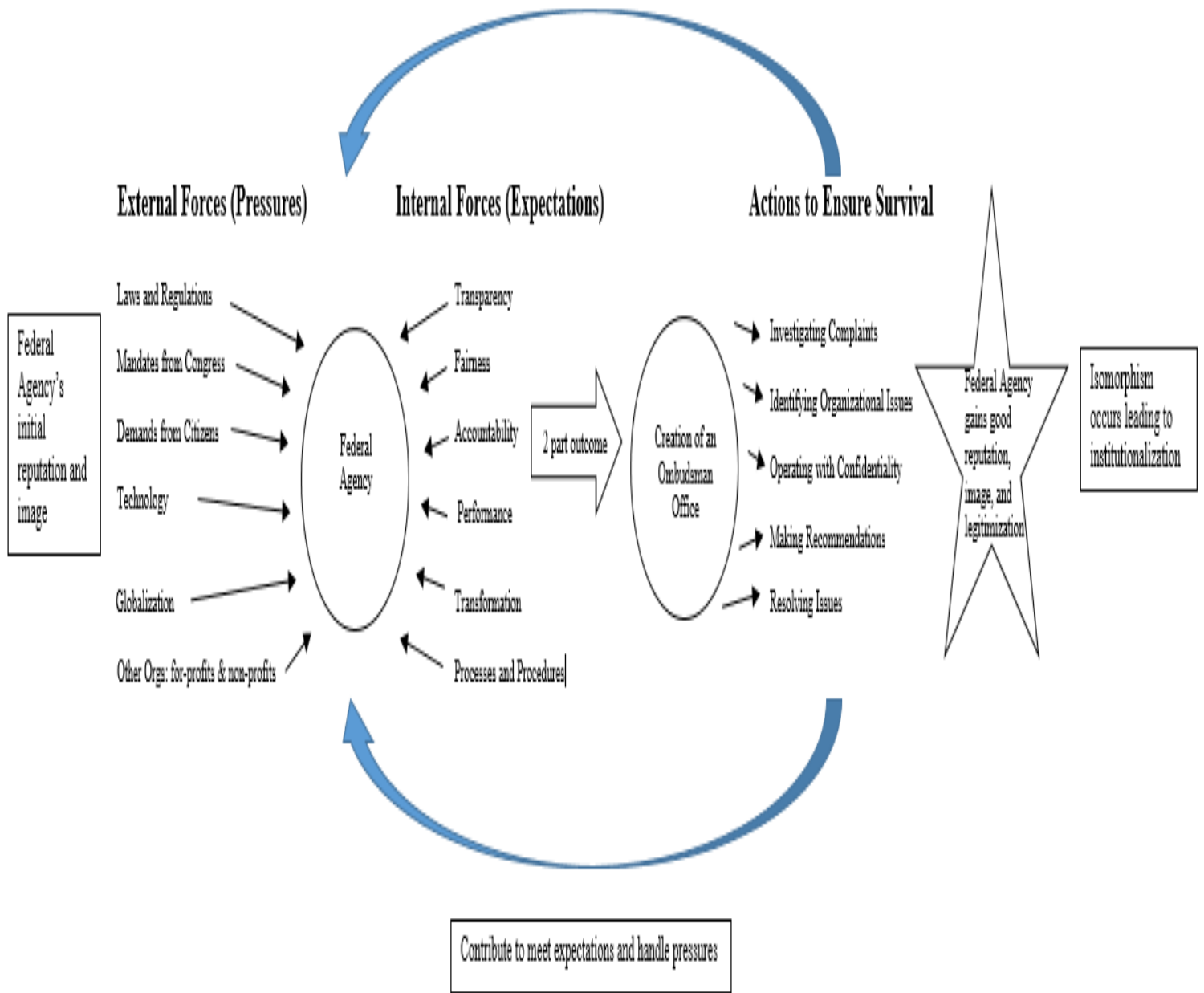
Using a different angle of neo-institutional theory, there are two contrasting perspectives to explain the institutionalization of public organizations adopted by academic community. The first explanation focuses on administrative efficiency. According to these scholars, government structures in contemporary society grow and change constantly despite the impression of bureaucratic stringency. Among other reasons, this is due to reorganizations, transfers, new responsibilities or demands, and mergers; and these changes are implemented in compliance with laws, mandates, regulations, and executive orders. In some instances, citizens might not notice the reorganization of the administrative apparatus of government due to piecemeal changes in the procedures and structures that occur over the years because they perceive the government as big, lethargic, and static. However, changes in governmental structures occur continuously due to multiple circumstances in the political arena (March & Olson, 1983). “The effectiveness of political systems depends to a substantial extent on the effectiveness of administrative institutions, and the design and control of bureaucratic structures is a central concern of any polity...Politics operates within highly structured situations (i.e. budgeting) using repetitive, [and] routinized procedures” (March & Olson, p. 281). Therefore, politicians create new structures or make changes to avoid chaos, to address stakeholders’ needs, to promote economy and control, and to ensure that the government operates in an efficient and effective manner, which leads to the survival of the organization. To this end, the actions of politicians are strategically enacted, since the creation of new structures contribute to gaining legitimacy among constituents. Then, effectiveness is perceived, and as a result, the institutionalization of organizations occurs over time.

The second explanation focuses on politics. It sustains that governmental structures are created, adapted, or changed due to political struggle among stakeholders: “Fundamental political interests, within the bureaucracy and outside, seek access, representation, control, and policy



benefits” (March & Olson, p. 283). Consequently, these gradual changes in the structures are designed to appear to result from attending to the diverse constituencies and responding to loyalties. Nevertheless, this is symbolic and represents an illusion. Mandates, statutes, and authorizations from Congress are only rhetoric to give the appearance that the government is creating mechanisms that give stakeholders access to the government and promote a sense of belonging –but the effectiveness of these actions is questionable. These symbolic legislative actions reinforce bureaucratic structures and appease the weak and naïve. In this perspective, institutionalization is motivated by political control, given the fact that politicians make calculated decisions to reinforce their own power. The way in which the government frames these reforms or changes in the structures produces two parallel outcomes. On one hand, stakeholders are satisfied with the mechanisms implemented to access the government, the government gains legitimacy among its constituents, and institutionalization occurs over time. On the other hand, constituents strengthen the power and control of politicians and government leadership is coopted, which leads to maintain the bureaucracy (March & Olson, 1983).

Figure 4: Neo-Institutionalist view of External Facing Ombudsman Offices



### **Chapter 3: The Ombudsman: History and Context**

The previous section was meant to explain essential concepts in the general theoretical outlook of Ombudsman offices. This chapter delves on the history and context of the Ombudsman to offer a clear picture of this entity. Specifically, chapter 3 defines an Ombudsman and its origins. It explicates how the expansion of the Ombudsman offices occurred. It provides the series of arguments in favor and against that were debated prior to the adoption of Ombudsmen in the U.S. It looks into the U.S. Constitutional grounds for the viability of Ombudsmen in America. It clarifies the role of external facing Ombudsmen and delineates what exactly they do. Finally, it outlines what happened to the Ombudsman based on the Swedish model and what was adopted in the United States.

*What is an Ombudsman and what are its origins?*

The word Ombudsman means “representative” or “agent” in Swedish (Reuss & Anderson, 1966) and due to the nature of this role, there are different types of Ombudsman (Howard, 2010). However, this research concentrates on one type only, and this is specifically the “external facing Ombudsman,” which moving forward in this document, will be referred to as “Ombudsman” or “Ombudsmen.” The purpose of an Ombudsman is to offer a mechanism for citizens to access the government, and to prevent wrongdoing and administrative errors in a way that prevents citizens from spending costly fees on legal assistance to mediate their disputes (Reuss & Anderson, 1966). Given the Ombudsman’s purpose, this role possesses the following characteristics: it has a neutral stance, operates with confidentiality, investigates complaints, identifies organizational issues,

makes recommendations in order to improve the performance of organizations, and uses best practices.

The Ombudsman, as a modern organizational idea, was created in Sweden in 1809 after this country was defeated by Russia and a new constitution was ratified. The first Ombudsman appointed was Lars Augustin Mannerheim, and he set a precedent on the observance of laws and regulations (Anderson, 1972). Under this new role, he was expected to have exceptional integrity, possess a legal background, and report to the Swedish Parliament to protect the rights of citizens against unfair or oppressive decisions of the bureaucracy (Howard, 2010). This office marked the beginning of the classical Ombudsman institution (Reif, 2009). Here it is worth mentioning that the first Ombudsmen had the capacity to prosecute government officials who “committed an unlawful act or neglected to perform official duties properly. Although, in the subsequent years, Ombudsmen and their offices became less prosecutorial and more of a citizen protector” (Caiden, p. 10).

### *Expansion of the Ombudsman Offices*

More than one hundred years had to pass until the Ombudsman concept was adopted outside of Sweden. The first country to follow the Swedish tradition of the Ombudsman was Finland, in 1919, when the Finnish parliament approved the new constitution and instituted this new position to address complaints of misconduct in the new government. In this case, the Ombudsman and the Chancellor of Justice had overlapping prerogatives, but the Ombudsman was focused on evaluating martial and penitentiary grievances. A fact worth recognizing is that the seclusion of Sweden and Finland in terms of linguistic, cultural, and political differences with other countries contributed to the long delay of the diffusion of the Ombudsman into other governments. As these

positions proved successful in Sweden and Finland, the organizational idea of the Ombudsman gained recognition in the rest of Scandinavia. In 1952, Norway was the third country to establish an Ombudsman Office (originally to address military issues), and in 1963 this government added another Ombudsman to address general matters (Howard, 2010 & Caiden, 1983). Denmark was the fourth country to create an Ombudsman in 1953. This new office began operations in 1955. The Danish Ombudsman set a precedent by not having a prosecutorial power to investigate the misconduct of government authorities. Moreover, per Anderson and Stockton (1990), “the [Ombudsman] idea was slow to spread to any other part of the world, and it was not until the Danish adaptation of the Swedish institution in the mid-1950s that use of the concept spread substantially. This was in large part to the efforts of the first Danish Ombudsman, Professor Stephan Hurwitz. He wrote extensively on the subject, travelled to other countries to spread the word, and gave frequent talks to academics and political audiences about his role” (p. 115).

Regardless of the variations between the Ombudsmen in Sweden, Finland, Norway, and Denmark, Donald Rowat (1985) highlights similar competences and practices:

All of them can receive and investigate any written complaint, which can be submitted in a sealed envelope without reference to any superior authority. All can initiate investigations and make inspections, without first having received a specific complaint. All can call upon government agencies to give reports and all have the power to demand departmental records. All are appointed by Parliament, are entirely independent of the executive, and report annually to a special committee of the House. All can comment critically on official actions in their annual reports, and all can make a report on an urgent matter anytime (p. 400-401).

After the incubation period of the Ombudsman idea in Scandinavia, other countries around the world followed suit in the twentieth century, especially after the end of World War II (Reif, 2009). The Federal Republic of Germany appointed an Ombudsman in 1957, New Zealand in 1962, Tanzania and Guyana in 1966, Mauritius in 1968, United Kingdom in 1967, Fiji in 1970, and Israel in 1971 (Weeks, 1978). In the case of Tanzania, Guyana, Mauritius, and Fiji, these countries were former British colonies. Hence, despite the geographic disconnect, colonialism was influential in the adoption of this role into their governments. As Roy Gregory and Phillip Giddings (2000) stated, “Forty or so years ago, the Ombudsman institution was confined to a handful of countries, and the word “ombudsman” meant nothing to most people outside of Scandinavia. Nowadays, in the late 1990s, the office is a global phenomenon, estimated to be operative in something like ninety countries” (p. 1).

#### *Arguments in Favor and Against the Adoption of Ombudsmen in the U.S.*

Given the success of the Scandinavian notion of the Ombudsman, interest sparked among American academics and public administrators to investigate whether or not this concept and entity could be replicated in the United States. Henry Abraham’s observations as a Fulbright scholar in Denmark prompted his interest in learning about the Danish Ombudsman. His reflections resulted in the publication of “*A People’s Watchdog Against Abuse of Power,*” arguing that the American government should consider the adoption of this entity to manage the interactions between the government and its citizens. Since then, Abraham’s work has been credited with introducing the Ombudsman idea to the U.S. and triggered a line of research that other scholars further advanced. Among others, the work from Donald Rowat with *The Ombudsman* (1965) and Walter Gellhorn with the *Ombudsmen and Others* (1966) and *When Americans Complain* (1966) elucidated the

nature and purpose of the Ombudsman in public organizations, especially emphasizing how this office could fit into the American system of government and the advantages that it could bring. Further reinforcing early efforts, Howard Gadlin and Samantha Levine (2008) note, “The idea of creating Ombudsman offices in federal agencies gained attention during the Civil Rights era with its emphasis on fostering justice and equality” (p. 18). This assertion aligns with Carolyn Stieber’s (2000) research indicating that the Vietnam War and consequent protests across the country offered an atmosphere ripe for pushing the Ombudsman into public structures. The above conditions align with Kingdon’s agenda-setting theory, where there is a policy stream convergence of problems, proposals, and politics creating a policy window for this phenomena (1995).

Other significant leaders who helped to overcome the skepticism and challenges of incorporating Ombudsmen Offices into the U.S. government were the Administrative Conference of the U.S. (ACUS) and the American Assembly. These organizations provided key analysis and reports to justify the introduction of the Ombudsman into the U.S. federal government—as a way to improve the government as a whole. The American Assembly (1968) argued that Ombudsmen were needed in the government due to the following reasons: a) The population does not have equal access to mechanisms to handle their grievances with the government. b) Public servants are selective when responding to individual cases. c) Processes and procedures should address the root cause of problems, rather than reinforce current behaviors to justify administrator actions; and d) Litigation between citizens and the government can be expensive. Given the otherwise limited possibilities for average citizens to bring their complaints to the attention of the government, Ombudsman offices can expand these opportunities.

Among non-profits supporting the introduction of Ombudsmen in the U.S. government, was the Administrative Law Section of the American Bar Association (ABA). It established a

committee to consider the Ombudsman idea in 1967. In 1969, the ABA House of Delegates approved a resolution advocating an increased use of Ombudsmen in the public sector, and proposed that the Administrative Conference of the U.S. could facilitate additional studies to test the idea of having an Ombudsman in specific government agencies (ABA, 1969; Rowat, 1985).

Records also show that a number of legislators were convinced of the benefits of Ombudsmen in the public service, and consequently there were several legislative attempts to establish these offices. In 1963, Representative Henry Reuss, a democrat from Wisconsin, introduced the bill H.R. 7593 created a Congressional Ombudsman or “Administrative Counsel” to handle the casework received from constituents and to balance the pressures from citizens. The main idea behind this proposal was to centralize all the inquiries from the public into an office on the Hill and ameliorate the challenges faced to address constituents’ inquiries. As the introduction of the bill stated, “...the increasing complexity of the Federal Government has created difficulties on the part of private citizens in dealing with the government...” Nowadays, this is one of the reasons why Ombudsman offices have been attractive in the U.S. At the time, Rep. Reuss argued that centralization of the case work created an economy of scale and provided visibility and access to citizen concerns to subject matter experts; and this bill could improve the government and its interaction with stakeholders. Although this bill was not successful, Rep. Reuss kept reintroducing it numerous times between 1963 and 1973 (U.S. Congress, 2016).

Another piece of legislation was Senate bill 1195. It was introduced by Senator Edward Long, a democrat from Missouri, in 1967. He proposed the creation of Ombudsman in some federal agencies, particularly in those organizations that provided customer service related to benefits for entitlement programs such as the Veterans Administration, Social Security Administration, the Bureau of Prisons, and the Internal Revenue Service. This initiative aimed to enhance the



government by allowing Ombudsmen to handle citizens' complaints and address the needs of veterans (ibid). Unfortunately, the outcome of this bill was not what Sen. Long expected, beginning with the complete rejection of this bill (by the agencies being impacted by it arguing that they did not require extra oversight). Interestingly, most of the agencies that currently have an Ombudsman office are the ones that provide customer service. Another attempt was the introduction of the Administrative Ombudsman Experimentation Act in 1971 by Senator Jacob Javits, a republican from New York. This bill envisioned that Ombudsman could assist in providing assistance to low income groups in education, housing, welfare, labor, and health matters and conduct research (Ibid, p. 20-21).

In 1973, Representative Kenneth Keating, another republican from New York, along with Representative Lee Metcalfe, a democrat from Montana, introduced two additional bills (H.R. 11146 and H.R. 8848) to create an Ombudsman for the Federal Bureau of Prisons and the Board of Parole. The introduction of these bills intended to address grievances, investigate administrative errors to correct actions, ensure a mechanism for citizens to access the government with confidentiality, and provide a vehicle for annual reports to Congress –functions that current Ombudsmen perform. However, back in the early 1970s, Congress did not see the need for such an entity. Therefore, these bills did not receive enough votes to pass.

That same year, 1973, Sen. Charles Percy, a republican from Illinois, introduced bill S. 2160 to have an Ombudsman for the federal criminal justice system aiming to:

Provide that any petition for collateral review of a conviction filed by a Federal offender, or any petition filed by an inmate in a State or Federal penal or correctional institution for redress of grievances concerning conditions within such institution, may be referred by the court to the Office of Ombudsman of the Federal

Criminal Justice System. Provides that the Office shall have ninety days within which to consider such petition and, if possible, to resolve the matter contained therein (U.S. Congress, 2016).

This bill did not pass either. Academics such as Jesse Unruh (1968), as well as Diane Stockton and David Anderson (1990) suggest that this occurred because many congressmen did not believe in having a new person to deal with grievances when Congress should be the first point of contact for constituents' problems. Others argued that the government needed to have federal budget cuts rather than increasing spending (Anderson, 1969).

Some scholars argue that one of the reasons why there were no Ombudsmen in the American government until the late 1960s and beginning of the 1970s was because some party organizations and public servants did not understand this idea and perceived the "go-between function" as unnecessary (Anderson & Stockton, 1990). Also, the Ombudsman was perceived to increase burdensome bureaucracy (Gadlin & Levine, 2008). Most legislators opposed the Ombudsman idea, which is one reason that initial attempts to establish Ombudsman through congressional bills were unsuccessful. Congressional records suggest that the majority of representatives did not believe in establishing new offices to deal with grievances when Congress should be the first point of contact for constituents' problems, and the government needed federal budget cuts (Anderson, 1969). For instance, during a Congressional Hearing for the Subcommittee on Administrative Practice and Procedure (1966), Sen. Hart pointed out that, "in this country the 535 Senators and Congressmen are in some sense Ombudsmen in that they do, with great zeal, represent their constituents when their constituents tell them of some alleged injustice that has befallen them in the Federal sphere of government" (p. 29).

Historical records capture some additional arguments opposing Ombudsmen. Some politicians argued that it was impossible for the U.S. government to make mistakes, given that after World War II, the government began using modern scientific methods in public administration. Thus, Ombudsmen were not necessary. One of the most compelling arguments used by legislators was the fact that there was no support for the Ombudsmen, since “they have never received one letter of support for the bill—or against it for that matter” (Unruh, 1968, p. 121). Similarly, it was contended that given the size and population of the United States, the Ombudsman institution should be thoughtfully considered because it could turn into a bureaucracy of uncontrollable proportion (Rowat, 1985). Likewise, Ombudsmen were seen as unnecessary in the U.S public structures, since the government had a lot of growth after the wars and its activities included complex tasks that resulted in bureaucratic red tape. Thus, Ombudsmen would add another layer to the bureaucracy, and as such, increase extraneous government expenses (Gellhorn, 1967). As James Q. Wilson (1967) pointed out:

The federal bureaucracy, whose growth and problems were only the concern of the Right, has now become a major concern of the Left, the Center, and almost all points in between. Conservatives once feared that a powerful bureaucracy would work a social revolution. The Left now fears that this same bureaucracy is working a conservative reaction. And the center fears that the bureaucracy isn't working at all” (p. 3).

Another strong argument against Ombudsmen was that this organizational idea was initiated in Sweden and was effective due to the unitary parliamentary constitutional monarchy form of government. It could be impossible to adapt such concept in the United States given that our government is a constitutional federal republic, and to be effective it would require not only

one Ombudsman, but many Ombudsmen. According to the American Assembly (1968), “Danger exists that indiscriminate use of the ‘Ombudsman’ label and proliferation of his functions may soil his reputation” (p. 135). In addition, those against having Ombudsmen in the U.S. argued that this new position would cause overlaps in functions already performed by Congress, and as a result, create contention in the jurisdiction between Ombudsmen and other entities already in place. Moreover, the addition of Ombudsmen in the U.S. government could create confusion for citizens, who would not know which office is responsible for what and would most likely send complaints to the incorrect office, resulting in unnecessary duplication of work and efforts. On the same token, Ombudsmen in the U.S. could result in diminished partnership among parties, since Congressional members of each party would seek to politicize this role by appointing their own candidates for Ombudsmen. Besides, the Ombudsman in Sweden had the capacity to prosecute in the courts, and this could infringe the constitutional limits of the American government because of clear divisions between the executive, the legislative, and the judicial branches to balance the power. Even if Ombudsmen were appointed at the federal level without the power to prosecute in the courts, this could lead to excessive control of the executive branch over the Ombudsman, and neutrality and independence could be hindered, which are critical components of this role (Rowat, 1985). Additionally, other countries who had adopted the Ombudsman idea in their governments had expressed how difficult it had been to transfer such a concept (Gellhorn, 1967). Strengthening the public administration by having Ombudsmen who could report improper administration from civil servants, could lead to some unintended consequences, such as creating “just another complaint bureau” (p. 135), using the Ombudsman position as the entry door for popular election, or creating a wave of civil servants who are too timid to perform given the fear that someone is always watching them. Also, there is a risk that Ombudsmen will overexert their capacity by trying to

influence decisions that should be left to the subject matter experts (Administrative Assembly, 1968).

As legislators were trying to grasp and figure out how and if the Ombudsman idea could fit in the U.S. government, the American sentiment around Ombudsmen was mixed and evident. The public needed more information to overcome their apathy and conflicting views (Unruh, 1968). In J. M. Lengyel's, internal manager at Parke, Davis & Co. opinion, "Only Santa Claus could meet the requirements of an effective Ombudsman" (Nation's Business, 1971, p. 18). Also, Randall Storms, headmaster at Wichita Collegiate School, contended that he was in complete opposition to Ombudsmen. He sustained that "Government needs to be reduced, not increased" (ibid). Contrastingly, a group of other individuals suggested that, "agencies improve their public relations as an alternative to the Ombudsman idea...[and]...an appointment of an Ombudsman was long overdue" (op. cit.). In 1965, Gallup conducted a Poll to assess the public opinion about Ombudsmen in the U.S. The first question was about Rep. Reuss' bill of having a new agency in Washington to address complaints against the federal government. The second question asked if a new office should handle letters and requests from constituents. The results from the first question indicated that 42 percent of the respondents were in favor of Rep. Reuss' bill, 29 percent thought it was a poor idea, and 29 percent had no opinion on the matter. Regarding the second question, 46 percent were in favor of freeing Congressmen from inquiries to consider new legislation, 41 opposed this idea, and 13 percent had no opinion (Anderson, 1968). All in all, the initial legislative attempts trying to transfer the Ombudsman idea to the U.S. were framed in a way that raised political concerns and confusion about power and adaptability to this country. Thus, it required time to sharpen and crystalize the Ombudsman idea (Capozzola, 1968). Per Anderson and Stockton, the initial Ombudsman bills, (1990) "took two forms. One called for the creation of a

Congressional Ombudsman to assist members with constituents' case work. The other called for the creation of an Ombudsman in selected executive branch departments and agencies" (p. 117). What became obvious was the fact that our political science and public administration required more research around the regulatory processes protecting individual rights in America to decrease wrongdoing and increase administrative effectiveness (Culp, 1961).

### *U.S. Constitutional Grounds for Ombudsmen in America*

The literature suggests that early legislative attempts, in spite of divided congressional support, influenced future promotion of the Ombudsmen in the federal government (Anderson, 1969). Ombudsman offices found their way into the American government, since they could be an alternative to ensure justice and fairness, as well as address the needs from stakeholders, and as a result, buffer pressures from the institutional environment (Nabatchi, 2007). The adoption of the Ombudsman was first crystalized at the state level in Hawaii in 1969, and in 1971, Secretary Maurice Stans from the Department of Commerce instituted the Ombudsman for Business at the federal level. Then, slowly but surely, Ombudsman offices began proliferating in other agencies (Gadlin & Levine, 2008). This change began to occur "in an environment in which people have generally lower levels of trust and confidence in all forms of governmental authority" (Tyler, 2007, p. 26). A thoughtful assessment of the Ombudsmen in the federal government offered a procedural avenue to redress citizens' concerns and resolve disputes—in an atmosphere of neutrality, respect, and allowing the parties involved to express their voice (Anderson, 1969). The procedural system in the United States, a staple in our structure, deserved to position itself against whim or oversight (Gellhorn, 1966). This idea was further connected with the fact that "every man has a right to just

treatment and to have his[her] claims heard” (Anderson, 1969, p. 6). This was key because our founding fathers aspired to have a country that guarantees a due process to its citizens.

Due process is found on the 5<sup>th</sup> and 14<sup>th</sup> amendments in the U.S. Constitution, and they represent the legal requirement that balances the power of the law and guarantees the strict administration of justice to safeguard the citizens’ rights and protect individuals from undue violation of his or her rights (life, property, and liberty) by the government (Orth, 2003). The U.S. Supreme Court interprets the due process clauses as: a ban against ambiguous laws, procedural due process, substantive due process, and as the medium for the introduction of the Bill of Rights. Procedural justice is the course of action to reconcile with administrative wrongdoing and as such, it should guide our system of dispute resolution (Solanum, 2004). Moreover, the 1<sup>st</sup> amendment of the U.S. Constitution ensures the right to “peaceably to assemble, and to petition the Government for a redress of grievances” (n.d.). As such, the petition for a redress of grievances represents an alternative to voice complaints; especially, if there are administrative errors made by the government to its governed (Emerson, 1966). In fact, “the Magna Carta and the Bill of Rights of 1689 were promulgated after petitions of relevant complaints” (Wyner, 1973 p. 7). Therefore, the right to petition is considered a key component of our democracy, and the way in which the Supreme Court interprets it, is that the right to petition is essential and we are expected to protect it (ibid). A platform where individuals can express their opinions and participation is encouraged is associated with feelings of respect and value (Rawls, 1971). The whole point of procedural justice is to guide the processes and conduct of our government given complex laws, the imperfect knowledge of law and facts, and human predisposition. According Jesse Unruh (1968) in alignment with our democratic values, “we expect services to be dispensed in a manner that will insure equal treatment of all citizens by those agencies which we have created to serve them...the

test of adequacy is whether we have provided machinery to guarantee evenhanded and impartial treatment” (p. 115). However, despite the checks and balances and the separation of powers in the U.S. government to protect citizens’ rights, a constitutional breach made individuals vulnerable. Individuals could not defend themselves against the bureaucracy (Sandler, 1968); such channels of redress were missing— and the population suspected bias in favor of the government itself (Anderson, 1968). The courts are too busy and do not entertain complaints from citizens based on administrative errors made by federal agencies. Also, some Congressmen do not have enough resources or time to handle case work with agencies on behalf of constituents (Unruh, 1968). This was resolved with the establishment of a system for alternative dispute resolution where Ombudsman offices could eliminate this deficiency in the adjudicative system (Sandler, 1968); in other words, a formal procedure to make decisions in a fair and transparent manner (Solum, 2004). On this matter, Ake Sandler (1968) argued that, “we need not fear a too powerful Ombudsman if the legislation establishing the office clearly delineates his [or her] powers, and does not vest in him [or her] any authority beyond that of investigation, recommendation, prosecution, and publicity. He [or she] should not be able to enforce his [or her] own decisions” (p. 109. Emphasis added). This new mindset was the perfect one to delineate procedural safeguards in the American system (Culp, 1973). This is interesting because it shows how instead of having Balogh’s government “out of sight” in the 19<sup>th</sup> century, this part of the government with the external facing Ombudsmen is becoming very much “in sight” in customer service; which simultaneously broadens our perspective about how the American Political Development in the 20<sup>th</sup> century has debated about the appropriate size of the government and its complex needs (Balogh, 2009).

Over the years, the Administrative Conference of the U.S. remained interested in the study of Ombudsmen, and its findings from 1991 led to the publication of an article titled “*The*



*Ombudsman: A Primer for the Federal Agencies.*” This article outlined the advantages of Ombudsman offices and encouraged Congress and federal agencies to incorporate such offices into the government (in a more systematic way) to improve the administration of programs by the executive branch (Anderson & Hill, 1991). This document prompted a conversation about the more prominent adoption of the Ombudsman at the federal level (Howard, 2010; Nabatchi, 2007). Soon after, in 1993, the President’s National Performance Review (NPR) expressed the plausibility of positive results using Ombudsmen to increase citizens’ participation and improve customer service (Lubbers, 2002). Simultaneously, in the 1990s, Alternative Dispute Resolution (ADR) programs triggered special attention in some agencies (Meltzer, 1998), aiming to utilize a variety of processes for conflict resolution (Howard, 2010). Among other reasons, these ADR programs arose as a result of the concerns about expenses associated with litigation (Stieber, 2000). This issue was of such magnitude that Congress passed three laws to address it. The laws that Congress passed were the Administrative Dispute Resolution Acts of 1990 and 1996, as well as the Alternative Dispute Resolution Act of 1998. “The settlement of disputes based on rationality and a sense of fairness marks a still higher evolutionary stage, in which the authority of the state is progressively replaced by reason and values. The growing prevalence of various mechanisms of alternative dispute resolution denotes different stages of that evolutionary advance” (McManus & Silverstein, p. 100). The ADR of 1990 and 1996 and the ADRA of 1998 required all federal agencies to enforce a policy promoting ADR programs. A key element to highlight here is that the act of 1996 listed the “use of Ombuds” as one of the options for dispute resolution (Gadline & Levine, 2008). Tina Nabatchi (2007) maintains that these legislative mandates had a significant effect on the proliferation of Ombudsman offices because these entities offered citizens government agencies an alternative to mediate disputes without costly fees for legal assistance.

A substantive consequence of the progression of time was the identification of a gap in the U.S. Constitution, which was remiss in providing individuals with a mechanism or administrative procedure to defend themselves against error or misconduct from the bureaucracy. The passage of laws promoting the development of alternative dispute resolution systems in our government led to the establishment of Ombudsman offices, particularly in the 1990s. Currently, we find Ombudsmen all over the government at the federal, state, and local levels and even agencies might have multiple Ombudsman offices within their different components. This phenomenon has even led to the creation of organizations that can assist Ombudsmen with their role and functions such as the United States Ombudsman Association (USOA), the Coalition of Federal Ombudsman Offices in the U.S. (COFO), and the Ombudsman Association (TOA). According to the U.S. Government Accountability Office, in 2009 there were over 29 Ombudsman Offices in the U.S. federal government, and per the Coalition of Federal Ombudsman, in 2016, there are about 38 Ombudsman Offices in the U.S. federal government dealing with external facing issues. In retrospect, scholars conclude that it is less noteworthy that the Ombudsman as an organizational idea took so long to be accepted in America, than is the magnitude at which this organizational idea eventually took hold (Zagoria, 1988). As Anderson and Stockton (1990) describe, “Troubleshooting and proposing ways to improve the delivery of government services have been the primary functions of American Ombudsman. Both functions are aided by the powers of investigation and report, the major tools (apart from persuasion) used by the Ombudsman, who otherwise lacks the authority to compel compliance with decisions or to make policy” (p. 112). Again, paying attention to the Ombudsmen phenomenon is relevant for public administration scholarship because it aligns with Paul Light’s ideas about “thickening the government” and how the government is pressured to evolve, in an effort to satisfy its customers. However, in this

attempt, we might fall pray of our own problems, since we keep adding layers to our bureaucracy and its effectiveness remains to be questioned (1995).

### *What Do External Facing Ombudsmen Do?*

The American Bar Association with support of academics, such as Professor Walter Gellhorn and Professor Kenneth Culp Davis, developed the criteria for creating Ombudsman Offices in an effort to guide the Ombudsmen movement in the United States (USOA, 2016). In such effort, the ABA (1969) suggests the following:

1. Authority of the ombudsman to criticize all agencies, officials, and public employees except courts and their personnel, legislative bodies and their personnel, and the chief executive and his personal staff;
2. Independence of the ombudsman from control by any other officer, except for his responsibility to the legislative body;
3. Appointment by the legislative body or appointment by the executive with confirmation by a designated proportion of the legislative body, preferably more than a majority, such as two-thirds;
4. Independence of the ombudsman through a long term, not less than five years, with freedom from removal except for cause, determined by more than a majority of the legislative body, such as two-thirds;
5. A high salary equivalent to that of a designated top officer;
6. Freedom of the ombudsman to employ his own assistants and to delegate work to them, workout restraints of civil service and classifications acts;

7. Freedom of the ombudsman to investigate any act or failure to act by any agency, official, or public employee;
8. Access of the ombudsman to all public records he finds relevant to an investigation;
9. Authority to inquire into fairness, correctness of findings, motivation, adequacy of reasons, efficiency, and procedural propriety of any action or inaction by any agency, official, or public employee;
10. Discretionary power to determine what complaints to investigate and to determine what criticisms to make or to publicize;
11. Opportunity for any agency, official, or public employee criticized by the ombudsman to have advance notice of the criticism and to publish with the criticism an answering statement;
12. Immunity of the ombudsman and his staff from civil liability on account of official action (USOA, 2016, p. 2).

The above initial guidelines shaped the core functions that external facing Ombudsmen currently perform in the U.S. federal government. First, Ombudsmen mediate disputes between the government and its stakeholders in a confidential manner to protect the privacy of the parties involved in each case. Second, Ombudsmen facilitate communication in an independent and impartial manner to ensure a proper management of grievances. They serve as an information “hub” or center to review cases, find facts, analyze data, answer inquiries, and offer the proper resolution to the issues brought to the Ombudsman’s attention (Anderson & Hill, 1991). Third, Ombudsmen provide assistance to citizens free of cost. They are the face of the government to handle dispute resolution, and as a result they should have considerable experience dealing with the public. Fourth, Ombudsmen identify and report systemic issues impacting the government, in

an effort to increase efficiency. Fifth, Ombudsmen develop creative methods to ensure awareness about the existence of the Ombudsman offices and their services (Zagoria, 1988). Sixth, Ombudsmen promote government accountability and effectiveness. Seventh, Ombudsmen work in a transparent manner to advocate for fairness and justice. In most cases, Ombudsmen are expected to issue annual reports about their activities and the type of inquiries received. Eighth, Ombudsmen engage with stakeholders inside and outside the government and encourage participation on the Ombudsmen's activities. Ninth, Ombudsmen recommend solutions to resolve disputes and to address organizational issues, but their decisions are not legally binding. It is only throughout the trust, experience, reputation, negotiation and persuasion skills that Ombudsmen are able to influence decisions. Tenth, Ombudsmen ensure successful resolution of the issues brought to their attention. Hence, they should have good morale, character, and mediation skills (Howard, 2010).

*Based on the Swedish model what happened? What was adopted in the United States?*

Throughout the years, several types of Ombudsmen have been instituted around the globe and the United States is not an exception. As mentioned, this investigation focuses on the external facing Ombudsman in the federal government model and compares this with the original-legislative Ombudsman model from Sweden. Some of the characteristics transferred to the U.S. model include the following: Ombudsmen are established as an outlet to access governmental assistance with citizens' complaints against the government. Ombudsmen function as mediators, arbitrators, and facilitators to ensure conflict resolution. Ombudsmen are guided by the principles of confidentiality, impartiality, and independence to prevent wrongdoing. Ombudsmen have the obligation to investigate cases and make recommendations to resolve disputes. Ombudsmen are

expected to identify systemic issues aiming to increase efficiency in the government structures. Ombudsmen offer their services at no cost to their stakeholders, aiming to foster justice and fairness. Ombudsmen promote government accountability and transparency, and in most cases they issue annual reports. Finally, Ombudsmen are responsible for protecting individual rights from administrative error or excessive bureaucracy; as well as upholding the laws against vicious individuals abusing the system. (Reuss & Anderson, 1966; Howard, 2010; Abedin, 2011).

There is a departure between the Swedish classical-legislative Ombudsman model and the U.S. executive Ombudsman model. This is due to the different factors prevalent in the U.S., such as the culture, the historical context, the type of government system, and the purpose of having these offices. Per the U.S. Ombudsman Association (1995), “[between the 1960s and 1970s] this was the time in the U.S.A. when exposure of government secrecy and scandal, and when movements such as civil rights [movement] and [demand for] good government created a political atmosphere more favorable to openness, and to establish recourse for the aggrieved” (p. 1). Some of the key differences that the U.S. model conveys include: the Swedish model provided a single Ombudsman to address all types of government issues for the entire country at whatever level was needed, whereas the U.S. model has a single purpose Ombudsman (in each federal agency) to address a specific area of government with its external stakeholders (i.e. the U.S. Patent and Trademark Office (USPTO) Ombudsman Office or the Federal Student Aid (FSA) Ombudsman Office). The U.S. model goes a few steps further with the existence of other types of Ombudsmen, such as the internal facing Ombudsmen in the federal government to address employees’ mediation, and there are also Ombudsmen at the state and local level. Furthermore, in the U.S. model, external facing Ombudsmen are not appointed by the legislature, as it was the case in Sweden. In most cases, leadership from each agency decides who should function on this role; and

a result, the tenure for each Ombudsman varies. Moreover, the U.S. external facing Ombudsman do not report to the legislative branch as the classic-legislative Ombudsman reported to the Swedish Parliament. Instead, Ombudsmen in the U.S. model report to the Secretary of the federal agency that they oversee. Also, the external facing Ombudsmen in the U.S. do not have the capacity to prosecute government officials who “committed unlawful acts or neglected to perform official duties properly” (Caiden, p. 10), as it can occur with the Swedish model. Lastly, the majority of the external facing Ombudsmen in the U.S. federal government were established as complaint-handling offices, since they were the perfect mechanism to ensure procedural justice by instituting an alternative dispute resolution system. More than anything, the substantive consequence of the history of Ombudsmen in the U.S. federal government was the formalization of the establishment of Ombudsmen in agencies as a mechanism to offer alternative dispute resolution throughout coercive isomorphic pressures such as the ADR Acts of 1990 and 1996, the ADR Act of 1998, and the Executive Order 12862. This strategy has led to the routinization of a model that has become embedded in American structures to engage with the population and amend public grievances (Abedin, 2011). In Rowat’s (1985) words, “[the] dispute resolution movement,...in effect,...hijacked the word ‘ombudsman’ for its own purpose” (p. 46).

It is the aim of this exploratory investigation to understand how neo-institutionalist theory can explain the institutionalization of external facing Ombudsman offices in the U.S. federal government, even when there may have been countervailing forces to constrain their expansion. For this reason, this study focused on five specific variables: First, discover the year in which each external facing Ombudsman office was established to identify if there is a specific period when these entities proliferated and cross reference the information with historical records. Second, investigate the reasons that led to the creation of each one of these entities to learn if these align

with neo-institutional arguments. Third, explore the role or purpose of these organizations to find out if there are any inferences that can be made in regards to the formalization of Ombudsmen. Fourth, understand the main drivers for the institutionalization of Ombudsmen in the federal government; and finally, learn about the accountability mechanisms for compliance utilized by external facing Ombudsmen (such as annual reports, tracking the number of case inquiries received, identifying the systemic issues impacting organizations, and making recommendations) to ensure citizens can access the federal government to address their grievances in a fair and just manner, gain legitimacy, as well as increase efficiency and transparency across the government. For more details, these variables will be covered in chapter 4 and 5.



## **Chapter 4: Case Study of the USCIS' Ombudsman Office**

The next two chapters will discuss each one of the case studies for this investigation. These cases were selected because they deal with external facing issues in the federal government. The objective is to learn about the characteristics of each one of the Ombudsmen offices and identify if there are critical junctures between these cases while becoming institutionalized or if that is not the case. Second, to accurately represent a historical view, the selection of the cases included one of the first Ombudsman offices established in the federal government back in the 1970s, and an Ombudsman office established in 2002 to do a cross-case comparison of the institutionalization of these entities. Third, the two case studies have been diligent at disclosing their records to the public between 2004 and 2015; this is essential, since I expect that institutionalization is represented through the language and patterns of documentation used by offices over time. Fourth, the two cases have a meaningful volume of work to be able to identify emerging patterns in data during the process of constant comparison. Chapter 4 addresses the case of the USCIS' Ombudsman office. In this section, I provide background information that led to the creation of this office, explain the data collection process utilized to gather the information to learn about this particular Ombudsman, as well as discuss the findings at the USCIS Ombudsman office.

### *Background*

According to the American Community Survey (ACS) from the U.S. Census Bureau, the United States is the country with the largest proportion of immigrants. Data from 2015 show that 43.3 million immigrants have chosen the United States as their new destination, which means that 13.5% of the U.S. population of 321.4 million is composed of the foreign-born. Most of the

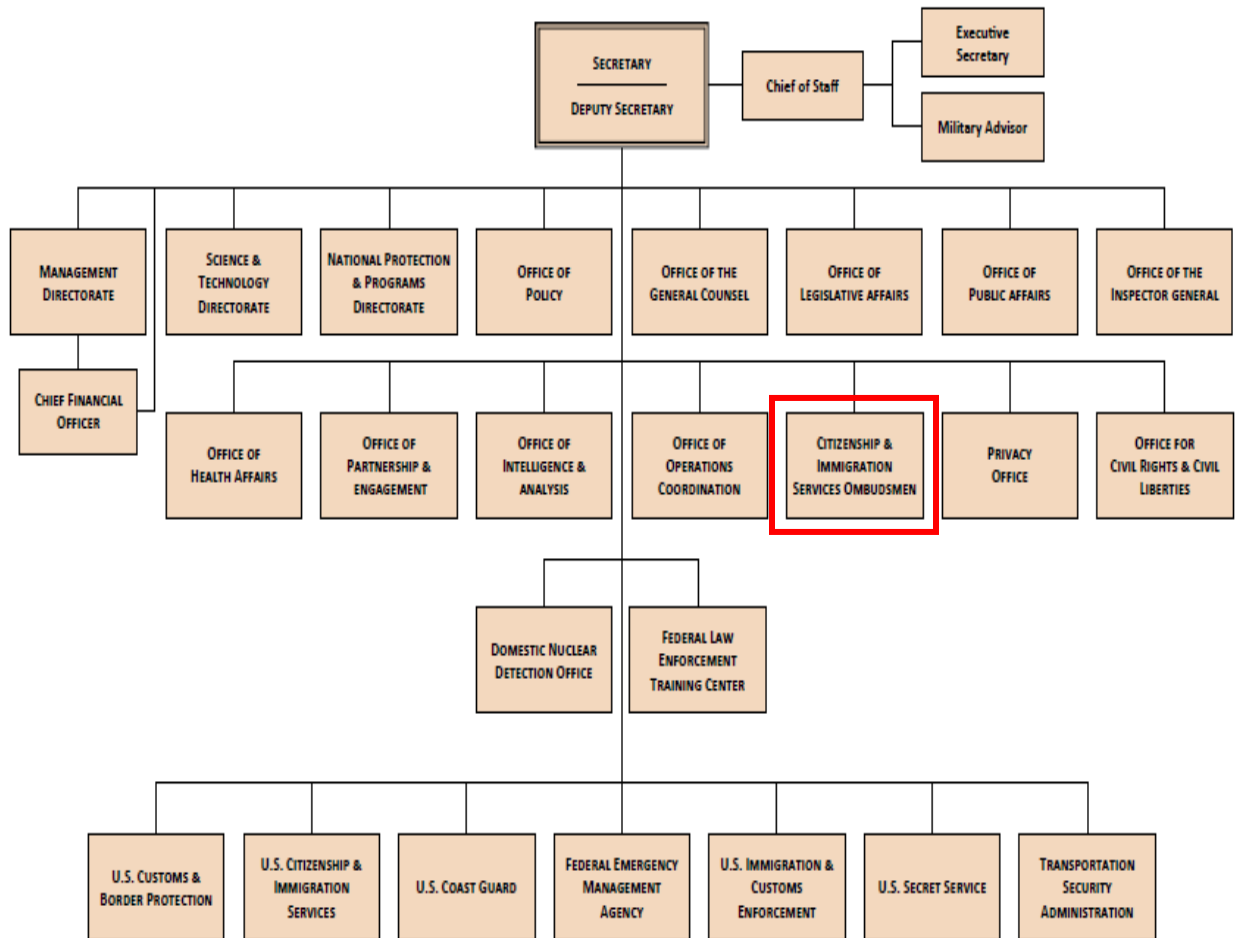
immigrants arrived before 2000, but since then, the population has increased by 30%, and these numbers do not include the 11.4 million undocumented immigrants that reside in the U.S. (MPI, 2016). However, immigration policy is regulatory by nature and controls the flow of newcomers by establishing the conditions that determine who can relocate to the United States. Unfortunately, the U.S. government has not been able to reach consensus on how to address the challenges of immigration, and U.S. citizens continue to ask for answers; especially, since international migration is a key element in demography, population growth, social change, national security, and the economy.

After September 11, 2001, President George W. Bush convinced Congress to pass the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) and the Homeland Security Act of 2002, which tightened immigration policies. Rather than attracting the best and the brightest to the U.S., the act deterred potential immigrants from entering. In West's words, "[It] created huge complications for colleges and universities seeking to admit foreign students...also created difficulties for businesses wanting to bring workers to the United States. The long timeframes required for visa processing and the arduous procedures for complying with entry provisions are particularly problematic for seasonal workers...Businesses requiring highly skilled workers face similar time constraints" (p. 49). It remains to assess if such measures really helped to protect the inside from the outside (West, p. 23-25). Simultaneously, under the Homeland Security Act of 2002 §452, Congress also created the USCIS Office of the Ombudsman to "assist individuals and employers in resolving problems [with USCIS] ... to identify areas in which individuals and employers have problems...to propose changes in the administrative practices of [USCIS] to mitigate the issues" (DHS, p. 38). Per this mandate, the Ombudsmen should remain with an innovative vision to foresee an evolution of

USCIS (into a state-of-the-art organization) with excellent customer service [as instructed by the Executive Order 12862 from 1993] and administering citizenship and immigration benefits appropriately—using the latest technology (CISOMB, 2004, p. 2). The Homeland Security Act is particularly important for explaining how the USCIS’ Ombudsman office is an institutional response to external pressures. Moreover, the existence of this Ombudsman office ensures compliance with the Administrative Dispute Resolution Acts of 1990 and 1996, as well as the Alternative Dispute Resolution Act of 1998 (Gadline & Levine, 2008).

Figure 5: DHS’ Organizational Chart as of November, 2016 (DHS, 2016).

### U.S. Department of Homeland Security



The purpose of the Ombudsman office was to serve as a venue to address stakeholder needs through mechanisms of customer service and dispute resolution. The USCIS' Ombudsman reports directly to the DHS Deputy Secretary, rather than to the USCIS Director. According to the Homeland Security Act, "The Ombudsman operates in a unique role, advocating on behalf of the public for efficient and responsive immigration services while supporting the Administration's efforts to serve the public effectively. The Ombudsman functions as both a public advocate and a public servant" (CISOMB, 2004, p. 9). The Ombudsman office was designed to be a free, impartial, confidential, and independent entity to address the grievances that USCIS customers might have, respond to stakeholders' demands, ensure the upmost customer service, and promote government accountability (Interviewee, 2016). As such, the USCIS' Ombudsman's office is funded by taxpayers, and there are no fees associated with appealing one's case through the Ombudsman (DHS, p. v).

Likewise, as mandated by Congress, every year (no later than June 30) the Ombudsman office is required to send an annual report to the Committee on the Judiciary of the House of Representatives and the Senate. This stipulation is important because it has been key for the operations and processes that have been developed throughout the years at the USCIS' Ombudsman office in order to gather the necessary data and develop this report. Such a report is an assessment of the accomplishments of the Ombudsman office throughout that calendar year and includes analysis and statistical information on the following areas: "case inquiries received..., a summary of the most pervasive problems encountered by individuals and employers [while interacting with USCIS], inventory of areas described for which action has been implemented, remain in process or has been closed; as well as provide recommendations in order to address

issues identified to make enhancements to the U.S. government” (DHS, p. 38). Therefore, using a holistic approach, the Ombudsmen should collaborate with DHS leadership to offer procedural and regulatory guidance on immigration matters to enhance the performance and operations at USCIS. In exemplifying the mission of the USCIS Ombudsman office, its employees are expected to ensure national security and integrity of the legal immigration system, increase efficiencies, and improve customer service across USCIS (CISOMB, 2004).

The role of the external facing ombudsman’s office is to serve the constituents of the agency by providing a source for procedural clarification, accountability, and dispute resolution. With 35 employees and a 6 million dollar budget, the role of the USCIS Ombudsman office is relevant to assess the government’s goals towards immigration, measure the performance of the governmental organization that manages immigration benefits, as well as evaluate our immigration policies to identify if there are any gaps in our current legislation (Interviewee, 2016). In fulfillment of its goals, this office has three branches: the Casework Unit, the Policy Unit, and the Operations Unit. The Casework Unit has three subdivisions staffed with case analysts who work on the case inquiries received. These individuals are at the heart of the investigations with access to USCIS systems and information, and they are in direct contact with stakeholders. The case analysts track the case inquiries received in the Case Assistance Analytics and Data Integration (CAADI) System (Personal Communication, 2016). In order to better serve stakeholders, this unit suggests following a few steps before contacting the Ombudsman office. First and foremost, customers should try to address their problem directly with USCIS. Some resources include checking USCIS Case Status Online, submitting an e-request, contacting the National Customer Service Center or making an InfoPass appointment at one of the local USCIS offices. Additionally, cases must be at least 60 days past posted on the processing times as indicated by USCIS. If the

above criteria is met, stakeholders are encouraged to resort to Ombudsman assistance. To submit an application, individuals need to complete *DHS Form 7001* and send it preferably through the Case Assistance System (online). If that is not possible, alternative methods are available such as email or fax. Also, if customers wish to address their case via an attorney or representative, the application should include a *Notice of Entry of Appearance as Attorney or Accredited Representative, G-28 Form*. Once the information is received the Casework Unit is “committed to reviewing all incoming requests for case assistance within 30 days, and taking action to resolve 90 percent of case-related inquiries submitted to the office within 90 days of receipt” (CISOMB, 2016, n.d.). Those who seek the assistance of this Ombudsman office should expect a fair and respectful examination of their information, evidence, policies, and procedures applicable to their case; as well as an internal follow up with the appropriate USCIS offices to resolve the issue. Customers will be informed if the Ombudsman is unable to assist or if the case does not merit further action. However, customers should keep in mind that the Ombudsman is an office of last resort. Therefore, “the Ombudsman is not an appellate body and cannot question USCIS decisions that were made in accordance with applicable procedures and laws. Additionally, the Ombudsman does not have the authority to command USCIS to reopen a case, or to reverse any decisions that the agency may have made” (CISOMB, 2016, n.d.). The Casework Unit tracks the case inquiries received using the CAADI system to identify systemic issues at USCIS. This is relevant because it shows how this office has become well known since its establishment. Per the 2015 Annual Report:

Approximately 96 percent of case assistance requests during the reporting period were received through the Ombudsman’s Online Case Assistance system. Overall, 38 percent of the requests were for humanitarian-based matters; 23 percent for family-based matters; 24

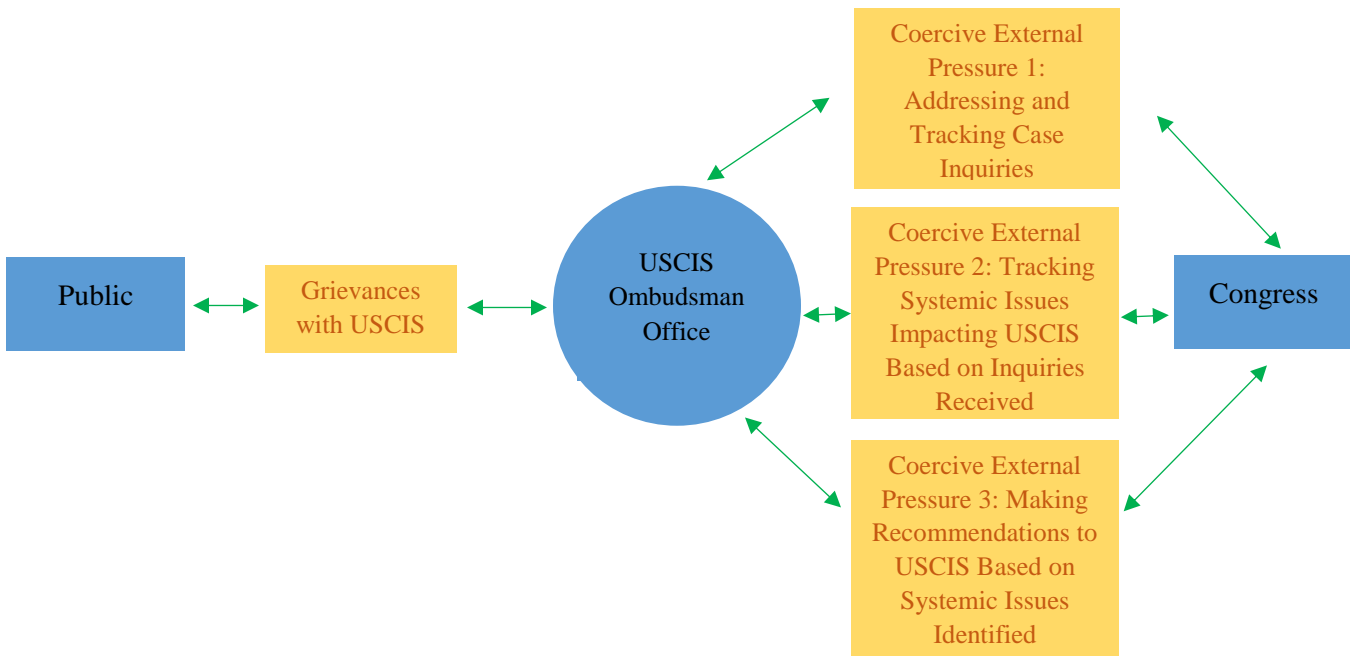
percent for employment-based matters; and 15 percent for general immigration matters, such as applications for naturalization (p. 9).

The Operations Unit provides support to the Ombudsman office for the management of the budget, administrative work, and records management. Lastly, the Policy Unit is responsible for drafting the recommendations to influence change and enhance the operations of USCIS. As a result, this group oversees the development and final review of the annual reports. Moreover, per the Memorandum of Understanding (MOU) with USCIS, revised in 2016, the Policy Unit assists the Ombudsman to schedule regular meetings with the USCIS director to address emerging issues at USCIS and discuss how USCIS' problems can be addressed proactively. Per the MOU, USCIS agrees to send a response to the Ombudsman within five days for expedited cases and two weeks for regular inquiries. Also, once the Ombudsman issues a formal recommendation, USCIS is statutorily required to respond within 90 days. Likewise, in an effort to engage with the public and address the needs from customers, this unit organizes national teleconferences and an annual conference to discuss immigration matters. This is especially important to the role of this office since the USCIS Ombudsman is key in government accountability, connecting immigration policy with immigration goals, and furthermore responding to the overall needs of the country. Nonetheless, the USCIS Ombudsman deals with multiple external factors that shape this organization. Among others, Congressional mandates, government impasses, homeland security issues, increased globalization, and terrorist threats (CISOMB, 2016).

Per the above, this line of research is of crucial relevance to assess the establishment of the USCIS Ombudsman office throughout the lens of neo-institutionalist theory to understand if isomorphism has occurred—to be precise, whether processes, routines, and practices are replicated from one Ombudsman office to another. This could help explain the proliferation of

these types of entities in the U.S. federal government. Moreover, this is important to advance our comprehension of external facing Ombudsman offices as institutions while dealing with the internal and external forces from the environment.

*Model 2: USCIS Ombudsman Office’s Model*



*Data Collection*

As it has been mentioned earlier, following neo-institutional theory, this study paid particular attention to the external coercive pressures impacting the USCIS Ombudsman office. To that end, the USCIS Ombudsman’s Annual Reports were useful resources to analyze the mandates from Congress imposed on this entity. *These mandates, as shown in the above model, include: addressing and tracking case inquiries, identifying systemic issues, and making recommendations.* Hence, these mandates were used as parameters to be part of a matrix for this first case study (See



Appendix B). This matrix was used as a strategy on this investigation to organize the information gathered from this Ombudsman office, and to be able to analyze it overtime. The matrix is a descriptive tool that helps to read the parameters and observe their evolution between 2004 and 2015. These parameters were selected to validate how the Ombudsman office responded to the external coercive pressures, and if in fact, legal and political forces are relevant during the institutionalization of this organization, as described by Frumkin and Galaskiewicz (2004). Moreover, it was deemed necessary to review the data per year, between 2004 and 2015, to allocate changes by year, and to assess if there is an incremental routinization of processes and language that can help us to trace the institutionalization of this external facing Ombudsman office.

Below is a list and description of all the components that were included as part of the USCIS Ombudsman's matrix. It comprised: the total number of case inquiries received by the USCIS Ombudsman office, the name of the USCIS Ombudsman who signed each one of the Annual Reports, the list of pervasive problems that the USCIS Ombudsman office identified at USCIS and reported to Congress, and the number of recommendations that the USCIS Ombudsman office issued, aiming to improve issues identified at USCIS. These elements were chosen because per neo-institutionalists, these types of isomorphic pressures lead to institutionalization. Besides, these parameters assess what the Ombudsman office is expected to do. Therefore, first it was necessary to find out the number of case inquiries received by the USCIS Ombudsman's office per year. It provided a sense of the amount of individuals that approached the USCIS Ombudsman office on an annual basis. This first parameter also helped to recognize if there is awareness about the existence of the USCIS Ombudsman office and understand if the volume of work increases as the USCIS Ombudsman office becomes institutionalized. This same parameter tested a couple of components of institutional theory. Among others, the organizational

interaction with stakeholders, the awareness among stakeholders about the existence of this institution, the processes and procedures established to track the number of inquiries, and how this office becomes legitimized over time, as a result its own work and citizens' satisfaction after dispute resolution. The second parameter of the USCIS' matrix captured the names of the USCIS Ombudsmen who signed each one of the Annual Reports. It helped to clearly identify the policy actors who were in charge of the USCIS Ombudsman office and put their actions in perspective. This parameter is related to Hammond and Knott's (1999) idea about researching if policy actors have room to make decisions given the institutional forces that surround the public organization. The next parameter included in the USCIS' matrix referred to the list of pervasive problems that the USCIS Ombudsman office identified (per year and reported to Congress), impacting USCIS' operations and performance. This parameter tested the type of response that the Ombudsman office adopts to coercive forces, such as its mandate to identify systemic issues. Also, if the organization seeks legitimization by conforming to the isomorphic pressures established by Congress, throughout its mandate, to provide this particular information; and if compliance of this request is met over time. Besides, the case inquiries reported to the USCIS Ombudsman help to inform the recommendations that this office makes to USCIS on its annual report to ensure efficiency in the federal government. This is another parameter assessed in this investigation, especially, since the USCIS Ombudsman is also mandated by Congress to provide this information each year. This parameter tested neo-institutional components such as understanding if there is a satisficing behavior in compliance to the existing external pressures stipulated by regulation, if there are processes and routines in place to gather data for the recommendations, as well as if the organization becomes institutionalized as it gains special character and competence while making recommendations throughout the years.

For the purpose of developing the USCIS' matrix, data was collated per year to analyze the same parameters over time. Later on, the results from the data-set were compared, looking for potential relations between parameters and the two cases. Then, it was necessary to establish the validity of the analysis. On that matter, data across the reports was evaluated against each report to ensure that the information was consistent. Please refer to the Appendix B in the Appendices to review the complete matrix with the analysis of the USCIS Ombudsman office annual reports from 2004 to 2015.

### *Analysis of the USCIS Ombudsman Office*

This case study contributed to elucidating how neo-institutionalist theory explains the institutionalization of the USCIS Ombudsman office. Based on the USCIS' matrix with the historical records and the interviews, several interesting findings were discovered: First, even though the USCIS Ombudsman was established in 2002, its first report to Congress was not issued until 2004. This was because Congress had to appropriate and fund this new organization, and then it had to be staffed. This is why the analyses from both case studies starts tracking information since 2004 (to ensure that data from the same period of time could be captured from both Ombudsmen offices). Also, as it was mentioned earlier, this Ombudsman office was established as part of the Homeland Security Act of 2002 and in compliance with external pressures (the ADR Acts of 1990 and 1996, and the ADRA of 1998), since the Department of Homeland Security had to ensure a mechanism for Alternative Dispute Resolution to citizens; and also in compliance with the Executive Order 12862 from President Clinton in 1993, which represents another external pressure and sets Customer Service Standards across the federal government. Based on the information gathered, it appears that the government continues to grow despite the desire to

decrease the size of the government given the demands from constituents and compliance with laws. According to Jonathan Rauch (2007) “the bulk of the increase in regulatory spending and staffing [in the federal government, since the Nixon-Ford years] is for homeland security: such functions as airport screening, maritime and border enforcement, new air-cargo rules, and so on” (n.d.). In the case of the USCIS Ombudsman, Congress replicated the successful model from the IRS National Taxpayer Advocate (a sign of isomorphism), and used the Ombudsman idea as a mechanism to fulfill the above regulations.

The data from the matrix for this case study shows close alignment with the literature review. The literature suggest that procedural justice became the best way to deal with administrative error, and it supported the development of the ADR system in the U.S., via this particular Ombudsman. Records indicate that Congress envisioned having this office as a mechanism to offer mediation to resolve grievances, respond to stakeholders’ demands, as well as ensure good customer service and government accountability. Per an interviewee, the creation of this entity “helps to buffer pressures from external stakeholders” (Interviewee, 2016). The USCIS’ Ombudsman promotes accessibility and transparency, and it has contributed to improving the reputation of USCIS, by enhancing the perception of the government by stakeholders after receiving assistance. Furthermore, the USCIS Ombudsman is responsible for engaging with stakeholders and encouraging participation from citizens, while allowing USCIS to handle the technical core activities surrounding immigration policy. In this iterative process, the USCIS Ombudsman has developed processes to ensure that it fulfills its mandates and continues receiving its funding from Congress. Simultaneously, while applying these processes, the USCIS’ Ombudsman has developed its own culture and routines about how to track case inquiries or how to consolidate information. Additionally, this office has developed its own language and

terminology that is palpable throughout the analysis of the reports issued between 2004 and 2015. In addition, the data from the matrix has been useful to learn how the USCIS' Ombudsman has adopted a satisficing behavior in regards to the external coercive pressures by fulfilling the mandates from Congress. Every year without exception, this office has submitted, to the legislative branch, the necessary documentation no later than June 30. Moreover, as part of the development of this annual report, there are some practices at this office that have become a routine, and therefore institutionalized, despite the change in leadership, such as developing standard operating procedures to handle inquiries as part of the implementation of the CAADI system, establishing a process for customers to submit cases online, defining contributions from each team and unit at the Ombudsman office to write the annual report, hosting stakeholder engagements, and having an annual conference. All these elements have been key to create awareness in the community about the existence of this office, which can be proven given the number of inquiries received per year. For example, the USCIS Ombudsman received 140 inquiries during its first year of operations, and in 2015, it received almost 9,500 inquiries to address immigration issues from USCIS customers, so this office has become well known in the last 15 years. Between 2011 and 2013, the reports lack in-depth information, evidence, and rigor about the level of assistance provided and the pervasive problems identified. Likewise, more efforts could be done to implement recommendations to address challenges faced around immigration services with the U.S. government, and in particular, with the USCIS. On the contrary, during 2009 and 2010, the reports from this office were very thorough and detailed. In fact, these two years even mention how the Ombudsman Office answered each inquiry and the percentage of cases that were referred to USCIS for resolution. After 2011, this information was no longer provided, which leaves some question on the level of support given to customers; instead, these reports contain some data that might not

be relevant (CISOMB, 2004-2015). For example, the 2012 report indicates how many immigrants submitted their cases to the Ombudsman office using a fax machine. It would have been more useful to know the status of those cases. This particular report highlights five successful stories, but what happened to the other 4,395 complaints that the Ombudsman received in 2012? Also, how successful was the Ombudsman at resolving these issues? How many of these complaints qualified as real issues and how many of these were grievances without foundation? (North, 2012). The same occurs with other reports, such as 2013, putting emphasis on the state from which the inquiry came from, rather than indicating the number of case inquiries that were addressed throughout that year.

Regarding the pervasive problems at USCIS, the matrix and research confirm that every year, the USCIS Ombudsman office highlights issues in four main areas: employment, family and children, humanitarian, and customer service. Again, this confirms the institutionalization of the language around this organization. Regrettably, some of the problems reported five to ten years ago, still remain in 2015. As for the recommendations from the USCIS Ombudsman, a large portion of these have not been implemented. For instance, between 2009 and 2013, a total of 52 recommendations were made by the Ombudsman to address pervasive problems, but only 19% of them have been implemented, 54% of the recommendations remain active, and the other 27% have been declined or closed. Once again, regrettably, the percentage of recommendations declined and closed is higher than those implemented. This evidently shows the difficulty to implement such measures across the organization, given that the USCIS Ombudsman does not have the power to enforce recommendations. Moreover, some of the recommendations that have been submitted are “nice to have suggestions” that can get lost, given other competing priorities across USCIS. For example, on July 11, 2011, the USCIS Ombudsman recommended to improve transparency and

consistency in the USCIS process around deferred action (CISOMB, 2012). Unfortunately, this recommendation has not been implemented due to political sensitivities around deferred action, since it is a discretionary determination to defer a removal action (deportation) of an individual as an act of prosecutorial discretion. Hence, decisions are made on a case-by-case basis (USCIS, 2017).

In addition, some challenges were encountered while reviewing the reports. This reflects the complexity tracking the policy aspect of the Ombudsman's work. For instance, the tracking of the recommendations made by the USCIS Ombudsman can be difficult, since there is no standardized method of cataloguing them. The most recent summary of recommendations issued in 2012 indicates that from 2002 to 2012, 53 recommendations have been issued by the Ombudsman office. However, an assessment of the individual reports results in a longer list. Also, not all the recommendations from the USCIS Ombudsman are included in the annual reports. There is a difference between Formal Recommendations (FR) and Annual Report Recommendations (AR). This difference is evident when newer reports make reference to previous Formal Recommendations that were implemented, while the corresponding Annual Report of that year does not list those recommendations. Furthermore, the new category "closed" was introduced in 2011 to make a distinction between "closed" and "declined." Adding a new factor to the mix and *deleting* 16 recommendations from which 15 were between 2004 and 2006. The argument for this change was to make a distinction between the recommendations that are not accepted or "declined" and those that are no longer applicable or for some reason no longer pursued and therefore "closed." Besides, the inventory of actions is not reflective of actual recommendations implemented, since some annual reports display information at the sub-element level with status for each sub-section (i.e. 2011) and other inventories report the overarching recommendation (i.e.

2012). Despite the incomplete information provided, the reports provide a high-level overview of the activities performed by the Ombudsman office throughout the years as mandated from Congress.

Regardless, in the last few years, individuals and organizations have become aware of the existence of the USCIS Ombudsman. For various reasons, immigrants, Congress, non-profits, and employers have reached out to the USCIS Office of the Ombudsman to address their concerns or issues and simultaneously have a voice around immigration matters. It looks like the office of the Ombudsman started to become institutionalized by following the protocol established by Congress to provide what they request (list of pervasive problems, inventory of actions, and recommendations) and in an effort to satisfy requirements they have adopted processes and procedures, strengthened the institutional capacity of the organization, become legitimized, and experienced isomorphism over time. No doubt, the USCIS Ombudsman office has adjusted to government dynamics. However, a challenge that seems to remain is the effectiveness of the USCIS Ombudsman office to improve the level of service required to address the immigration needs of this country. It is evident how this organization helps convey good will from the government, but per this study, it appears that the USCIS Ombudsman is a well-considered buffering strategy to cope with stakeholders and allow the federal government to handle uncertainty in the environment, such as potential expensive lawsuits, which can carry onerous budgetary repercussions; as well as bad image and reputation.



## **Chapter 5: Case Study of the IRS National Taxpayer Advocate**

In an effort to continue the flow describing this research study, this chapter is dedicated to the second case study, which is the IRS Taxpayer Advocate's office. Again, this case was selected because it fulfilled the requirements for the selection of cases and it is one of the oldest external facing Ombudsmen offices in the U.S. federal government. In this section, I provide background information that led to the creation of this office, explain the data collection process utilized to gather the information to learn about this particular Ombudsman, as well as discuss the findings at this particular Ombudsman office.

### *Background*

Taxation is imposed in the United States at the local, state, and federal level, and comprises taxes on income, property, sales, capital gains, dividends, imports, estates, gifts, and others (Porter, 2012) that have to be paid by individuals (citizens, U.S. residents, and non-U.S. residents living in the country), businesses, trusts, estates, or other types of organizations. Taxation is complex and establishes particular conditions and tax brackets to each entity (Simkovic, 1981). Hence, this is a reflection of its roots, because the U.S. tax system history shows that its institution was sporadic and disputed. The history of taxation goes back to the Revenue Act of 1861, during the Civil War, when President Lincoln and Congress established the position of Internal Revenue Commissioner and legislated an income tax to cover war expenses. This taxation was abolished in 1871, but Congress reinstated the income tax in 1894, and the Supreme Court ruled it unconstitutional with the *Pollock v. Farmers' Loan & Trust Company* in 1895 (Andrews, 1985). Then, the 16<sup>th</sup> Amendment, endorsed by Wyoming (in 1913), gave Congress the necessary majority from states

to modify the constitution and establish an income tax once again. The first name of the taxation agency in the U.S. was the Bureau of Internal Revenue and it was replaced in the 1950s with what we know now as the Internal Revenue Service. Since then, the IRS has evolved and adjusted due to competing demands from stakeholders and to be able to address the needs of the country and its population (IRS, 2016). In Conoboy's words (2000), "One of the most controversial areas in recent years has been the rights of taxpayers amid charges of abuse by the Internal Revenue Service" (p. 1401).

#### *Establishment and Growth of this Ombudsman Office*

Back in the 1970s, Congress debated about ways to improve the IRS (Broder, 1998). Some of these adjustments included the establishment of the Problem Resolution Program (PRP) in 1976 as part of the Taxpayer Service Division, and three years later, in 1979, the Office of the Taxpayer Ombudsman was created to lead the PRP with the purpose of assisting taxpayers by offering an advocate or mediator who could assist to reconcile disputes with the IRS (Conoboy, 2000). This new entity was established in the Taxpayer Bill of Rights (TBOR), which represents an external coercive pressure. In this piece of legislation, Congress added IRC § 7811, which gave the Ombudsman the authority to issue Taxpayer Assistance Orders (TAOs) when customers were suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws were being administered. This bill aimed to set up this new Ombudsman office with the purpose of improving the perception at the IRS and address the needs of its stakeholders (Cross, 1989). Likewise, it directed the Ombudsman and the IRS Assistant Commissioner (Taxpayer Services) to submit an annual report to Congress about the status of the IRS's taxpayer services (TMRA, 1988). This requirement is relevant because it has been a driver for the operations and

routines that have been developed overtime at the NTA in order to obtain the necessary information and develop this report on a yearly basis.

Unfortunately, this office lacked independence from the IRS during its first 17 years and the impact was noticeable (Martin, 1997). Therefore, in 1996, the amended Taxpayer Bill of Rights (IRC § 7802), changed the name of the Office of the Taxpayer Ombudsman to the National Taxpayer Advocate (NTA). In this new version of the legislation, Congress allowed the NTA to represent taxpayers' interests and outlined its functions: First, to assist taxpayers in solving problems with the IRS. Second, to recognize areas in which taxpayers have issues in dealings with the IRS. Third, to the extent possible, make recommendations to modify IRS administrative practices to mitigate the issues identified; and fourth, to detect possible legislative modifications that could be suitable to address the previous problems (TMRA, 1996). This new mandate also stated that "in order to ensure that the Taxpayer Ombudsman [now NTA] has the necessary status within the IRS to represent fully the interests of taxpayers, Congress believes it appropriate to elevate the position to a position comparable to Chief of Counsel" (TBOR2, 1453-1454).

Despite efforts of the NTA, an audit to the IRS in 1997 discovered administrative errors, quotas, and improper customer service and resolution at the IRS (Conoboy, 2000). This was confirmed by the testimony of Senator Roth Jr's opening statement during a hearing before the Committee on Finance:

A vital part of increasing taxpayer protection includes increasing accountability among IRS employees, bringing simplicity and consistency to the process that governs a taxpayer's interaction with the agency, and includes bringing sunshine to the IRS, stripping away the cloak of secrecy and mystery and the use of intimidating tactics, and making the Office of Taxpayer Advocate truly that, the taxpayers' advocate, completely independent of

management influence and bureaucratic interferences (Internal Revenue Service Restructuring, 1998, p. 4).

A year later, Congress deemed appropriate to establish the Office of the NTA under the IRS Restructuring and Reform Act (RRA) of 1998. This new reform set directives for the appointment of the NTA and gave this position additional powers and duties. Among other things, the NTA could mandate procedural and administrative changes within the IRS (to protect the rights of taxpayers), became the head of the local offices of Taxpayer Advocates, and acquired more reporting requirements (Lubbers, 2003; Conoboy, 2000). The first NTA appointed was W. Val Oveson and the current one is Nina Olson, who has been holding this position since 2001. On this tenure, she holds one of the most influential Ombudsman positions in the federal government given the statutory powers received by Congress on the IRC § 7803, the IRC § 7811, and the Internal Revenue Manual (IRM) 1.2.2 (IRS, 2014). Of interest is that this role serves without a set term and must meet the following qualifications: The NTA must have a background in customer service and tax law; as well as experience representing taxpayers. Similarly, the NTA has to be a person who has not been an IRS employee for at least two years prior to this appointment or five years at the conclusion of this position. Hence, to maintain the neutrality of this role, the secretary of the treasury appoints the NTA with consultation of the IRS Commissioner and the oversight board (U.S. Congress, 1998).

A couple of years later, the office where the IRS National Taxpayer Advocate (NTA) resided changed its name to the Taxpayer Advocate Service (TAS) (Lubbers, 2003), with a mission to “help taxpayers resolve tax problems with the IRS and recommend changes that will prevent the problems” (IRS, 2014, 13.1.1). The TAS slogan is “Your voice at the IRS” (IRS, 2016). Since the inception of the NTA in 1979, this office has evolved and grown. The NTA currently has 2,200

employees within its 74 local offices across the country and Puerto Rico. Plus, it has nine Area Taxpayer Advocate (ATA) offices that guide and manage the work of the local offices. The ATA directors “ensure that the program is conducted in accordance with national guidelines and instructions and that Local Taxpayer Advocates [LTA] are carrying out their responsibilities” (IRS, 2014, 13.1.1.3.3). The LTA’s are the NTA’s employees working for the Case Advocacy Division at the local offices. They are the face of the NTA, and they handle and resolve the taxpayers’ cases by coordinating efforts with the appropriate IRS Business Operating Division (BOD) (IRS, 2014). TAS has an organizational goal of responding to inquiries within five days and this office is proud of not having any cases in queue (NTA, 2016).

*Model 3: National Taxpayer Advocate’s Model*

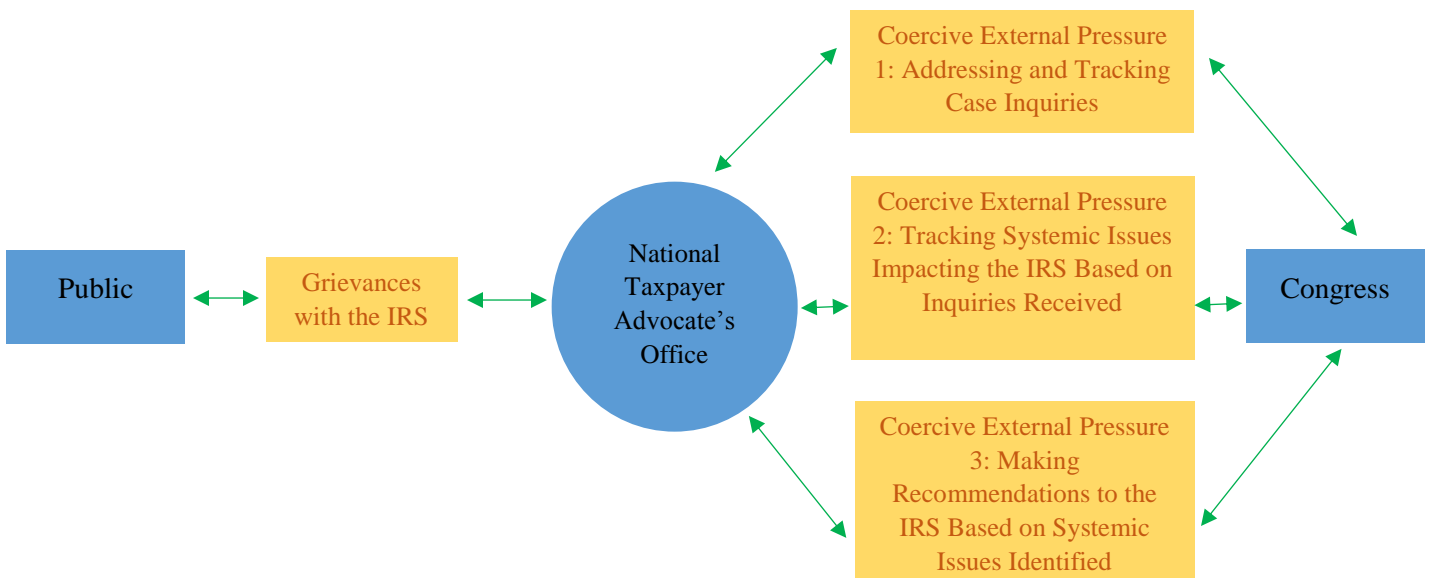
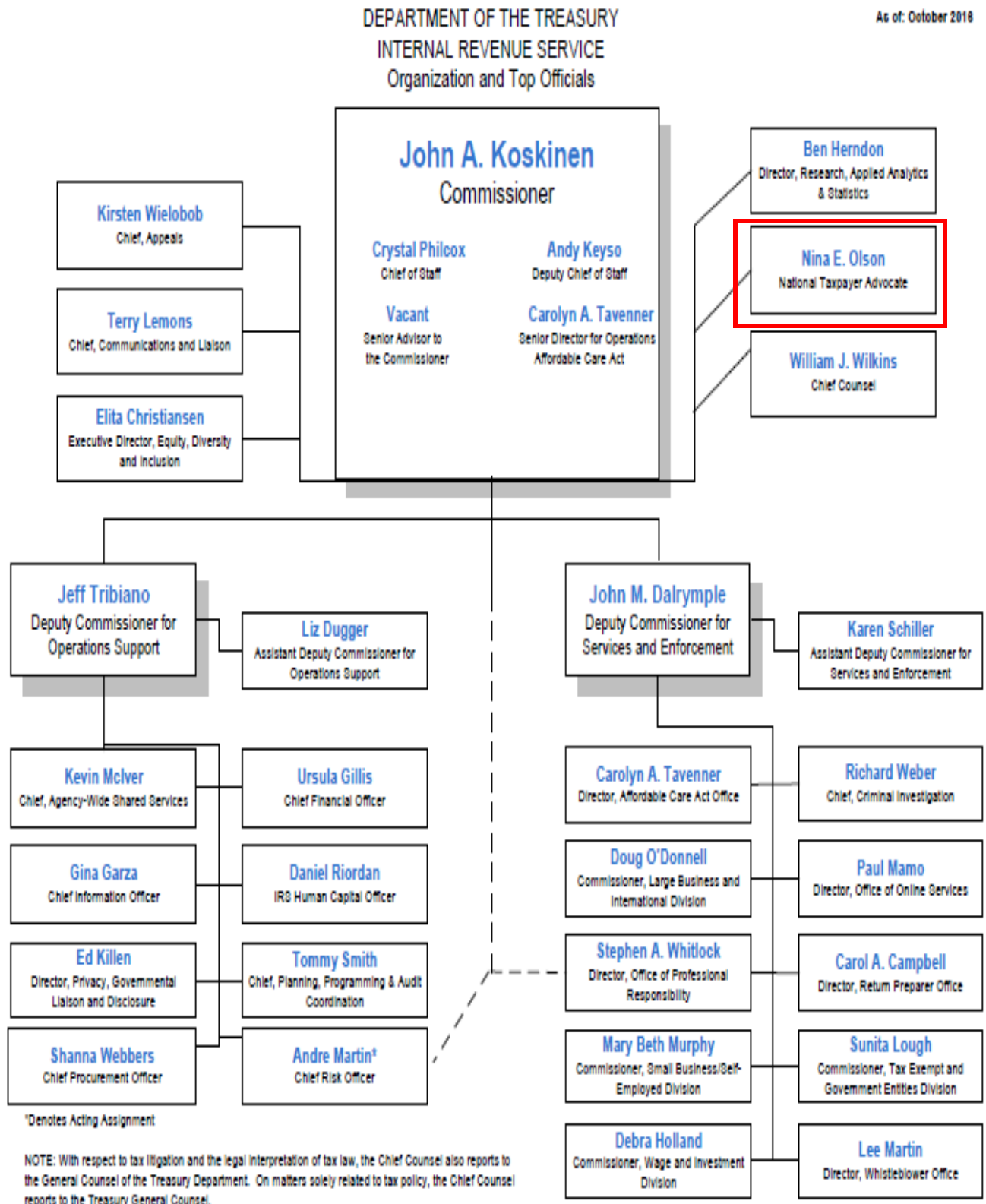


Figure 6: Dept. of the Treasury/IRS' Organizational Chart as of October, 2016 (IRS, 2016).



This external facing Ombudsman office is intended to serve the constituents of the agency by providing a source for procedural clarification, accountability, and dispute resolution. Specifically, the NTA, aims to make sure that taxpayers know their rights and ensure that they are treated fairly, while conducting inquiries in an independent, impartial, and confidential manner (IRS, 2016). In layman's terms, NTA and TAS help to maintain transparency and accountability at the IRS to prevent past errors and avoid losing sight of perspective at the IRS by the fact that this agency brings revenue to the federal government (IRS, 2014).

Also, it is important to mention that the NTA has created two programs to further assist with the needs from constituents. The first one is the Taxpayer Advocacy Panel (TAP) and the second one is the Low Income Taxpayer Clinic (LITC). The first one is aimed to hear taxpayers' concerns, identify issues, and make recommendations to improve the IRS' customer service. "Taxpayers have an opportunity to provide direct input to the IRS through the TAP" (NTA, 2016, p. 4). TAP has an interesting structure, since it functions as a focus group to create initiatives and is an outlet to present issues raised by taxpayers. It operates as an independent panel with 95 members who volunteer for this role. These individuals have a diverse background and have representation from the 50 states in the U.S. (NTA, 2016). On the other hand, the LITCs are meant to help low income people with their cases with the IRS. More than 100 clinics take place every year across the country. They are staffed by pro bono tax attorneys, NTA staff, and students to provide translation services, tax advice on collection disputes or appeals, representation before the IRS or in court to address audits, and fair resolution of inquiries (Interviewee, 2016). An important characteristic of the LITCs is that they "can represent low income individuals before the IRS or in court on audits, appeals, tax collection matters, and other tax disputes" free of charge or with a minimal fee (IRS,

2016, n.d.). In order to make this happen, more than \$12 million is allocated in federal grants to fund these clinics (NTA, 2016).

To further advance the mission of the NTA, its Ombudsman office advocated for a Taxpayer Bill of Rights with Congress and leadership at the IRS “to renew focus on protecting the rights of taxpayers in dealings with the IRS” (NTA, p. 1). This proposal was formally adopted by the IRS on June 10, 2014, and it summarizes the rights of the tax code in ten broader rights:

- First, the right to be informed,
- Second, the right to quality service,
- Third, the right to pay no more than the correct amount of tax,
- Fourth, the right to challenge the IRS’ position and be heard,
- Fifth, the right an independent forum,
- Sixth, the right to finality,
- Seventh, the right to privacy,
- Eight, the right to confidentiality,
- Ninth, the right to retain representation, and
- Tenth, the right to a fair and just tax system (ibid).

The NTA also does outreach to ensure that the public knows when taxpayers should contact the Ombudsman. In fact, this office recommends contacting it when these three conditions are met: first, when the tax issue is causing financial difficulties to the taxpayer; second, when the taxpayer is facing an imminent threat; and third, when the taxpayer has already contacted the IRS, but no response has been received. For those who decide to submit an inquiry to the Ombudsman, the *Taxpayer Advocate Service Assistance Form 911* is the required document to do so. This form is available online, over the phone, or at any of the local offices. Once this form is completed, it



needs to be faxed to the nearest TAS local office. Also, if a taxpayer wishes to be represented by a third party, this is possible as long as he or she submits the *Power of Attorney and Declaration of Representative Form 2848*, or the *Tax Information Authorization Form 8821* to allow the third party to have access to the case. Those who qualify for assistance will have a tax advocate to assist addressing issues with the IRS (NTA, 2016).

Taxpayers need to keep in mind that the NTA is also poised to identify systemic problems impacting the IRS. For the same reason, this office also created the Systemic Advocacy Division. This organization is responsible for the tracking of systemic issues within the IRS and makes recommendations based on the analysis of the data (to prevent future recurrence), as opposed to the Case Advocacy Division, which addresses the individual cases of taxpayers and finds resolution. The input of the Systemic Advocacy Division helps identify the systemic issues that the other division works on. Per the NTA, the Systemic Advocacy is the one that, “addresses the issues that impact multiple taxpayers...Works with individuals, business, and nonprofits...Analyzes IRS systems, policies, and procedures...Assesses taxpayer burden and taxpayer rights...Proposes solutions or legislative changes...and monitors the solution” (p. 4). The advocacy analysts that work in this area are expected to avoid or decrease the burden on taxpayers, enhance customer service, and represent taxpayers’ interests. For example, this group of employees deal with IRS processes related to collection actions and identity theft. Furthermore, the Systemic Advocacy division has established several mechanisms to receive data on systemic issues. According to the IRS, “The TAS Office of Systemic Advocacy receives administrative and legislative proposals from a multitude of sources, including internal and external sources” (2014, 13.1.1.3.5). Among others, the Internal Revenue Manual Reviews, or through taxpayers (individuals, businesses, or tax representatives) using the Systemic Advocacy Management

System (SAMS) online or by completing the *Systemic Advocacy Issue Submission Form* 14411 and faxing it (NTA, 2016).

Again, studying this organization is significant to evaluating how it has become institutionalized and how these types of offices have become institutionalized across the federal government. Particularly, how this office has been able to find a balance –while dealing with the internal and external environment and the diverse array of stakeholders including Congress (with politicians from both parties), IRS leadership and employees, non-profits, for-profits, and citizens? Similarly, to the first case study, the goal of this analysis is to adopt the viewpoint of neo-institutional theory to understand current trends in public organizations with the use of external facing Ombudsmen at the federal level in the United States.



Illustration by Sam Ward (ABA Journal, 1989 p. 77). A portrayal of the National Taxpayer Advocate.

### *Data Collection*

For consistency purposes with this investigation, this second case study is also aligned with neo-institutionalist precepts by examining the external coercive pressures impacting the IRS NTA

office. To that end, the IRS NTA's Annual Reports were key to evaluating the mandates from Congress imposed on this organization. *These mandates, as shown in the model, include: addressing and tracking case inquiries, identifying systemic issues, and making recommendations.* Henceforward, these mandates were used as parameters to be part of the matrix for the second case study (See Appendix C). These parameters were chosen to confirm how this Ombudsman office behaved to the external coercive pressures, and if in fact, legal and political forces are relevant during the institutionalization of this organization, as it was argued by Frumkin and Galaskiewicz (2004). Furthermore, as it was done with the first case study, the data for the second study is evaluated per year, between 2004 and 2015, to identify changes year by year, and to determine if there is an incremental routinization of processes and language to trace the institutionalization of this external facing Ombudsman office.

Per the above, this investigation followed the same protocol to develop the IRS NTA's matrix. It included the following elements: the total number of case inquiries received by the NTA office, the name of the NTA who signed each one of the Annual Reports, the list of pervasive problems that the NTA office identified at the IRS and reported to Congress, and the number of recommendations that the NTA office issued aiming to improve issues identified at the IRS. These elements were selected because according to neo-institutionalist theory, these types of isomorphic pressures lead to institutionalization. Moreover, these parameters evaluate what the Ombudsman office is expected to do. Thus, first it was important to understand the number of case inquiries received by the NTA office per year. It gave us a better picture regarding the number of individuals that approached this office on annual bases. This first parameter was useful to identify if there was awareness about the existence of the NTA and comprehend if the volume of work augments as the NTA becomes institutionalized. This parameter tested some components of neo-institutional

theory, such as the organizational interaction with stakeholders, the procedures in place to track the number of inquiries received, and how this office becomes legitimized over time, as a result of its own work and citizens' satisfaction after dispute resolution. The second parameter on the NTA's matrix tracked the names of the NTA who signed each one of the Annual Reports. It helps us to clearly identify the policy actors who were in charge of the NTA's office and put their actions in perspective. The third parameter included in this matrix was the list of pervasive problems that the NTA identified impacting the IRS and reported to Congress. This parameter tested the type of behavior that the Ombudsman office adopts to coercive forces, such as its mandate to identify systemic issues. Also, if the organization seeks legitimization by conforming to the isomorphic pressures established by Congress, throughout its mandate, to provide this particular information; and if compliance of this request is met over time. Additionally, the case inquiries reported to the NTA help to inform the recommendations that this office makes to the IRS on its annual report to ensure efficiency in the federal government. This is another parameter that is measured on this investigation, particularly, since the NTA is mandated by Congress to provide this information each year. Consequently, this parameter tested neo-institutional components such as understanding if there is a satisficing behavior by compliance to the existing external pressures stipulated by regulation, investigated the existence of processes and routines in place to gather data for the recommendations, as well as evaluate if the organization becomes institutionalized as it gains special character and competence while making recommendations throughout the years.

In the exact same way to the previous case study, data was collated per year (to examine the same variables over time) and later on assess the results from the data-set, looking for potential relations between variables. Please refer to the Appendix C on the Appendices to review the complete matrix with the data from this case study.

### *Analysis of the National Taxpayer Advocate's Office*

This case study was insightful to understand how neo-institutionalist theory explains the institutionalization of the IRS National Taxpayers' office. For instance, similar to the first case study, the data from this matrix also displays close alignment with the literature review. Based on the NTA matrix, some interesting findings were observed. It appears that procedural justice is pursued to prevent wrongdoing in public structures, and it is promoted by funding offices such as the IRS NTA office. Records indicate that Congress envisioned having this office as a mechanism to offer mediation to resolve grievances, respond to stakeholders' demands, as well as ensure good customer service and government accountability. In response to the first variable of this study, it was confirmed that the NTA office was established in 1979. An assessment of the NTA's annual reports between 2004 and 2015 shows how this Ombudsman office has been able to grow considerably and become legitimized in the last decade by gaining recognition from other agencies, U.S. taxpayers, and those in the U.S. tax and revenue service's field. As for the second variable, it was found that coercive pressures led to the creation of this external facing Ombudsman office through the Taxpayer Bill of Rights in 1979. Likewise, to address the third variable, historical records demonstrate that Congress sought the need to have this entity embedded within the federal government—with a neutral role—to ensure checks and balances between the IRS and its customers, improve the image and reputation of the government, and address stakeholders' needs. In regards to the fourth variable, this entity has become institutionalized as it pursues its mission. Among other things, this office has developed a robust organizational structure at the Taxpayer Advocate Service (TAS) with the creation of the Case Advocacy Division and the Systemic Advocacy Division to assist taxpayers who are suffering or about to suffer a significant

hardship as a result of the way in which IRS laws are administered or implemented. Similarly, the NTA has instituted effective mechanisms and procedures to receive inquiries via the Taxpayer Advocate Service Assistance Form 911, which has led to a considerable volume of cases seeking help—with a record of almost 300,000 inquiries in 2010. Certainly, the management and investigation of all these cases could not be possible without support from Congress and the necessary appropriations to fund 74 local offices and nine regional offices across the country. However, this is the result of successful accomplishments at the NTA that make it worth such expenses in an effort to improve the government as a whole.

A thorough review of the work done at the NTA demonstrates that this office has indeed satisfied its obligations with Congress by delivering detailed reports every year. In the process of doing so, this entity has developed routines and traditions over time. These annual publications comprise several volumes with hundreds of pages that contain the total number of case inquiries received per year, the list of systemic issues impacting the IRS, and in-depth recommendations to the IRS. These reports provide granular information on the tax code, which can be daunting and complex, however useful to gain an insider's perspective on the IRS' strengths and weaknesses. Some key themes for inquiries received include customer service related issues, tax administration issues, collection and compliance issues, taxpayer rights issues, and IRS processing issues. Going a step further, some of the main case inquiries reported to the NTA are related to the complexity of the tax code, the challenges dealing with identity theft problems, the IRS' poor handling of the Individual Taxpayer Identification Number (ITIN) applications, imposing an onerous burden on ITIN applicants, the inaccuracy of Earned Income Tax Credit (EITC) compliance measures, and the limited options for taxpayers for face-to-face interaction with the IRS.

It is important to highlight that, for the most part, based on the documentation from the NTA's Annual Reports, the systemic issues raised by the NTA are addressed by the IRS (perhaps not immediately, but over the years, with minimal instances in which the issues persist). For example, Congress enacted the Consolidated Appropriations Act from 2016. The key aspect on it was that this law codified new language on the Taxpayer Bill of Rights (TBOR) section 401, which had been adopted administratively by the IRS in 2015 (based on the NTA's recommendation). Specifically, the amends to the IRC § 7803(a) added a new paragraph stating: "In discharging his duties, the Commissioner shall ensure that employees of the Internal Revenue Service are familiar with and act in accord with taxpayer rights as afforded by other provisions of this title" (NTA, 2015, p. 284). This amendment aimed to decrease administrative errors at the IRS. Another example is the case of the implementation of the NTA's recommendation to have a "safe harbor for de minimis errors on information returns and payee statements" (NTA, 2015, p. 287). This provision defined a threshold from potential penalties to taxpayers for omission to file correct information returns and for omission to furnish correct payee statements (if the error is \$100 or less or \$25 or less with errors regarding tax withholding). If this occurs, the issuer of the information return (the taxpayer or its representative) does not need to file a corrected return and no penalty is imposed (ibid).

With regards to the leadership of this organization, the NTA has been able to ensure continuity in its operations and processes over the last 16 years, thanks to the fact that this office has had the same Taxpayer Advocate since 2001. This is relevant because per the reports and interviews, the leader has been able to promote a sense of pride among the 2,200 employees who embrace the mission of the organization; and as a consequence, they believe in the importance of their work to advance the goals of the NTA.

As for the recommendations of the NTA, this office has submitted 149 suggestions between 2001 and 2015. These range across a wide variety of topics to address the most prevalent issues reported by taxpayers. Among others, the NTA has suggested to the IRS the need to improve the return filing process, limit levies on fixed and determinable assets, expand the availability of tax incentives for hiring disabled workers, ensure taxpayer protection from third party payer failures, simplify the family status provisions, provide a uniform definition of a hardship withdrawal from qualified retirement plans, and enact tax reform. The meticulous documentation provided on the NTA Annual Reports demonstrate considerable contributions from this office to enhance operations at the IRS. These accomplishments relate to the fifth variable of this study about the accountability measures. The successful endeavors are supported by numerous legislative changes influenced by the NTA. These result from both dedicated work and the subpoena powers that Congress gave to this entity, which help to ensure that its recommendations are implemented—strengthening the institutional capacity of the NTA and the IRS. One example of the NTA’s accomplishments is the piece of legislation that Congress passed, during President Obama’s administration in 2015, codifying the Taxpayer Bill of Rights; this is a recommendation that Nina Olson had pursued since 2007 to “ensure a fair and just tax system and protect all taxpayers from potential IRS abuse” (NTA 2007, p. 278). Also, per the report in 2015, the NTA has achieved a 78% relief rate in cases, and the NTA does not have any cases unresolved in a queue. This organization is proud of its efficient processes and procedures to ensure neutral reviews of cases. According to these reports, taxpayers who engage with the National Taxpayer Advocate’s office show an 88% customer satisfaction rate. Per the NTA’s report in 2015, “taxpayers indicated they were very satisfied or somewhat satisfied with the service provided” (NTA, p. 1). This confirms that citizens appreciate the opportunity to be heard or express their concerns using this mechanism



for dispute resolution without having to incur onerous expenses. Also, it affirms March and Olson's (1983) idea that the intervention of this office is a good buffering strategy and an expense worth making to improve the image and reputation of the government on tax matters, while allowing the federal government to handle environmental pressures.

This analysis confirms how over the years stakeholders have learned about the existence of the IRS NTA's office and its role given the large volume of inquiries that this office receives per year, and this trend has increased over time. In most cases, individuals and organizations resort to the NTA to seek the assistance to address their grievances with the IRS in a confidential manner. This office has also managed to comply without exception with its requirements from Congress to ensure its survival by providing the list of pervasive problems, inventory of actions, and recommendations. No doubt, the NTA has areas of opportunity to grow, but it seems like NTA's procedures are more robust than the first case study, and this office is seen by other external facing Ombudsman offices as an example to follow. This may be a reason why other Ombudsman offices have replicated some of the NTA's actions as "best practices," triggering isomorphism.

## Chapter 6: Discussion

Now that we have reviewed both case studies (individually), chapter 6 focuses on the discussion of the interviews and the content analysis data obtained as part of this investigation, which supports what I have described in the previous case description chapters. This section is precisely where the interview data lives. In such effort, I extracted portions of the interview transcripts and the content analysis data and aligned it in relationship with each one of the variables listed at the beginning of this investigation, on the codebook, as part of the logic for this analysis. These variables are: The year of establishment of the Ombudsman offices, the reasons that led to the creation of the Ombudsman offices, the role or purpose of the Ombudsman offices, identify what led to the institutionalization of these entities, and trace the accountability measures used by Ombudsmen. This exercise is helpful to contrast the information from the Ombudsman offices and identify if the precepts from institutionalism are validated or inexistent in this analysis.

### *Discussion of Cases Comparatively*

Based upon the analysis presented in the previous chapters, in which I compared the USCIS Ombudsman office and the IRS National Taxpayer Advocate office, data confirm that external facing Ombudsman offices offer citizens and government agencies an opportunity to address grievances without having to resort to litigation (Gellhorn, 1967; Rowat, 1985; Anderson & Hill, 1991; Nabatchi, 2007; Gadline & Levine, 2008; GAO, 2009; Howard, 2010). Also, findings align with factors that neo-institutional theory predicts forced change in organizations, such as Tina Nabatchi (2007) explains:

The [ADR and ADRA] acts presumed that the use of ADR would improve the perceived legitimacy and financial stability of agencies. This is evident in the legislative history of the acts and the expectation of cost savings and better outcomes through ADR use...In short, the acts created institutional pressures with the force of law that were aimed at enhancing the social and economic health of agencies. Both factors are important to obtaining organizational legitimacy...agencies appear to have acquiesced to the general requirements of the acts, there is evidence of substantial compromise [from agencies] (p. 650).

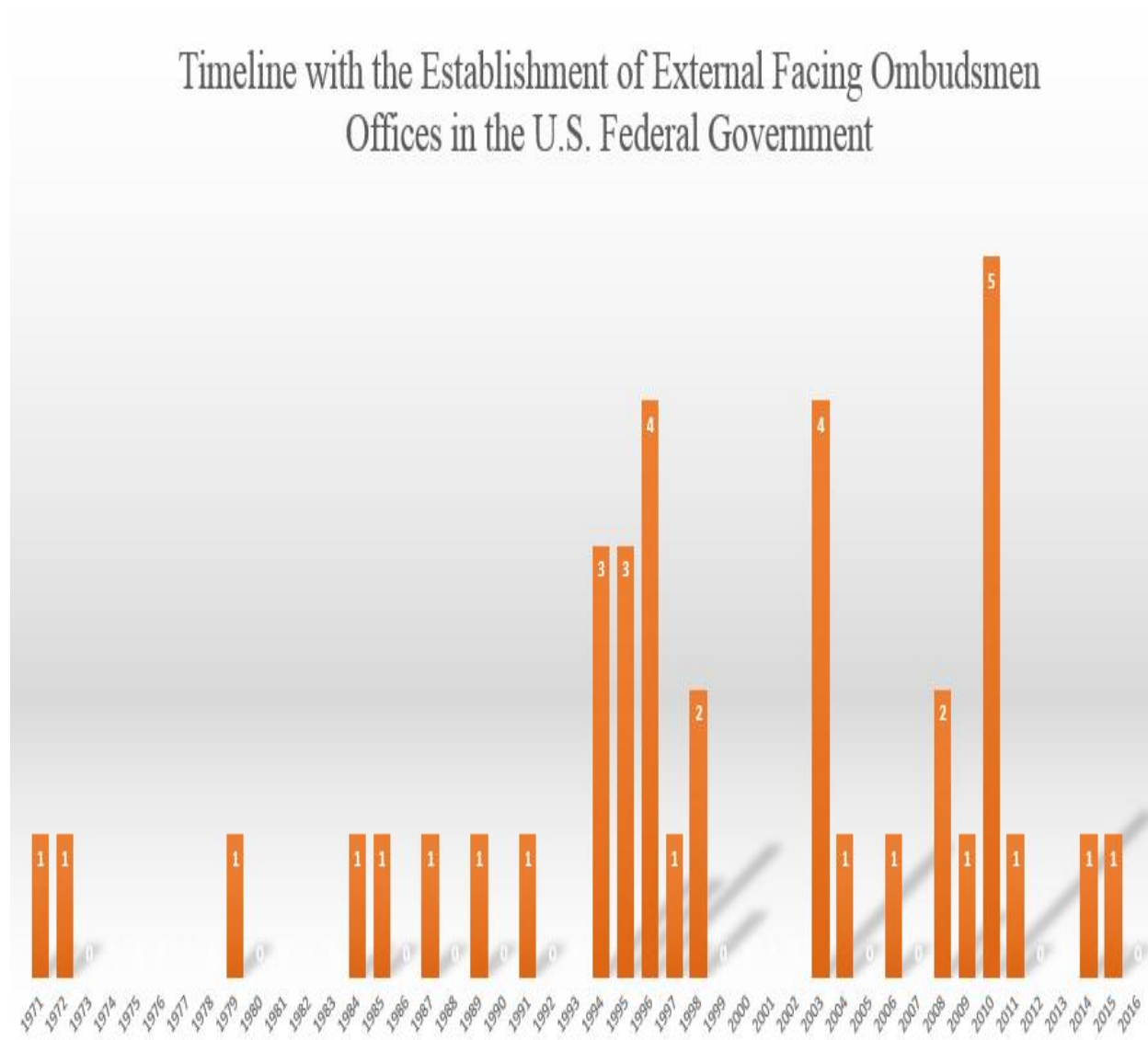
Similar to Nabatchi, this exploratory study has found that Ombudsman offices arose and proliferated for reasons relatively consistent with neo-institutionalist arguments. Most notably, a combination of coercive pressures such as the ADR and ADRA acts imposed into federal agencies in an effort to ensure procedural justice, and satisficing behavior from agencies to comply with regulations to subsist. These factors led to mimetic isomorphism such as the fact that Congress established the IRS Ombudsman office back in 1979 and later on they replicated the same organizational idea and structure at USCIS in 2002. Such phenomenon reflects the concern of the adopting agencies to maintain or strengthen their legitimacy and ensure their survival. In order to elaborate on the above argument, I will discuss all the variables independently and I will present some of the findings and observations gathered that refer to the each one of these variables.

### **Variable 1: Year of Establishment of Ombudsman Offices**

Archival information confirms that the spike of external facing Ombudsman offices occurred between 1994 and 2011. During this period, twenty-eight of such offices, or 74 percent, were embedded in federal agencies. This aligns with the period in which the ADR and ADRA Acts were

passed by Congress and the Executive Order 12862 from President Clinton, as well as the creation of new offices adopting these mandates after the terrorist attacks of 2001 (as it occurred with the Department of Homeland Security and its components such as USCIS). Between 1971 and 1993, only eight offices were opened. The figure and table below depict how the proliferation of these types of offices occurred in the U.S.

*Figure 7: Timeline with the Establishment of External Facing Ombudsmen Offices in the U.S. Federal Government*



The next table shows the percentages pertaining to the clusters and periods in which external facing Ombudsman offices were created in federal agencies. The table offers a numeric value where the proliferation of Ombudsmen occurred.

*Table 2: Percentage of External Facing Ombudsman Offices in the U.S. Federal Government  
Categorized by Period of Establishment*

<b>Table 2</b>		
<b>External Facing Ombudsman Offices in the U.S. Federal Government</b>		
Period of Establishment	Number of Offices Created	Percentage
1971-1993	8	21%
1994-1998	13	34%
2003-2011	15	40%
2012-2016	2	5%

Similarly, during this historical retrospective analysis, it was found that in an effort to institutionalize the role of Ombudsmen in the U.S., the Administrative Law Section Ombudsman Committee at the American Bar Association issued standards with the desire to guide the “Establishment and Operations of Ombudsman offices.” These align with the roots and values from Sweden in regards to the neutrality, independence, and impartiality of Ombudsmen (Wagner, 2000). The ABA (2004) standards outline the following responsibilities: First, to have a general understanding of advocacy. Second, to offer assistance, counsel, and access to information to its stakeholders. Third, to assess the case inquiries in a fair and just manner and advocate for change when facts support such a claim—especially, when there is evidence of administrative errors. Fourth, to act and represent on behalf of stakeholders regarding policies or procedures implemented by government agencies; and fifth, to have the capacity to take action on behalf of stakeholders when the truth and grievances warrant (p. 8). Interestingly, the National Taxpayer

Advocate and the Citizenship and Immigration Services Ombudsman abide by the ABA's standards (IRS, 2016 & CISOMB, 2016).

## **Variable 2: Reasons that Led to the Creation of Ombudsman Offices**

The proliferation of Ombudsmen in the U.S. federal government was mainly due to “coercive pressures” in the form of mandates from Congress, which were reactions from the government to negotiate its role between the forces in the environment, to avoid litigation (in the case of several agencies) and ensure the government's survival. According to the data gathered from the interviews and the content analysis, 93 percent of the interviewees indicated that the reasons that led to the establishment of the external facing Ombudsmen offices were due to mandates. From those, 72 percent specifically referred to the Administrative Dispute Resolution Act (ADR) of 1990 and the Alternative Dispute Resolution Acts (ADRA) from 1996 and 1998. The analysis from this investigation signals that the most influential regulations were the ADR of 1990; the ADRA from 1996 and 1998; the Executive Order 12862 from President Clinton in 1993: Setting Customer Service Standards; and the Community Development and Regulatory Improvement Act from 1994. Thus, the mechanism to fulfill these regulations was setting up the Ombudsman offices– offering an alternative to mediate disputes without costly fees. The above results are consistent with the neo-institutionalist ideas from Meyer and Rowan (1977), who affirm that legal and political forces are relevant during the institutionalization of an organization– an organization may comply with external pressures because the approval of external constituents enhances its legitimacy and provides the necessary confidence to conduct activities and subsist in the environment.

The following excerpted findings from the interviews illustrate this argument. Interviewees indicated that legal and political pressures influenced the institutionalization of Ombudsmen. In the case of the FMC, this office was not mandated to create an Ombudsman, but it chose the Ombudsman office as a mechanism to comply with the ADR Act and to cope with the legal forces influencing this federal office.

“The Federal Maritime Commission’s Ombudsman office was established in 2004. It was not mandated by Congress, but as a result of the ADR Act and a need for a mechanism to assist with mediation in an international jurisdiction related to port authorities, cargos, etc. after a couple of expensive lawsuits” (Interviewee, 2016).

“In 2003, after 09/11, Congress established TSA (Transportation Security Administration) and the Ombudsman office was part of the requirements. I believe they did that in compliance with the ADR Act from 1996” (Interviewee, 2016).

In the case of the IRS and USCIS, the findings go a step further, since data show that these offices were established in response to a mandate that could have been implemented in a different way (rather than using an Ombudsman). As DiMaggio and Powell (1983) would assert, isomorphism occurred when Congress replicated the IRS model with USCIS, rather than choosing another mechanism. As it was affirmed by one of the interviewees and later validated with historical records:

“The USCIS Ombudsman office was created in 2002 as a result of the Homeland Security Act and in compliance with the ADR acts and the Executive Order from 1993. However, Congress saw the IRS Ombudsman as an effective example, so the Ombudsman idea was

used at USCIS to replicate the structure, accountability measures, functions, etc.”  
 (Interviewee, 2016).

Moreover, the table below gathers the list of each one of the 38 external facing Ombudsmen offices that were established as organizations that buffer the environment and the reasons that led to the creation of each one of them, which confirms the above findings.

*Table 3: Outline with the Year and Reasons for the Establishment of External Facing Ombudsman Offices in the U.S. Federal Government*

<b>Table 3 External Facing Ombudsman Offices in the U.S. Federal Government</b>		
<b>Year of Establishment</b>	<b>Ombudsman Office Title</b>	<b>Reason for Establishment</b>
1971	U.S. Postal Service (USPS) Consumer Advocate Office	The USPS Consumer Advocate office resulted from the Postal Reorganization Act (PRA) passed by Congress in 1971.
1972	Health and Human Services (HHS) Office of Long-Term Care Ombudsman Programs	The LTC Ombudsman program was part of President Nixon’s 1971 Eight Point Initiative to improve nursing home care. The purpose was to “respond in a responsible and constructive way to complaints made by or on behalf of individual nursing home patients.”



1979	Internal Revenue Service (IRS) Office of the National Taxpayer Advocate	The Office of the Taxpayer Ombudsman was created by Congress in 1979 to serve as the primary advocate, within the IRS, for taxpayers.
1984	Environmental Protection Agency (EPA) Asbestos Small Business Ombudsman	The Rescue Conservation and Recovery Act from 1984 directed EPA to create the Ombudsman office to address inquiries and to be a liaison between EPA and stakeholders.
1985	Food and Drug Administration (FDA) Ombudsman for Drug Evaluation and Research	The Ombudsman in CDER came with the rewrite of the investigational new drug (IND) and new drug application (NDA) regulations in 1985. Regulations covering dispute resolution for both INDs and NDAs mandate that administrative or procedural issues that cannot be resolved by the applicant and the reviewing division may be brought to an Ombudsman for resolution. An Ombudsman's role is to receive complaints, to investigate them, and to facilitate a timely and equitable resolution.
1987	Department of Homeland Security (DHS) Secret Service Ombudsman	This Ombudsman office came to exist due to the numerous complaints received by employees, so the organization needed a mechanism to handle ADR.
1989	Food and Drug Administration (FDA) Commissioner's Ombudsman	This office was created after an FDA scandal with feds being bribed by the drug industry. FDA's commissioner wanted to prevent this from happening again.

1991	Department of Veterans Affairs (DVA) Board of Veterans' Appeals' Ombudsman Office	Previous lawsuits against the Department of Veterans Affairs triggered the need to have a mechanism to handle dispute resolution. The activities of the Board in Fiscal Year 1991 were characterized by the changes required by the Veterans Judicial Review Act, Pub. Law 100-687(1988), (hereinafter VJRA) and by the decisions of the United States Court of Veterans Appeals.
1994	Department of Treasury (DOTR) Office of the Comptroller of the Currency Ombudsman Office	The Comptroller of the Currency Ombudsman was established under the Community Development and Regulatory Improvement Act of 1994 (Sec. 309). It mandates that each appropriate federal banking agency and the National Credit Union Administration Board: (1) establish an independent intra-agency appellate process to review material supervisory determinations in agencies under their purview; (2) appoint an ombudsman to act as liaison between the agency and any affected person; and (3) implement an alternative dispute resolution pilot program. This office is aligned with core principles of dispute resolution (ADR Act of 1990), and customer service (Executive Order of 2003).
1994	Federal Deposit Insurance Corporation (FDIC) Ombudsman Office	The FDIC Ombudsman office was established by the Community Development and Regulatory Improvement Act of 1994 (Sec. 309). It mandates that each appropriate federal banking agency and the National Credit Union Administration Board: (1) establish an independent intra-agency appellate process to review material supervisory determinations in agencies under their purview; (2) appoint an ombudsman to act as liaison between the agency and any affected person; and (3) implement an alternative dispute resolution pilot program. This office is aligned with core principles of dispute resolution (ADR Act of 1990), and customer service (Executive Order of 2003).
1994	National Credit Union Administration (NCUA) Ombudsman Office	The NCUA Ombudsman office was established by the Community Development and Regulatory Improvement Act of 1994 (Sec. 309). It mandates that each appropriate federal banking agency and the National Credit Union Administration Board: (1) establish an independent intra-agency appellate process to review material supervisory determinations in agencies under their purview; (2) appoint an ombudsman to act as liaison between the agency and any affected person; and (3)

		implement an alternative dispute resolution pilot program. This office is aligned with core principles of dispute resolution (ADR Act of 1990), and customer service standards (Executive Order of 2003). The CDRIA applies to five Ombudsman offices: FDIC, NCUA, Fed, the Office of the Comptroller of the Currency, and the Thrift Supervision. P.L. 103-325; 108 Stat. 2160; codified at 12 U.S.C. § 4806.
1995	Federal Reserve System (Fed) Ombudsman Office	The Fed Ombudsman office was established by the Community Development and Regulatory Improvement Act of 1994, but implemented in 1995 (Sec. 309). It mandates that each appropriate federal banking agency and the National Credit Union Administration Board: (1) establish an independent intra-agency appellate process to review material supervisory determinations in agencies under their purview; (2) appoint an ombudsman to act as liaison between the agency and any affected person; and (3) implement an alternative dispute resolution pilot program. This office is aligned with core principles of dispute resolution (ADR Act of 1990), and customer service standards (Executive Order of 2003). The CDRIA applies to five Ombudsman offices: FDIC, NCUA, Fed, the Office of the Comptroller of the Currency, and the Thrift Supervision. P.L. 103-325; 108 Stat. 2160; codified at 12 U.S.C. § 4806.
1995	U.S. Agency of International Development (USAID) Ombudsman Office	The USAID Ombudsman office was created in part by the earlier Federal Acquisition Streamlining Act and to offer stakeholders a mechanism to address their grievances.
1995	Bureau of Alcohol Tobacco and Firearms (ATF) Ombudsman Office	The ATF Ombudsman was created because of the Administrative Dispute Resolution Act (ADRA) of 1990. This act directed federal agencies to establish Alternative Dispute Resolution (ADR) programs to resolve administrative disputes.
1996	National Oceanic and	

	Atmospheric Administration (NOAA) Ombudsman Office	NOAA created an Ombudsman office in compliance with regulation and to improve its communications with the nation's academic institution and to assist in solving any problems because of interactions.
1996	Small Business Administration (SBA) National Ombudsman	The SBA's Small Business Ombudsman was established by Congress throughout the Small Business Regulatory Fairness Enforcement Act of 1996. This legislation indicates that the Ombudsman shall receive comments from small business and serve as a liaison between small businesses and federal agencies.
1996	Consumer Product Safety Commission (CPSC) Small Ombudsman Office	The Small Business Ombudsman (SBO) was established to serve as a liaison to the community to answer inquiries, provide information, and offer guidance about compliance with the statutes, regulations, and policies under the CPSC's jurisdiction. The SBO also provides technical guidance to small businesses attempting to resolve problems with the Office of Compliance and the Office of Hazard Identification and Reduction.
1996	General Services Administration (GSA) Construction Metrication Ombudsman Office	The Construction Metrication Ombudsman Office was established per the Savings in Construction Act of 1996, the Federal Acquisition Manual (FAR) 11.002(b), and GSA Order ADM 8000.1C, which establishes a policy for using the metric system in procurements and the Ombudsman shall ensure that any disputes can be handled appropriately.
1997	Department of Interior (DOI) Bureau of Land Management Collaboration and Dispute Resolution	Since 1990, Congress and the Executive branch have encouraged the use of ADR, conflict prevention, and collaborative stakeholder engagement in appropriate circumstances. Therefore, given the below pieces of legislation, DOI established the Ombudsman office: Administrative Dispute Resolution Act of 1996, P.L. 104-320, EEOC Regulations, 29 CFR 1614, Negotiated Rulemaking Act, P.L. 104-320, Contract Disputes Act, 41 U.S.C. § 601 et seq., and Federal Acquisition Regulations, 48 CFR 52, Alternative Dispute Resolution Act of 1998, P.L. 105-315.

1998	Federal Student Aid (FSA) Ombudsman Office	FSA Ombudsman was created in 1998 by amendments to the 1965 Act of Higher Education to serve as a neutral fact-finder in disputes between students with loans and the FSA.
1998	Food and Drug Administration (FDA) Ombudsman for Veterinary Medicine	The CVM Ombudsman was created per the Administrative Dispute Resolution Act of 1996 to assist with the dispute resolution process as published in the Federal Register (63 FR 63978) on November 18, 1998.
2003	U.S. Citizenship and Immigration Services (USCIS) Ombudsman Office	The USCIS Ombudsman office was established after 09/11 when the Department of Homeland Security was instituted. Specifically, this office was created by section 452 of the Homeland Security Act of 2002.
2003	Health and Human Services (HHS) Medicare Beneficiaries' Ombudsman	The Medicare Beneficiaries' Ombudsman was created by Congress as a part (section 923) of Public Law 108-173, which is known as the Medicare Prescription Drug, Improvement and Modernization Act of 2003.
2003	National Geospatial-Intelligence Agency (NGA) Ombudsman Office	The NGA Ombudsman was established in compliance with regulation. The Ombudsman idea was piloted at NGA in 2003 after a movement in the Intelligence Community to establish such a role to control politicization (the distortion, suppression, or alteration of intelligence analysis to support or conform to a preferred policy). Today, the NGA Ombudsman office is a resource where independent, impartial conflict resolution practitioners provide an informal and confidential forum to address individual and systemic organizational concerns.

2003	Transportation Security Administration (TSA) and Traveler Engagement Ombudsman Office	The TSA Ombudsman was established by Congress after 09/11 in compliance with the ADR Act from 1996 and 1998.
2004	Federal Maritime Commission (FMC) Consumer Affairs and Dispute Resolution Services Office	This office was established in 2004. It was not mandated by Congress, but it was created as a result of the ADR Act of 1996 and 1998 and a need for a mechanism to assist with mediation in an international jurisdiction related to port authorities, cargos, etc. particularly after a couple of expensive lawsuits.
2006	Health and Human Services (HHS) Competitive Acquisition Ombudsman	The Competitive Acquisition Ombudsman was established through Section 154 of the <a href="#">Medicare Improvements for Patients and Providers Act of 2008</a> to respond to suppliers' and individuals' complaints and inquiries about the Competitive Bidding Program and provide an annual report to Congress. The CAO also analyzes data related to the Competitive Bidding Program to identify potential systemic issues and make suggestions to the agency about the possible need to address trends that appear in these data.
2008	Department of Transportation (DOT) Charter Services Ombudsman Office	The Charter Services Ombudsman was created in conjunction with the revised Charter Service regulation that was published at 73 FR 2345 on January 14, 2008. See 49 CFR 604.11(e); 49 CFR 604.19(a); and 49 CFR 604.26(b).
2008	Federal Housing Finance Agency (FHFA)	The FHFA Ombudsman was established per the Housing and Economic Recovery Act of 2008.

	Ombudsman Office	
2009	National Archives and Records Administration (NARA) Federal Freedom of Information Act's Ombudsman Office	In 2007, FOIA was amended, and Congress wrote into the legislation to have an Ombudsman, but nothing took effect until 2009 when the office was funded.
2010	U.S. Patent and Trademark Office (USPTO) Ombudsman Office	The USPTO Ombudsman was established in compliance with federal laws to assist USPTO's applicants or their representatives with issues that arise during patent application prosecution.
2010	Food and Drug Administration (FDA) Ombudsman for Tobacco Products	CTP established the Ombudsman's office in 2010, and it aligns with the ADR Act of 1996 and 1998. The Ombudsman's office responds to inquiries and looks into complaints from all parties, including the tobacco industry, law firms or consultants representing industry, advocacy groups, public and private research institutions, health care providers, and consumers.
2010	Food and Drug Administration (FDA) Ombudsman for Devices and Radiological Health	The CDRH established an Ombudsman in response to disclosures of problems with regulation of the drug industry, and it aligns with the ADR Act of 1996 and 1998.

2010	Food and Drug Administration (FDA) Ombudsman for Biologics Evaluation and Research	The CBER established an Ombudsman in response to disclosures of problems with regulation of the drug industry and it aligns with the ADR Act of 1996 and 1998.
2010	Department of Defense (DOD) Defense Procurement and Acquisition Policy Ombudsman Office	The DPAP Ombudsman was established per Section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364) directed the Secretary to establish a “Panel on Contracting Integrity.” One of the panel recommendations was to designate an Ombudsman for procurement integrity. Therefore, in October 2009 DPAP was notified with a requirement to have an Ombudsman by January 1, 2010. The DPAP’s Ombudsman was established to assist companies, both domestic and foreign, interested in performing contracts to satisfy DOD requirements, following the instructions of the DPAP Contract Policy and International Contracting Directorate.
2011	Consumer Financial Protection Bureau (CFPB) Ombudsman Office	The CFPB Ombudsman was statutorily required in the Dodd–Frank Wall Street Reform and Consumer Protection Act signed on July 21, 2010. It passed as a response to the Great Recession and it brought the most significant changes to financial regulation in the U.S. since the regulatory reform that followed the Great Depression.
2014	Securities and Exchange Commission (SEC) Office of the Investor Advocate	The SEC Ombudsman was established per Section 919 D of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which requires the Investor Advocate to appoint an Ombudsman.



2015	Federal Communications Commission (FCC) Open Internet Ombudsman Office	The FCC Ombudsman was created after a series of expensive litigation cases between the FCC and stakeholders. The Ombudsman was instituted with the purpose of having effective access to dispute resolution. FCC's Ombudsman adopts the proposal from the 2014 Open Internet NPRM to establish an ombudsperson to assist consumers, businesses, and organizations with open Internet complaints and questions by ensuring these parties have effective access to the Commission's processes that protect their interests. In addition, it aligns with the ADR Act of 1996 and 1998.
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### Variable 3: Role or Purpose of Ombudsman Offices

Regarding the role or purpose that led to the establishment of the external facing Ombudsman offices, 100 percent of the interviewees confirmed that the role of these entities is to be a mechanism to address dispute resolution between the federal government and its stakeholders. Besides, the two case studies from this investigation reveal that Ombudsman offices focus on the external stakeholders in their environment and express a desire to address their needs. This finding aligns with the arguments from Frumkin and Galaskiewicz (2004) about the idea that organizations accommodate pressures to avoid scrutiny from stakeholders and conform to regulation. Moreover, these offices buffer pressures by offering a neutral arbiter to assess government actions and foster communication and cooperation among stakeholders. Some of the interviewees' responses align with the neo-institutionalist arguments. The following excerpted findings from the interviews illustrate the fact that Ombudsmen are seen as fulfilling a buffering role, addressing stakeholder needs, and conforming to external pressures.

“The purpose of having an Ombudsman was to respond in a responsible and constructive way to complaints made by constituents” (Interviewee, 2016).

“The IRS Taxpayer Advocate was positioned to serve as the primary advocate, within the IRS, for the taxpayers” (IRS, 2016).

“The role of the Ombudsman is to allow customers to have an office to address grievances. This office was created in compliance with regulation, since all federal agencies have to have an office that addresses dispute resolution” (Interviewee, 2016).

“The Ombudsman office is a resource where independent, impartial conflict resolution practitioners provide an informal and confidential forum to hear and help address individual and systemic organizational concerns as instructed by the ADR acts from the nineties” (Interviewee, 2016).

#### **Variable 4: How has Institutionalization Occurred?**

In an effort to understand how the institutionalization of external facing Ombudsmen offices has occurred, last summer, a script for the interviews was designed, tested, and piloted (see Appendix A); in order to better understand these organizations. In such effort, key neo-institutional ideas and concepts --which are considered to trigger institutionalization- from Mayer and Rowan (1977), Frumkin and Galaskiewicz (2004), Oliver (1997), and March and Olson (1983) were identified and used to draft the questions for the interviews. The analysis of the transcripts from the interviews and the content analysis confirmed the following findings:

- 80 percent of the interviewees confirmed that their office has become a known entity to address stakeholders' issues.

- 87 percent of the participants indicated that their office promotes the agency's accountability, accessibility, and transparency.
- 87 percent of the interviewees said that their offices are neutral entities to assess government actions and avoid administrative errors.
- 94 percent of the interviewees indicated that office established processes to ensure a systematic way to operate, such as developing standard operating procedures, which have become common practice on their daily activities.
- 80 percent of the participants considered that their offices can influence organizational change in the agencies that their offices oversee. However, interviewees were emphatic on the fact that for the most part, changes occur very slowly. In many cases, it might take several years to see a change.
- 73 percent of the interviewees believed that their offices strengthens the institutional capacity of the agencies that their offices oversee, such as improving the services provided to the public and enhancing government's structures.

In addition, the two case studies provided support the expected appearance of routines and isomorphism in the institutionalization of external facing Ombudsman offices across U.S. federal agencies. For instance, the more than twenty years of effectiveness of the IRS Taxpayer Advocate office was a factor that Congress leveraged when they decided to use the same structure, language, and requirements to create the USCIS Ombudsman office later on in 2002. This explains the fact that the USCIS Ombudsman office has exactly the same mandates as the IRS National Taxpayer Advocate's office, confirming another sign of isomorphism.

Per the IRS, in the Taxpayer Bill of Rights 2 (TBOR 2) from 1996 (the amended IRC § 7802), Congress described the Taxpayer Advocate office functions:

“To assist taxpayers in resolving problems with the Internal Revenue Service.

To identify areas in which taxpayers have problems in dealings with the Internal Revenue Service; and

To the extent possible, propose changes in the administrative practices of the IRS to mitigate those identified problems.”

Per the USCIS Ombudsman office, Congress instructed them to do the same as the IRS National Taxpayer Advocate office, but applied to USCIS’ matters:

“Assist individuals and employers in resolving problems with USCIS;

Identify areas in which individuals and employers have problems in dealing with USCIS; and

Propose changes to mitigate identified problems.”

During an interview, a participant provided the same information:

“The USCIS Ombudsman office has its functions because these were replicated from the IRS Ombudsman office (even the date to deliver the report is the same). Congress saw the IRS Ombudsman as an effective example, so it was used to imitate the structure, accountability measures, functions, etc.” (Interviewee, 2016).

On another interview, a participant confirmed similar data and affirmed how the rotation of personnel between Ombudsman offices has served a boundary spanning role:

“I have had the opportunity to work at both offices [the Ombudsman at the IRS and at USCIS]. I moved to the USCIS Ombudsman office in 2005 and it was replicated from the National Taxpayer Advocate office... The difference is that the USCIS Ombudsman does not have subpoena powers to enforce recommendations [given complexities with the IRS], but the rest is the same structure. Moreover, over time, the USCIS’ Ombudsman office has adopted process implemented by IRS. For example, we [at the USCIS Ombudsman office] created the Online Case Assistance process, so customers can submit the Form 7001 online. Similar to the Form 911 [at the IRS NTA]. Since we made this change in 2012, the number of inquiries received at this office spiked. Also, there have been efforts to mimic the Low Income Tax Clinics to provide immigration assistance, but this idea has not crystalized” (Interviewee, 2016).

The above finding is interesting because it shows how the rotation of staff between both Ombudsman offices has created a crosspollination of routines, processes, and procedures that has led to the institutionalization of practices, such as the adoption of the Online Case Assistance process used at the NTA and replicated at the USCIS Ombudsman office to be able to receive inquiries electronically 24/7. Also, the adoption of an electronic system to track data for later use on the annual reports. Besides, evidence from interviews suggested the phenomenon of isomorphism extends beyond the IRS and USCIS Ombudsman offices. Such is the case of a former employee from the USCIS Ombudsman office transferred to another external facing Ombudsman office:

“My new office is not mandated to write an annual report, but I saw the benefits of doing that at the USCIS Ombudsman office...I believe this is a best practice and decided to

implement it at the Consumer Financial Protection Bureau (CFPB) Ombudsman Office. The same occurs tracking the total number of inquiries received. I think, for the most part, all Ombudsman offices do this regardless of a mandate or not to ensure best practices” (Interviewee, 2016).

This supports the assertion that over time organizations experience homogenization, tending to act and look the same due to mimetic pressure (DiMaggio & Powell, 1983). Further, the functions that these Ombudsman offices perform influence institutional change and strengthen the institutional capacity of organizations, while identifying issues and making recommendations to agencies and their leadership to become more efficient.

Moreover, during another interview, a former Ombudsman shared key information about the institutionalization of the USCIS Ombudsman office, which aligns with the historical records gathered:

“Institutionalization has happened in three key areas: First, institutionalization through technology, because technology was critical to implement processes. Such as making the form 7001 available online and incorporating the case management system CAADI. That really changed the routines, processes, and operations that drive today’s activities at the Ombudsman office. It really helps to be able to gather the necessary information for the annual report in a systematic way. Second, institutionalization through engagement with stakeholders (meaning citizens, USCIS employees, Congress, other federal agencies, USCIS’ service centers, etc.). We had to develop strong ties and relationships with the community to create awareness about the existence of the USCIS Ombudsman. For example, we created a Memorandum of Understanding (MOU) with USCIS to clearly

outline how much time USCIS will take in order to respond back to the Ombudsman and how we were going to operate to address case inquiries. Third, institutionalization has occurred through staff's training. Training has been key to create a culture of empowerment with our staff to ensure that they believe in the mission of this office and the importance of their work. 'They are ambassadors from the Ombudsman.' The training is very useful, so the new staff learns the processes and procedures in place and works efficiently. That's why we have been careful in the organizational structure of this office, so the administrative work produced by the teams and the systems in place inform annual reports, and together we ensure the accountability of this office" (Interviewee, 2016).

Similarly, as Jeffry Lubbers (1998) affirms, in an effort to institutionalize Ombudsmen in the U.S. federal government, "A Coalition of Federal Ombudsmen' was created by federal Ombudsmen themselves to provide information sharing and some measure of coordination among the various Ombudsmen offices," (p. 29) which in return has led to the dissemination of best practices among offices and the homogenization of practices over time.

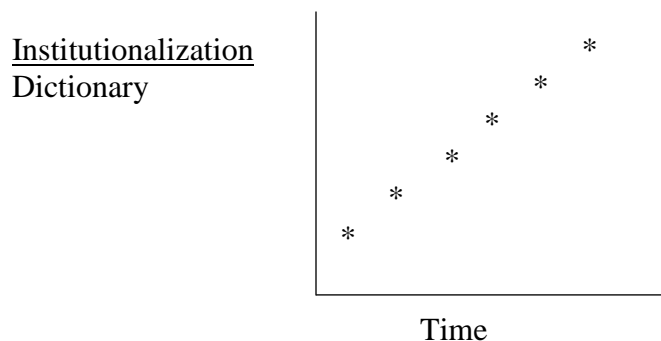
### **Variable 5: Accountability Measures**

The data from the interviews confirm that most external facing Ombudsmen offices have some sort of accountability measures in place. For example, 94 percent affirmed that their offices issue an annual report and 80 percent track the number of stakeholder sessions held throughout the year. The results from the content analysis validate the assertion that the National Taxpayer Advocate and the Citizenship and Immigration Services Ombudsman have complied with their mandates from Congress by tracking the type of case inquiries received, identifying the systemic issues

impacting the IRS and USCIS (based on the most prominent inquiries), and making recommendations (to their respective agencies to address the systemic problems identified). The interesting piece is that these two cases show signs of institutionalization while developing language, routines, processes, and procedures in order to have a robust organizational structure in place to gather the necessary information to ensure the delivery of their annual reports, which aligns with Richard Scott's (1987) assertion that rules, traditions, routines, norms, and innovations can become customary and shape organizations. To elaborate on this argument, below is a representation of the results from the analysis of the matrices shown in Appendices B and C; as well as from ATLAS.ti, the content analysis software, per frequency count and per proportion count.

#### Graphics with the Actual Results from Frequency Counts and Proportion Counts

*Graphic 3: Frequency Counts from both Case Studies*

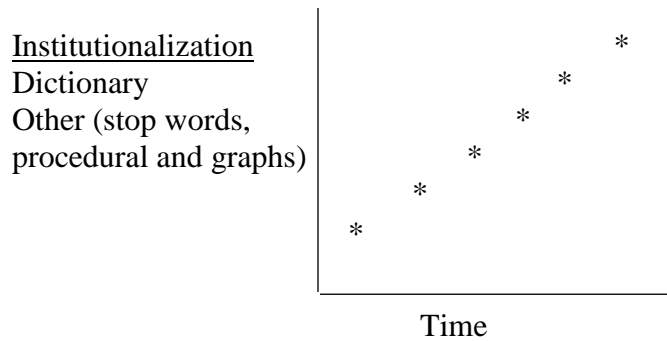


$H_0$  = There is no change in the frequency of institutionalist terms use in the annual reports over the period of analysis

$H_1$  = **The frequency of use of institutionalist terms increased annually over the period of analysis**



Graphic 4: Proportion Counts from both Case Studies



$H_0$  = There is no change in the proportion of institutionalized vs non-institutionalized language used in the annual reports over time

**$H_1$  = There is an increase in the proportion of institutionalized language vs. non-institutionalized language in the annual reports over time**

Tables 4 and 5 show the output from ATLAS.ti, while assessing the data collected from the annual reports from 2004 to 2015 for both cases. It was tested if in fact both Ombudsmen have delivered every year what they are mandated to do by Congress in order to continue receiving funds to maintain the operations of these offices. To this end, ATLAS.ti was helpful to digest a large volume of documents and validate that these entities have tracked the number of inquiries received, identified systemic issues (based on inquiries received), and made recommendations to the IRS and USCIS (to improve tax and immigration policies, as well as the effectiveness of these agencies). Interestingly, it was possible to identify the areas of systemic issues received at the USCIS Ombudsman office and the IRS National Taxpayer Advocate's office. Also, I was able to confirm that each case has developed unique language given the scope of their work. For example,

the USCIS Ombudsman office uses key terminology or acronyms to handle inquiries such as: the “REFs” or Requests for Evidence, the “EADs” or Employment Authorization Document or the “USCIS’ processing times” to make a determination (to adjudicate or decline) an immigration benefit. The same occurs at the IRS National Taxpayer Advocate’s office. Every year, this office organizes more than 100 “clinics,” which are the Low Income Taxpayer Clinics (LITC) that take place across the country. These clinics have become common practice at this organization over the years. These sessions are promoted in partnership with Community Based Organizations to offer services for free or with a minimal cost to receive tax advice on collection disputes or appeals, representation before the IRS or in court to address audits, translation services to understand how to file the taxes and fair resolution of inquiries. These “clinics” are also well known among the NTA staff, since they refer people to attend the sessions and they also advertise them on the NTA’s website. Also, the NTA consistently uses some acronyms on its documentation to categorize inquiries or to refer to different issues from taxpayers such as the “TRFP” or Trust Fund Recovery Penalty, the “LITs” or Low Income Taxpayers, and the taxpayers’ rights, which have to be respected, but often time their violation by the IRS leads to compelling inquiries at the NTA. Please refer to Appendix D and E for the Content Analysis Dictionaries.

*Table 4: Content Analysis Results from ATLAS.ti Tracking Systemic Issues and Recommendations on the USCIS Ombudsman’s Annual Reports from 2004-2015*

<b>Table 4: Content Analysis Results from First Case Study</b>	
<b>Quotation Count</b>	<b>References on the USCIS Ombudsman Annual Reports</b>
Recommendations	1880
USCIS-Customer Service Issues	132

USCIS-Employment Issues	1971
USCIS-Family and Children Issues	275
USCIS-Humanitarian Issues	336
USCIS-National Security Issues	88
USCIS-Processing Times Issues	118
TOTALS:	4800

*Table 5: Content Analysis Results from ATLAS.ti Tracking Systemic Issues and Recommendations on the IRS National Taxpayer’s Annual Reports from 2004-2015*

<b>Table 5: Content Analysis Results from the Second Case Study</b>	
<b>Quotation Count</b>	<b>References on the NTA’s Annual Reports</b>
Recommendations	1962
IRS- Tax Administration Issues	81
IRS- Tax Law Enforcement Issues	186
IRS- Tax Examination Issues	327
IRS- Tax Return Preparation Issues	562
IRS- Privacy & Protection of Taxpayers Issues	19
IRS- Tax Collection Issues	1301
IRS-Customer Service Issues	175
IRS-Tax Processing Issues	84
IRS-Taxpayers’ Rights Issues	33
TOTALS:	4730

Moreover, it was confirmed that both offices go a step further on what they are required to do. Both Ombudsmen have realized that having stakeholder engagement is beneficial for their offices given the nature of their work, and both offices report such actions on a yearly basis even though they are not obligated to report such information. This organizational behavior is in

agreement with Ashworth, Boyne, and Delbridge (2009), since they argue that organizations seek legitimization by “conforming” to the pressures in the environment. According to the USCIS Ombudsman Annual Report from 2016:

The Ombudsman conducted over 121 stakeholder engagements in the reporting period, reaching a diverse multitude of stakeholders across the United States. In addition, to inform stakeholders of new initiatives and receive feedback on a variety of topics and policy trends, the Ombudsman hosted nine public teleconferences and held a Fifth Annual Conference, featuring Secretary of Homeland Security Johnson as keynote speaker (p. vi).

Similarly, the IRS National Taxpayer Advocate’s records show that this office conducts ongoing public forums, and the transcripts of these sessions are posted on the website. This office indicates that it holds the IRS Taxpayer Public Forums because it helps, “to hear from taxpayers through panel discussions with congressional and community representatives and comments from the audience” (IRS, 2016). To stress the importance of public engagement with stakeholders, the IRS National Taxpayer Advocate Report from 2015 mentioned that:

...to ensure that U.S. taxpayers have a voice in the process, I will be going around the country and holding public hearings on this topic. I will invite members of Congress and representatives of different taxpayer populations and stakeholders to join me, so we can consider diverse viewpoints, and gather suggestions and descriptions of taxpayers’ needs... Taxpayers, in turn, need to speak up, be engaged, and hold the IRS accountable for responding to their needs (p. xv).

The IRS NTA's Office is not only organizing activities at the national level, but the Annual Report from 2015 indicates that it held its first International Conference on Taxpayer Rights on November 2015 (p. vii) and its second international conference will be in Austria in March, 2017 (IRS, 2016). The above actions show its openness and willingness to engage with customers. This may lead to a positive image, which could increase consumer confidence in the way the agencies do their job, legitimize the organizations among constituents, and potentially encourage other organizations to model the approach.

## Chapter 7: Conclusion

As it has been mentioned, this study had a very narrow focus to explore how neo-institutionalist theory can explain the establishment of external facing Ombudsman offices in the U.S. federal government through an analysis of the USCIS Ombudsman office and the IRS National Taxpayer Advocate office. The evidence from the historical retrospective analysis and the two cases indicates neo-institutional theory is relevant to answer the research question. Thus, this is essential since it elucidates how the theory helped to advance our comprehension of the government's desire to increase a sense of procedural justice through the creation of Ombudsman's offices to buffer external pressures, while fulfilling the needs of the government to ensure legitimacy. Moreover, this research helps us to understand why, despite the efforts of policymakers to force staff reductions across the federal government, Ombudsmen offices continued to be established to the point that almost every agency has an Ombudsman. Overall, this investigation contributes to scholarship by understanding current trends in government organizations and assess if precepts from neo-institutional theory remain applicable.

Between the late 1960s and 1990s, the context of the United States evolved and the population became more vocal and active, demanding access to the government, transparency, and accountability, as never before. Despite the clear separation of powers and the checks and balances to protect citizens' rights, there was a constitutional omission that kept individuals defenseless because they could not protect themselves against the government. This mechanism within the government structures was missing— and to accentuate the issue, the population had become increasingly doubtful of the government's actions. It became evident that procedural justice had to be preserved as a pillar of democracy, and this principle was used to guide the development of

a system for dispute resolution to overcome this constitutional gap to more fully protect individuals' rights. Meanwhile, external forces in the environment appeared to influence the transformation and evolution of the government, shaping a new phenomenon in public organizations. This investigation identified that very specific *external forces*, in this case Congress, influenced federal agencies, throughout regulation, to establish alternative dispute resolution programs (to resolve disagreements in lieu of litigation or administrative adjudication) and to set up procedures defining how policies are implemented across the government. Here is where the Ombudsman role comes into play. The purpose of this organizational idea borrowed from Sweden is to offer a mechanism for citizens to access the government, and to prevent wrongdoing and administrative error in a way that citizens do not have to spend costly fees on legal assistance to mediate their disputes (Reuss & Anderson, 1966). However, the adoption of and institutionalization of Ombudsman offices into the U.S. government took decades. The initial reaction from legislators towards Ombudsmen consisted of strong opposition, since it was not immediately apparent how Ombudsmen could fit in the American government (without causing overlaps in functions or duplication of work). Also, citizens expressed apathy towards this new entity, since they lacked information and were confused by the mixed messages shared by politicians. Over the years, academics, non-profits, and legislators served as a source of key analysis and reports to justify the introduction of the Ombudsmen into the U.S. federal government in an effort to improve the government as a whole. The establishment of Ombudsmen definitely changed the dynamics of public engagement and how the government responded to stakeholders. Notably, there is a departure between the Swedish classical-legislative Ombudsman model and the U.S. executive Ombudsman model. For instance, the Swedish model offered a single Ombudsman to address all types of government issues for the entire country, whereas the U.S. model has a

single purpose Ombudsman (in each federal agency) to address a specific area of government with its external stakeholders. The U.S. model goes a few steps further with the creation of other types of Ombudsmen, such as the internal facing Ombudsmen in the federal government, and there are also Ombudsmen at the state and local level. Similarly, in the U.S. model, external facing Ombudsmen are not appointed by the legislature, as it occurs in Sweden. In most cases, leadership from each agency decides who should be on this role. Therefore, the tenure for each Ombudsman varies. Moreover, the U.S. external facing Ombudsman do not report to the legislative branch as the classic-legislative Ombudsman reported to the Swedish Parliament. Instead, Ombudsmen in the U.S. model report to the Secretary of the federal agency that they oversee. Finally, most of the external facing Ombudsmen in the U.S. federal government were established as complaint-handling offices, since they were the perfect mechanism to ensure procedural justice by instituting an alternative dispute resolution system. The original European model was adapted and morphed to the conditions prevailing in the United States such as the type of government system, the size of the country, the historical context, and the purpose of having these offices.

Taking a step back and examining the evolving role and impact of Ombudsmen in the U.S. system of government from a historical perspective reveals that the theory of neo-institutionalist appropriately accounts for the emergence of external facing Ombudsmen offices. Findings signal that the establishment of Ombudsmen became an effective political strategy to provide new structures to avoid chaos, uncertainty, and to address stakeholders' needs, gaining legitimacy among constituents and ensuring the survival of the organization. These finding align with March and Olson's (1983) view that governmental structures are created, adapted, or changed as a result of political struggle among stakeholders. In fact, "Fundamental political interests, within the bureaucracy and outside, seek access, representation, control, and policy benefits" (March &



Olson, p. 283). The shift in sentiment that prompted the U.S. government to adopt the Ombudsman as an organizational idea represents a gradual change in public organizations, and it conveys perception that the government is indeed tuned to its diverse constituencies and ensuring procedural justice. In the last thirty years, government structures have grown and changed despite bureaucratic stringency. This is due to new regulations, responsibilities, and demands, among other reasons, and a strong example of this transformation is the Ombudsman phenomenon. The public may not fully perceive the reorganization that has taken place in the administrative apparatus of government due to small incremental changes in the procedures and structures that have occurred over the years. In retrospect, 38 external facing Ombudsmen offices have been embedded in federal agencies, providing a means and a voice for citizens to access most bureaucratic bodies. Given historical precedence, this phenomenon is likely to continue because the government functions with routinized procedures. Despite hesitations of Congress and the public to institutionalize more government and task the budget with additional public servants, the Ombudsmen are worth the expense for the government, to maintain a good image, reputation, and status quo. Neo-institutionalists argue that mandates, statutes, and authorizations from Congress are only rhetoric to give the appearance that the government is creating mechanisms to provide stakeholders access to the government and promote a sense of public ownership—but the effectiveness of these policies is questionable and requires further assessment. This view seems to accurately describe the effectiveness of the USCIS Ombudsman office, but may not account for the success of the National Taxpayer Advocate's office in instituting reform in the IRS.

The acts of Congress that have legislated the inclusion of Ombudsmen in the government to address dispute resolution appear to strengthen bureaucratic structures and at times, appease naïve citizens. Support of the Ombudsman by legislators is potentially motivated by political

control, given the fact that politicians make calculated decisions to reinforce their own power. This was evident when reviewing the historical records from Congressional hearings and official documents showing how legislators from both parties had strong opposition to Ombudsmen because they did not want to lose control over constituents. It was not until legislators found Ombudsmen to be a good mechanism to ensure procedural justice and overcome a breach in our Constitution that this idea was pondered and embraced. Interestingly, this move by politicians had two parallel outcomes. On one hand, based on the information provided on the Annual Reports, both Ombudsmen offices show how every year more and more stakeholders access the Ombudsmen services (based on the total number of inquiries received); and according to the customer satisfaction data on the Annual Reports from both cases, stakeholders express being satisfied with the mechanisms implemented to access the government., For example, per the report in 2015, taxpayers who engage with the National Taxpayer Advocate's office show an 88% customer satisfaction rate. Per the NTA's report in 2015, "taxpayers indicated they were very satisfied or somewhat satisfied with the service provided" (NTA, p. 1). This is positive for the government, because it gains legitimacy among its constituents. As a result, institutionalization occurs over time. On the other hand, constituents strengthen the power and control of politicians and government leadership is coopted, which leads to maintain the bureaucracy as March and Olson (1983) described.

Furthermore, in alignment with the neo-institutionalist model, the establishment of external facing Ombudsmen is a type of buffering utilized by the federal government to cope with external stakeholders and the external forces or uncertainty from the institutional environment such as potential expensive lawsuits, which can carry onerous budgetary repercussions; as well as bad image and reputation. This is why, despite the efforts of policymakers to force staff reductions

across the federal government, Ombudsman offices continue to be established to the point that almost every agency has an Ombudsman. External facing Ombudsmen in federal agencies are worth the expense, since reports consistently show that Ombudsmen offices positively impact the image and reputation of the government. This approach from the government was set in motion in the early 1990s, when federal agencies were instructed to engage with citizens to address their inquiries or address administrative errors. Interviewees even confirmed how the Ombudsman helps to “buffer” external pressures and ensure the fulfillment of the organizational goal and mission alignment, and simultaneously, contribute to the subsistence of the government.

As neo-institutionalism predicts, the compliance of federal agencies with *coercive pressures*, such as the Administrative Dispute Resolution Act (ADRA) of 1990 and 1996 the Alternative Dispute Resolution Acts from 1998, affirmed that these public organizations engaged in *satisficing behavior* to ensure their survival. On the same token, establishing external facing Ombudsman offices in compliance with the laws *legitimizes* federal agencies and leads them to increase their credibility with stakeholders as Meyer and Rowan (1977) and Frumkin and Galaskiewicz (2004) predicted. There is no doubt that ADR has led to considerable changes in the manner in which the U.S. federal government addresses grievances with its stakeholders. This phenomenon has also triggered *mimetic isomorphism*, since the effectiveness of some federal agencies using Ombudsmen, such is the case with the IRS, which has led to other agencies to replicate such practices, as multiple sources confirmed with the case of the USCIS Ombudsman office. This organizational behavior aligns with DiMaggio and Powell’s (1983) argument that the result of institutional pressures is to expand the homogeneity of organizational structures in the institutional environment.

Both case studies analyzed in this research project confirmed that the Ombudsmen fulfill their mission of providing venues for procedural justice and dispute resolution to citizens. Likewise, both offices have managed to comply without exception with their requirements from Congress to ensure funding and their survival by providing the list of pervasive problems, inventory of actions, and recommendations. Regarding the USCIS Ombudsman, it is clear how this organization helps convey good will from the government. Per this study, this Ombudsman is a good example of a buffering strategy to cope with stakeholders and allow the federal government to handle uncertainty in the environment. Also, data confirmed that the establishment of the IRS National Taxpayer Advocate's office and the development of its processes and procedures influenced the path of action for the USCIS Ombudsman office. A challenge that seems to persist with this first case is the effectiveness of this office. Particularly, when implementing the recommendations suggested by the Ombudsman to USCIS. Only 19 percent of the recommendations have been implemented to enhance stakeholder experiences with immigration practices and policies. This finding is key because it confirms Paul Light's arguments about "thickening the government" and how the government is constantly pressured to fulfill the needs from its customers. However, in such effort, we keep adding layers to our bureaucracy and its effectiveness is questionable, since all the layers weaken accountability, because is nearly impossible to know who is responsible for each decision (1995).

Regarding the second case study, evidence gathered showed that the IRS National Taxpayer Advocate's office has a more formalized structure, which is logical as this office has existed for a longer period of time. In general, the NTA is seen by other external facing Ombudsman offices as an example to follow, especially around the processes and procedures that have been developed. Per the report in 2015, the NTA has achieved 88 percent customer

satisfaction and 78 percent relief rate in cases. Other Ombudsman offices have replicated some of the NTA's actions as "best practices," triggering additional isomorphism. An example of such behavior was identified several times in this study when former NTA employees moved to other Ombudsman offices and started implementing NTA practices into their new Ombudsman offices. Even the NTA Ombudsman office has opportunities to improve, but given the massive volume of inquiries received per year and the limited resources, this might not be a governmental priority. Currently, this office offers taxpayers an outlet for taxpayers to express their discontent, correct tax errors, and influence tax policy, but even the staff of this Ombudsman office know that more can be done.

The inductive methodology used in this analysis was an optimal way to standardize comparison and comprehension of these Ombudsman entities given the limited resources and information about them. It also helped provide knowledge and elucidate how the establishment of Ombudsman offices contributes to legitimize the federal government agencies, since they are demonstrated to provide procedural justice and address stakeholder needs by offering a venue for alternative dispute resolution. Findings also signal that Ombudsmen are a buffering strategy to manage external pressures impacting the organizational environment. However, additional research is required to confirm that this is the case with the remainder of the external facing Ombudsmen offices in federal agencies. Neo-institutional theory helps to explain how coercive pressures, satisficing behavior, buffering, legitimization, and mimetic isomorphism occurs when studying the incorporation of the ADR Acts in the federal government throughout the establishment of Ombudsmen. Also, this same theory elucidates how public organizations and politicians are driven by goals and interests, and as such, they seek credibility and legitimacy to acquire stability and worthiness, as Oliver (1991) sustained. In short, this exploratory investigation

is to provide public administration scholarship with a description of the Ombudsmen phenomenon in the U.S. government and elaborate on how the substantive consequences of history around procedural justice have led to the formalization of these offices. The examination and analyses of the IRS National Taxpayer Advocate office and USCIS Ombudsman office support the neo-institutional theory model and advance our comprehension of external facing Ombudsman offices as institutions. Based upon these findings, further research can explore different angles on this topic, or reaffirm the applicability of neo-institutionalist theory to the Ombudsman phenomenon through examination of other cases across the government and evaluate the effectiveness of these entities.

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## Appendices

### *Appendix A: Script and Questionnaire for Interviews*

Dear participant:

Thank you for agreeing to participate in the interview on (date/time) to examine how Ombudsman offices have been established and standardized across the U.S. federal government. Your participation in this session is voluntary and it will last approximately 30-60 minutes. You may withdraw and discontinue participation at any time.

1. Participation involves being interviewed by a researcher from Virginia Tech. Notes will be written during the interview and with your consent, a recording of this interview will be made, but only the research team will have access to this information and your comments will remain anonymous.
2. You will not be identified by name in any reports using information obtained from this interview, so your confidentiality as a participant in this study will remain secure. Subsequent uses of records and data will be subject to standard data use policies, which protect the anonymity of individuals.
3. This research complies with the research protocol by the Institutional Review Board at Virginia Tech.
4. At the beginning of the interview, we will ask you to confirm that you have read and understand the explanation provided about this study. The research team is willing to

answer any questions, and we will appreciate if you could confirm that you voluntarily agree to participate in this study.

Below is a summary of the questions that we will cover during the interview. Again, thank you!

1. When was your agency's Ombudsman office established? What led to its creation?
  
2. Which of the following describes your office:
  - a. My office addresses internal facing issues (such as dealing with human resources' matters, employee mediation, and arbitration), or
  - b. My office addresses external facing issues (such as engaging with customers and other stakeholders outside of your organization to address their needs and resolve grievances).
  
3. Over the past few years, has your office become institutionalized? If so, please let me know how? And if any of the statements below apply (by elaborating on them):
  - a. My office has become a known entity to address stakeholders' issues.
  - b. My office promotes the agency's accountability, accessibility, transparency, and effectiveness.
  - c. My office is recognized as a neutral arbiter to assess government actions and avoid administrative errors.
  - d. My office established processes to ensure a systematic way to operate.

- e. My office influences organizational change in the agency that it oversees by identifying issues and making recommendations to improve the agency as a whole.
  - f. My office improves the agency's image and reputation. For example, gaining respect from internal and external stakeholders by showing the government's openness and willingness to engage with them.
  - g. My office's employees embrace the organization's mission and believe in it. For instance, there is a sense of pride among my peers regarding the work that we do.
  - h. My office has contributed to strengthen the institutional capacity of the agency that it oversees by enhancing government structures and services.
  - i. My office identifies internal and external pressures affecting the agency that it oversees, which helps to ensure its survival.
    - i. Mandates from Congress (such as issuing an annual report).
    - ii. Listening to stakeholders' concerns and addressing case inquiries.
    - iii. Using best practices from other Ombudsmen.
  - j. Other, please indicate...
5. Are there any measures that your office implements to ensure accountability? For instance, annual reports, tracking the total number of case inquiries received/answered, tracking the total number of recommendations being implemented, or tracking the amount of public engagements.
6. In your experience, are these accurate?



7. Are there any other mechanisms that are used?
  
8. Is there anything else that I might have missed that you would like to share?
  
9. Are there any other Ombudsman offices in the federal government that you think are good models or examples to be reviewed?
  
10. Can you suggest any knowledgeable people who may be willing to participate in this study?
  
11. Would you be willing to answer follow-up questions designed to clarify what we have discussed today?

Again, thank you so much for being willing to participate in this interview!

Appendix B: Matrix with the Analysis of the USCIS' Ombudsman Office Annual Reports from 2004 to 2015

Analysis of the USCIS' Ombudsman Office Annual Reports from 2004 to 2015												
Year / Variable	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b>Name of the USCIS Ombudsman</b>	Prakash Khatri	Prakash Khatri	Prakash Khatri	Prakash Khatri	Michael Dougherty	Richard E. Flowers	January Contreras	January Contreras	Debra Rogers	Maria Odom	Maria Odom	Maria Odom
<b>Number of Case Inquiries Received</b>	140	1,187	1,626	2,307	4,632	4,094	3,234	3,247	4,500	4,531	6,135	7,555
<b>List of Pervasive Problems Identified at USCIS</b>	<b>National Security</b> Immigration Benefit Fraud Resulting in Processing Delays  <b>Customer Service</b>	<b>Improving Internal Processes and Procedures</b> Backlogs and Prolonged Processing Times Interim Benefits	<b>Improving Internal Processes and Procedures</b> Backlogs and Prolonged Processing Times Untimely Processing and Systemic Problems	<b>Improving Internal Processes and Procedures</b> Complexity of the Immigration Process Backlogs and Pending Cases	<b>Improving Internal Processes and Procedures</b> Decrease FBI Name Check Delays Address Front logs & Backlogs that resulted	<b>Humanitarian</b> Challenges in humanitarian categories for victims of trafficking and specified criminal activity.  <b>Employment</b>	<b>Declining Receipts, Declining Revenue</b> Due to the constraints of the current fee funded structure and lack of revenue, USCIS raised filing fees. A drop in receipts results on	<b>Humanitarian</b> Enhance trafficking protections, processing of deferred action requests and asylum cases.  <b>Family</b>	<b>Humanitarian</b> Lack of clear, consistent information regarding who may request deferred action and how a request should be submitted. Also, deferred action requests remain pending	<b>Humanitarian</b> Protect victims of abuse, trafficking and other crimes. Address issues around unaccompanied alien children and special immigrant juvenile (abused,	<b>Improving Internal Processes and Procedures</b> Special Immigrant Juvenile adjudications USCIS processing times	<b>Families and Children</b> Deferred Action for Childhood Arrivals Provisional and Other Immigrant Waivers Extreme Hardship

<p>Limited Case Status Information Inadequate Information Technology and Facilities</p> <p><b>Process Workflows</b> Insufficient Standardization in Processing Prolonged Processing Times</p>	<p>Untimely Processing and Systemic Problems with Employment-Based Green Card Applications Information Technology Issues Coordination and Communication Lack of Standardization Across USCIS Business Processes Training and Staffing</p> <p><b>Customer Service</b> Limited Case Status Information</p>	<p>with Employment-Based Green Card Applications Lack of Standardization Across USCIS Business Processes Pending I-130 Petitions Interim Benefits Name Checks and Other Security Checks Funding of USCIS Information Technology Issues Coordination and Communication Training and Staffing Green Cards Collected,</p>	<p>Processing Times Information Technology Issues Staffing, Career Development, Training, and Strategic Workforce Planning and Recruiting Delay in Updating U.S. Citizenship Designation in Records Green Cards Collected, Not Recorded, and Green Card Delivery Problems Untimely Processing and Systemic Problems with Employment</p>	<p>from increased applications during Summer 2007 USCIS Fee Funding Structure Need for a better Case Management System Hone Information Technology Improve File Transfers and Tracking Need for better Statistics Streamline the Fingerprint Process Enhance the Intra-agency and Stakeholder</p>	<p>EB-5 investor visa processing. Improve the E-Verify program. Delays on the immigration processing for foreign nurses. Timely issuance of Employment Authorization Documents (EADs) for eligible applicants.</p> <p><b>Customer Service</b> Need to improve the motions to reopen/reconsider process. Need for an expansion of payment methods for USCIS customers.</p>	<p>programs put on hold. Antiquated technology and case management systems continue to hinder USCIS personnel in their efforts to provide efficient and transparent immigration services.</p> <p><b>Employment and Family Green Card Queues</b> Employers and families in the US and throughout the world rely on a variety of immigration services to obtain legal temporary or permanent status for employees or relatives. The Ombudsman has been working alongside USCIS and DOS to address low</p>	<p>Family-based visa retrogression, survivor benefits under section 204(1) under INA, military immigration issues and juvenile immigrant issues.</p> <p><b>Employment Challenges</b> with the <a href="#">VIBE tool</a>, the immigrant investor visa program (EB-5), ongoing issues relating to improper or overly burdensome requests for evidence (RFE), E-Verify issues, and EAD processing delays.</p>	<p>for extended periods of time. Asylum applicants and their representatives concerned about information sharing and communication problems between Executive Office for Immigration Review (EOIR) and USCIS. Overlapping jurisdiction, incompatible information systems, and cumbersome internal policies that create challenges for attorneys, and adjudicators.</p> <p><b>Family and Children</b></p>	<p>abandoned or neglected children without immigration status). Transparency around Discretionary Relief and Deferred Action for Childhood Arrivals (DACA) Program. Review the reinstatement of automatically revoked petitions.</p> <p><b>Family and Children</b> Improve processing of applications and petitions for surviving relatives and petitions to remove</p>	<p>Agency responses to service requests submitted through the Service Request Management Tool</p> <p><b>Customer Service</b> USCIS policy and practice in accepting Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative Challenges in the process for payment of the Immigrant Visa Fee</p>	<p>Military Immigration Issues Haitian Family Reunification Parole Program High-Skilled Adjudication Issues EB-5 Immigrant Investor Program Seasonal Delays in Employment Authorization Processing Employment-Based Immigrant Petition (Form I-140) Processing</p> <p><b>Humanitarian</b> Special Immigrant Juveniles</p>
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		Available to Applicants	Not Recorded, and Green Card Delivery Problems Delay in Updating U.S. Citizenship Designation in Records  <b>Customer Service</b> Limited Case Status Information Available to Applicants	-Based Green Card Applications Name Checks and Other Security Checks Funding of USCIS Lack of Standardization Across USCIS Business Processes Inefficient or Redundant Processes Coordination and Communication  <b>Customer Service</b> Customer Service	Communication Address the USCIS Workforce Complexities  <b>Requests for Evidence (RFEs)</b> Finding Efficiencies: Reducing Requests for Evidence (RFEs)  <b>Customer Service</b> Customer Service and Public Inquiries	Improve the naturalization process (new citizenship test).	demand in the family categories.  <b>Requests for Evidence (RFEs)</b> Stakeholders continue to express concerns with lack of standardization in adjudications, along with what they term unnecessary, inappropriate, overly-broad, or unduly labor-intensive RFEs. The Ombudsman reviews and makes recommendations on RFE issues in the H-1B Specialty Occupation and L-1 Intracompany Transferee categories.  <b>Customer Service and Public Inquiries</b> The USCIS National Customer Service Center	<b>Customer Service</b> Problems with posted USCIS processing times, call center and customer service interactions, and interagency cooperation.	Identify solutions to conditional residence issues. Continuous problems affecting individuals applying for survivor benefits.  <b>Employment</b> Failure to process (Employment Authorization Documents (EADs) in 90 days or issue interim EADs. Eliminate subjectivity on final merits determination to improve the quality in Extraordinary Ability and Other Employment-	conditions on residence. Centralized processing of provisional and other waivers of inadmissibility.  <b>Employment Concerns</b> requests for evidence, H-1B and L-1 visas, the immigrant investor program, as well as the petition information management system.  <b>Customer Service</b> Problems with posted USCIS processing times, barriers to fee waivers, and challenges	using USCIS's Electronic Immigration System (ELIS).	Affirmative Asylum Backlog Immigration Benefits for Victims of Domestic Violence, Trafficking, and Other Violent Crimes Fee Waiver Processing Issues Humanitarian Reinstatement for Surviving Relatives Under Immigration and Nationality Act Section 204(1) and the Regulations In-Country Refugee/Parole Program for Central
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						<p>telephone line, in particular Tier 1 contractors who are required to read from scripts, continues to be a major source of frustration. Many customers are unable to correct a service error or receive meaningful information regarding their cases from the USCIS call centers.</p>	<p>Based Adjudications. Ensure that critical immigration services available to military families.</p> <p><b>Customer Service</b> Prevalent issues around the Service Request Management Tool (SRMT) to receive efficient response to customers. Issues around the Petition Information Management Service (PIMS) reflecting accurate information. Erroneous information reflected on the Systematic Alien</p>	<p>around USCIS transformation.</p>	<p>American Minors</p> <p><b>Interagency, Process Integrity and Customer Service</b> Customer Service: Ensuring Proper Delivery of Notices and Documents Calculating Processing Times with USCIS Intake of Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative Transformation: Modernizing</p>
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									Verification for Entitlements (SAVE) system.			USCIS Systems, Case Processing, and Customer Service
<b>Number of Recommendations issued to address the above problems</b>	3	12	13	14	10	8	20	1	7	4	2	2

Appendix C: Matrix with the Analysis of the National Taxpayers Advocate's Annual Reports from 2004 to 2015

Analysis of the National Taxpayers Advocate's Annual Reports from 2004 to 2015												
Year / Variable	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b>Name of the National Taxpayer Advocate</b>	Nina Olson	Nina Olson	Nina Olson	Nina Olson	Nina Olson	Nina Olson	Nina Olson	Nina Olson	Nina Olson	Nina Olson	Nina Olson	Nina Olson
<b>Number of Case Inquiries Received</b>	168,856	197,679	242,173	247, 839	274,051	272,404	298,933	295.904	219,666	244,956	216,697	227,189
<b>List of Pervasive Problems Identified at the IRS</b>	<b>Customer Service</b> <ul style="list-style-type: none"> <li>• Taxpayer access to face-to-face interaction with the IRS</li> <li>• Taxpayer access to remote interaction with the IRS</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• Trends in taxpayer service</li> <li>• Criminal investigation on refund freezes</li> <li>• The cash economy</li> <li>• Training of private debt</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• Alternative minimum tax for individuals</li> <li>• Tax gap</li> <li>• Transparency of the IRS</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• The impact of late-year tax-law changes on taxpayers</li> <li>• Tax consequences of cancellation of debt income</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• The complexity of the tax code</li> <li>• IRS needs to more fully consider the impact of collection enforcement actions on taxpayers</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• IRS toll free telephone service is declining as taxpayer demands</li> <li>• One-size-fits all lien filing policies circumvent the spirit of the law fail to promote</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• The time for tax reform is required</li> <li>• The IRS mission statement does not reflect the agency's increasing responsibilities for administering social benefits programs</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• The IRS not adequately funded to serve taxpayers and collect taxes</li> <li>• The IRS' wage and withholding verification procedures may encroach on taxpayer rights and delay refund processing</li> <li>• Tax-related identity theft</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• The complexity of the tax code</li> <li>• The alternative minimum tax corrodes both the tax system and the democratic process</li> <li>• The IRS is significantly underfunded to serve taxpayers and collect tax</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• The IRS should adopt a taxpayer bill of rights as a framework for effective tax administration</li> <li>• The IRS desperately needs more funding to serve taxpayers and increase voluntary compliance</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• Taxpayer service has reached unacceptably low levels</li> <li>• The IRS lacks a clear rationale for taxpayer service budgetary allocation decisions</li> </ul>	<b>General Taxpayer Issues</b> <ul style="list-style-type: none"> <li>• The IRS "future state" has to be revised to protect all taxpayers</li> <li>• The IRS idea of adopting user fees to fill funding gaps needs to be reassessed</li> <li>• The Form 1023-EZ is</li> </ul>

<ul style="list-style-type: none"> <li>• Accuracy of tax law and accounts assistance</li> <li>• Education and outreach efforts</li> </ul> <p><b>Tax Return Preparation</b></p> <ul style="list-style-type: none"> <li>• Oversight of unenrolled return preparers</li> <li>• Electronic return preparation and filing</li> <li>• Problems in the volunteer return preparation program</li> </ul> <p><b>IRS Processing Issues</b></p> <ul style="list-style-type: none"> <li>• Inconsistent campus procedures</li> <li>• Processing ITIN</li> </ul>	<ul style="list-style-type: none"> <li>• EITC exam issues</li> <li>• Levies on social security payments</li> <li>• Appeals campus centralization</li> <li>• Refund anticipation loans: oversight of the industry, cross-collection techniques, and payment alternatives</li> <li>• Identity theft</li> <li>• Complexity of the employment tax deposit system</li> <li>• Automated collection</li> </ul>	<p><b>IRS Collections and Levies</b></p> <ul style="list-style-type: none"> <li>• True costs and benefits of private debt collection</li> <li>• Early intervention in IRS collection cases</li> <li>• IRS collection payment alternatives</li> <li>• Levies</li> <li>• Centralized lien procedures</li> <li>• Collection issues of low income taxpayers</li> <li>• Excess collections</li> <li>• Small business outreach</li> <li>• Oversight of unenrolled</li> </ul>	<ul style="list-style-type: none"> <li>• Cash economy User fees: Taxpayers service for sale</li> </ul> <p><b>Privacy and Protection of Taxpayers Information</b></p> <ul style="list-style-type: none"> <li>• The use and disclosure of tax return information by preparers to facilitate the marketing of refund anticipation loans and other products with high abuse potential</li> <li>• Identify theft procedures</li> </ul>	<ul style="list-style-type: none"> <li>• Understanding economic difficulties</li> <li>• Understanding and reporting the tax consequence of cancellation of debt income</li> <li>• Employment taxes</li> <li>• IRS process improvements to assist victims of identity theft</li> </ul> <p><b>Taxpayer Service Issues</b></p> <ul style="list-style-type: none"> <li>• Taxpayer service: Bringing service to the taxpayer</li> <li>• Navigating the IRS</li> <li>• IRS handling of ITIN applications significantl</li> </ul>	<ul style="list-style-type: none"> <li>• future tax compliance, and unnecessary harm taxpayers</li> <li>• The IRS lacks a service-wide return preparer strategy</li> <li>• Appeals' efficiency initiatives have not improved taxpayers satisfaction or confidence in appeals</li> <li>• The IRS lacks a service-wide e-services strategy</li> </ul> <p><b>Taxpayer Service Issues</b></p> <ul style="list-style-type: none"> <li>• Beyond EITC: The needs of low income taxpayers are not being</li> </ul>	<ul style="list-style-type: none"> <li>• IRS performance measures provide incentives that may undermine the IRS mission</li> <li>• The wage &amp; investment division is tasked with supporting multiple agency-wide operations, impeding its ability to serve its core base of individual taxpayers effectively</li> <li>• IRS policy implementation through systems programming lacks transparency and precludes adequate review</li> </ul> <p><b>Taxpayer Rights Issues</b></p> <ul style="list-style-type: none"> <li>• IRS collection policies and procedures fail to adequately protect</li> </ul>	<ul style="list-style-type: none"> <li>• continues to impose significant burdens on taxpayers and the IRS</li> <li>• Tax-related identity theft continues to impose significant burdens on taxpayers and the IRS</li> <li>• Expansion of math error authority and lack of notice clarity create unnecessary burden and jeopardize taxpayer rights</li> <li>• Automated "enforcement assessments gone wild: IRS efforts to address the non-filer population have produced questionable business results for the IRS while creating serious burden for many taxpayers</li> <li>• Changes to IRS lien filing practices are</li> </ul>	<p><b>Victims of Identity Theft and other Vulnerable Taxpayers</b></p> <ul style="list-style-type: none"> <li>• The IRS has failed to provide effective and timely assistance to victims of identity theft</li> <li>• The IRS harms victims of return preparer misconduct by failing to resolve their accounts fully</li> <li>• Despite some improvements, the IRS continues to harm taxpayers by unreasonably delaying the processing of valid refund claims that happen to trigger systemic filters</li> <li>• The IRS' compliance strategy for the expanded adoption credit has resulted in excessive delays to taxpayers, has increased costs for the IRS, and does not bode well for</li> </ul>	<ul style="list-style-type: none"> <li>• The drastic reduction in IRS employee training impacts the ability of the IRS employees' ability to assist taxpayers and protect their rights</li> <li>• Taxpayers and tax administration remain vulnerable to incompetent and unscrupulous return preparers while the IRS is enjoined from continuing its efforts to effectively regulate return preparers</li> <li>• Four years after the tax court's holding in <i>Vinatieri v. Commissioner</i>, the IRS continues to levy on taxpayers it acknowledges are in economic hardship and then</li> </ul>	<ul style="list-style-type: none"> <li>• The voluntary compliance program has to be revised</li> <li>• The IRS lacks a permanent appeals presence in 12 states and Puerto Rico</li> <li>• The Volunteer tax assistance programs are too restrictive and the design grant structure is not adequately based on needs of taxpayers</li> <li>• The implementation of the affordable care act may unnecessarily burden taxpayers</li> <li>• The offshore voluntary disclosure programs violate</li> </ul>	<ul style="list-style-type: none"> <li>• automatic for most applicants, but that promotes non compliance</li> <li>• Hundreds of taxpayers experience delays on their refunds for being incorrectly flagged</li> <li>• IRS online account system might not be the solution to all customer service needs from taxpayers</li> <li>• It could be harmful to grant access to the online taxpayer account system to uncredentialed preparers</li> <li>• The IRS has to address the unique needs of</li> </ul>
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<p>applications and amended income tax returns</p> <ul style="list-style-type: none"> <li>• Lack of notice clarity</li> <li>• Erroneous and miscalculated collection status expiration dates</li> <li>• Application and filing burdens on Small Tax-Exempt Organizations</li> </ul> <p><b>Tax Law Enforcement and the Tax Gap</b></p> <ul style="list-style-type: none"> <li>• IRS examination strategy</li> <li>• Federal contractors and the</li> </ul>	<p>system levy releases</p> <ul style="list-style-type: none"> <li>• Regulation of electronic return originators</li> <li>• Limited scope of backup withholding program</li> <li>• Accessibility of e-services for tax practitioners</li> <li>• Mandatory briefings for IRS employees about the Taxpayer Advocate Service</li> <li>• Allowable expense standards for collection decisions</li> <li>• Inadequate taxpayer service to exempt</li> </ul>	<p>return preparers</p> <ul style="list-style-type: none"> <li>• Correspondence delays</li> <li>• Disasters response and recovery</li> <li>• Concerns with the IRS Office of Appeals</li> <li>• Correspondence examination</li> <li>• IRS Implementation of Math Error Authority impairs taxpayer rights</li> <li>• Limited English proficient taxpayers: Language and cultural barriers to tax compliance</li> </ul>	<ul style="list-style-type: none"> <li>• Mortgage verification</li> </ul> <p><b>Tax Return Preparers and Representatives</b></p> <ul style="list-style-type: none"> <li>• Transparency of the office of professional responsibility</li> <li>• Preparer penalties and bypass of taxpayers' representatives</li> </ul> <p><b>Taxpayer Service Issues</b></p> <ul style="list-style-type: none"> <li>• Taxpayer service and behavioral research</li> <li>• Service at taxpayers assistance centers</li> </ul>	<p>y delays taxpayer returns and refunds</p> <ul style="list-style-type: none"> <li>• Access to the IRS by individual taxpayers located outside the U.S.</li> </ul> <p><b>Compliance Issues</b></p> <ul style="list-style-type: none"> <li>• Customer service within compliance</li> <li>• Local compliance initiatives have great potential but face significant challenges</li> <li>• Customer service issues in the IRS' Automated Collection System (ACS)</li> <li>• The IRS should proactively</li> </ul>	<p>adequately met</p> <ul style="list-style-type: none"> <li>• U.S. taxpayers located or conducting business abroad face compliance challenges</li> </ul> <p><b>Examination Issues</b></p> <ul style="list-style-type: none"> <li>• The IRS correspondence examination program does not maximize voluntary compliance</li> <li>• The IRS examination function is missing opportunities to maximize voluntary compliance at the local level</li> <li>• The IRS does not know if it is using state and local</li> </ul>	<p>taxpayers suffering an economic hardship</p> <ul style="list-style-type: none"> <li>• The IRS does not know the impact of ignoring a non-IRS debt when analyzing a taxpayer's ability to pay an IRS debt</li> <li>• The failure of the office of appeals to document prohibited ex parte communications may violate taxpayer rights and damage the public's perception of its independence</li> <li>• The IRS' failure to provide timely and adequate collection due process hearings may deprive taxpayers of an opportunity to have their cases fully considered</li> </ul>	<p>needed to improve future compliance, increase revenue collection, and minimize economic harm inflicted on financially struggling taxpayers</p> <ul style="list-style-type: none"> <li>• Foreign taxpayers face challenges in fulfilling U.S. tax obligations</li> <li>• Individual U.S. taxpayers working, living or doing business abroad require expanded service targeting their specific needs and preferences</li> <li>• Small businesses involved in international economic activity need targeted IRS assistance</li> <li>• Globalization requires greater internal IRS coordination of international taxpayer service</li> <li>• U.S. taxpayers abroad face</li> </ul>	<p>future credit administration</p> <p><b>Protection of Taxpayer rights in Compliance Initiatives</b></p> <ul style="list-style-type: none"> <li>• The IRS offshore voluntary disclosure programs discourage voluntary compliance by those who inadvertently failed to report foreign accounts</li> <li>• The IRS' handling of ITIN applications imposes an onerous burden on ITIN applicants, discourages compliance, and negatively affects the IRS' ability to detect and deter fraud</li> <li>• The preservation of fundamental taxpayer rights is critical as the IRS develops a real time system</li> </ul>	<p>files to release the levies</p> <ul style="list-style-type: none"> <li>• The IRS still refuses to issue refund to victims of return preparer misconduct despite ample guidance allowing the payment of such refunds</li> <li>• The IRS inappropriately bans many taxpayers for claiming EITC</li> <li>• The Indian tribal taxpayers impacted by inadequate considerations of their unique needs</li> <li>• The automated collection system's case selection and processes result in low collection yields and poor case resolution, thereby harming taxpayers</li> <li>• IRS collection procedures harm business</li> </ul>	<p>taxpayer rights</p> <ul style="list-style-type: none"> <li>• The IRS penalties do not promote voluntary compliance</li> <li>• The IRS does not report on tax complexity as required by the law</li> <li>• The IRS does has no process to ensure front line technical experts discuss legislation with the tax writing committees as required by Congress</li> <li>• The IRS does not sufficiently incorporate the findings of applied and behavioral research into audit selection process as</li> </ul>	<p>international taxpayers</p> <ul style="list-style-type: none"> <li>• The IRS should not avoid the quality and extent of substantive administrative appeals available to taxpayers</li> <li>• The collection appeals program provides insufficient protections for taxpayers facing collection actions</li> <li>• The levies on assets in retirement accounts needs to be improved to protect taxpayers</li> <li>• The notices of federal tax lien needs to be revised</li> <li>• The third party contact procedures do</li> </ul>
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	<p>federal payment levy program</p> <p><b>Taxpayer Rights</b></p> <ul style="list-style-type: none"> <li>• Independence of the IRS office of appeals</li> <li>• IRS mediation program</li> <li>• Office in compromise</li> <li>• Taxpayer rights training in a complex and changing tax environment</li> <li>• Access to the Taxpayer Advocate Service</li> </ul>	<p>organizations resulting in unnecessary penalties</p> <ul style="list-style-type: none"> <li>• Direct deposit of income tax refunds</li> <li>• Innocent spouse claims</li> <li>• Limitations of collection account databases</li> <li>• Reasonable cause assistant</li> </ul>	<ul style="list-style-type: none"> <li>• Taxpayers “no response” rates</li> <li>• Reasonable accommodations for taxpayers with disabilities</li> <li>• Injured spouse allocations</li> </ul>	<ul style="list-style-type: none"> <li>• Outreach and education on disability issues for small business/self-employed taxpayers</li> <li>• Exempt organization outreach and education</li> <li>• Determination letter process</li> </ul> <p><b>Examination Issues</b></p> <ul style="list-style-type: none"> <li>• EITC Examination and the Impact of Taxpayer Representation</li> <li>• Nonfiler program</li> <li>• Automated underreporter</li> </ul>	<p>address emerging issues such as those arising from virtual worlds</p> <p><b>Examination Issues</b></p> <ul style="list-style-type: none"> <li>• Suitability of the examination process</li> </ul> <p><b>Tax Administration Issues</b></p> <ul style="list-style-type: none"> <li>• The impact of IRS centralization on tax administration</li> <li>• Incorrect examination referrals and prioritization decisions cause substantial delays in amended returns processing</li> </ul>	<p>data effectively to maximize voluntary compliance</p> <ul style="list-style-type: none"> <li>• The IRS lacks comprehensive “income” database that could identify underreporting and improve audit efficiency</li> <li>• The IRS does not have a significant audit program focused on detecting the omission of gross receipts</li> <li>• The IRS has delayed minor tax form changes that would promote voluntary compliance</li> </ul>	<ul style="list-style-type: none"> <li>• Third-party reporting of cancellation-of-debt events is not always accurate and the IRS’ reliance on such reporting may burden taxpayers</li> <li>• The IRS’ failure to track and analyze the outcomes of audit reconsiderations and inconsistent guidance increase taxpayer burden and inflate IRS audit results and cost effectiveness measures</li> <li>• Persistent breakdowns in power of attorney processes undermine fundamental taxpayer rights</li> <li>• IRS collection policies channel taxpayers into installment</li> </ul>	<p>challenges in understanding how the IRS will apply penalties to taxpayers who are reasonably trying to comply or return into compliance</p> <ul style="list-style-type: none"> <li>• The IRS’ offshore voluntary disclosure program “Bait and Switch” may undermine trust for the IRS and future compliance programs</li> <li>• Accelerated third-party information reporting and pre-populated returns would reduce taxpayer burden and benefit tax administration but taxpayer protections must be addressed</li> <li>• The IRS should reevaluate Earned Income Tax Credit compliance measures and take steps to improve both service and compliance</li> </ul>	<ul style="list-style-type: none"> <li>• Overextended IRS resources and IRS errors in the automatic revocation and reinstatement process are burdening tax-exempt organizations</li> </ul> <p><b>Taxpayer Service in the XXI Century</b></p> <ul style="list-style-type: none"> <li>• The IRS Telephone and correspondence services have deteriorated over the last decade and must improve to meet taxpayer needs</li> <li>• The IRS has failed to make free return preparation and free electronic filing available to all individual taxpayers</li> <li>• The IRS is striving to meet taxpayers’ increasing demand for online services, yet more needs to be done</li> <li>• Challenges persist for international taxpayers as the</li> </ul>	<p>taxpayers and contribute to substantial amount of loss revenue</p> <ul style="list-style-type: none"> <li>• The IRS lacks a process to resolve taxpayer accounts with extensions exceeding its current policy limits</li> <li>• Current procedures allow undue deference to the collection function and do not provide the taxpayer a fair and impartial hearing</li> <li>• The IRS continues to struggle with revocation process and erroneous revocation of exempt status</li> <li>• Ongoing problems with IRS refund fraud programs harm taxpayers by delaying valid refunds</li> </ul>	<p>part of an overall compliance strategy</p> <ul style="list-style-type: none"> <li>• Taxpayers are unable to navigate the IRS to resolve their issues</li> <li>• The IRS needs to assign a specific employee to review correspondence examination cases</li> <li>• The IRS’ failure to include employee contact information on audit notices impedes case resolution and accountability</li> <li>• The IRS should maximize videoconferencing and technology to enhance</li> </ul>	<p>not follow the law</p> <ul style="list-style-type: none"> <li>• The whistleblower program does not fully protect confidentiality and is difficult</li> <li>• The implementation of the affordable care act has to be revised around the employer provisions</li> <li>• The IRS is compromising taxpayers rights implementing the affordable care act</li> <li>• The IRS is still imposing a big burden on identity theft victims</li> <li>• The automated substitute for return program</li> </ul>
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				<ul style="list-style-type: none"> <li>• The accuracy related penalty in the automated underreporter units</li> <li>• Audit reconsideration</li> <li>• Audits of S corporations</li> </ul> <p><b>Collection Issues</b></p> <ul style="list-style-type: none"> <li>• FPLP levies on social security benefits</li> <li>• Third party payers</li> <li>• Employee tax treatment of home care service recipients</li> <li>• Offer in compromise</li> </ul>	<p>for individuals</p> <ul style="list-style-type: none"> <li>• Inadequate files management burden taxpayers</li> <li>• The IRS miscalculates interests and penalties but fails to correct these errors due to restrictive abatement policies</li> <li>• Inefficiencies in the administration of the combined annual wage reporting program impose substantial burden on employers and waste IRS resources</li> </ul>	<p>and increase audit efficiency</p> <p><b>Collection Issues</b></p> <ul style="list-style-type: none"> <li>• The steady decline of the IRS offer in compromise programs is leading to lost opportunities for taxpayers and the IRS alike</li> <li>• IRS policies and procedures for collection statute expiration dates adversely affected taxpayers</li> <li>• The IRS approach towards taxpayers during and after bankruptcy may impair</li> </ul>	<p>agreements they cannot afford</p> <ul style="list-style-type: none"> <li>• The IRS' over-reliance on its reasonable cause assistant leads to inaccurate penalty abatement determinations</li> <li>• State domestic partnership laws present unanswered federal tax questions</li> </ul> <p><b>Tax Administration Issues</b></p> <ul style="list-style-type: none"> <li>• The IRS has not studied or addressed the impact of the large volume of undelivered mail on taxpayers</li> <li>• The IRS does not process vital taxpayer responses timely</li> <li>• The IRS should accurately track sources of</li> </ul>	<ul style="list-style-type: none"> <li>• Reinstatement of a modernized TeleFile and address domestic violence and abuse and its effects on tax administration</li> </ul> <p><b>Compliance Issues</b></p> <ul style="list-style-type: none"> <li>• The IRS does not emphasize the importance of personal taxpayer contact as an effective tax collection tool</li> <li>• The new income filter for federal payment levy program does not fully protect low income taxpayers from levies on social security benefits</li> <li>• The IRS has failed to stem the tide of transfers to its excess collection file, which contains billions of dollars in payments, and makes disproportionately little effort to</li> </ul>	<p>IRS moves slowly to address their needs</p> <ul style="list-style-type: none"> <li>• IRS processing laws and service delays continue to undermine fundamental rights to representation</li> <li>• The IRS lacks a service-wide strategy that identifies effective and efficient means of delivering face-to-face taxpayers services</li> <li>• The IRS is substantially reducing both the amount and scope of its direct education and outreach to taxpayers and does not measure the effectiveness of its remaining outreach activities, thereby risking increased compliance</li> <li>• A proactive approach to developing a governmental issued debit card to receive tax refunds</li> </ul>	<ul style="list-style-type: none"> <li>• The IRS assessed penalties improperly, refused to abate them, and still assesses penalties automatically</li> <li>• The IRS' sudden discontinuance of the disclosure authorization and electronic account resolution applications left practitioners without adequate alternatives</li> <li>• Current procedures to the IRS worker classification cause delays and hardships for businesses and workers</li> <li>• The IRS is taking important steps to improve international taxpayer service initiatives</li> <li>• ITIN application procedures burden taxpayers and create a</li> </ul> <p>taxpayer services</p> <ul style="list-style-type: none"> <li>• The IRS does not explain math error notices</li> <li>• The IRS does not explain refund disallowance notices</li> <li>• The IRS needs specific procedures for performing the collection due process balancing test to protect taxpayers</li> <li>• The federal payment levy program harms taxpayers experiencing hardship</li> <li>• The IRS has failed to realize the potential of offers in compromise</li> <li>• The IRS does not comply with the law</li> </ul>	<p>needs to be revised</p> <ul style="list-style-type: none"> <li>• The reductions in the practitioner priority service phone line staffing impacts taxpayers</li> <li>• The IRS effectiveness on collections can be improved by using codes</li> <li>• The IRS should not delay updating the list of exempt organizations</li> <li>• The IRS should improve the training on the pre-filing environment to increase EITC compliance</li> <li>• The IRS should audit returns with the greatest indirect</li> </ul>
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				<ul style="list-style-type: none"> <li>• Inadequate training and communication regarding effective tax administration offers</li> <li>• Assessment and processing of the Trust Fund Recovery Penalty (TFRP)</li> </ul>		<p>their “fresh start” and future tax compliance</p> <p><b>Tax Administration Issues</b></p> <ul style="list-style-type: none"> <li>• Ponzi schemes present challenges for taxpayers and the IRS</li> <li>• IRS power of attorney procedures often adversely affect the representation many taxpayers need</li> <li>• The IRS mismanages joint filers’ separate accounts</li> <li>• Targeted research and increased collaboration needed to meet the needs of tax-exempt</li> </ul>	<p>balance due payments to determine the revenue effectiveness of its enforcement activities and service initiatives</p> <ul style="list-style-type: none"> <li>• The IRS has been reluctant to implement alternative service methods that would improve accessibility for taxpayers who seek face-to-face assistance</li> <li>• The S corporation election process unduly burdens small business</li> <li>• The combined annual wage reporting program continues to impose a substantial burden on employees</li> </ul>	<p>prevent transfers from low income taxpayers</p> <p><b>Tax Administration Issues</b></p> <ul style="list-style-type: none"> <li>• The IRS’ failure to consistently vet and disclose its procedures harms taxpayers, deprives it of valuable comments, and violates the law</li> <li>• After refund anticipation loans: Taxpayers require improved education about delivery options and the availability of a government-sponsored debit card</li> <li>• The IRS procedures for replacing stolen direct deposit refunds are not adequate</li> </ul>	<p>will benefit unbanked taxpayers</p> <p><b>Taxpayer Service Within Collection</b></p> <ul style="list-style-type: none"> <li>• The diminishing role of the revenue officer has been detrimental to the overall effectiveness of IRS collection operations</li> <li>• The automated collection system must emphasize taxpayer service initiatives to resolve collection workload more effectively</li> <li>• Although the IRS “Fresh Start” initiative has reduced the number of liens filed, the IRS has failed to determine whether its lien-filing policies are clearly supported by increases in revenue and taxpayer compliance</li> <li>• Early intervention, offers in</li> </ul>	<p>barrier to return filing</p> <ul style="list-style-type: none"> <li>• The IRS offshore voluntary disclosure program disproportionately burdens those who make honest mistakes</li> <li>• The foreign account tax compliance act has the potential to be burdensome, overly broad and detrimental to taxpayers rights</li> <li>• The IRS should issue guidance to assist users of digital currency</li> <li>• The IR should issue additional guidance for domestic partners and same sex couples</li> </ul>	<p>regarding victims of payroll service provider failure</p> <ul style="list-style-type: none"> <li>• The approval process for liens circumvents key taxpayer protections in RRA 98</li> <li>• The statutory notices of deficiency do not include local taxpayer advocate office contact info in the face of the notices</li> </ul>	<p>potential for improving EITC compliance</p> <ul style="list-style-type: none"> <li>• The IRS’ EITC return preparer strategy does not adequately address the role of preparers in EITC noncompliance</li> </ul>
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						<p>organization s</p> <ul style="list-style-type: none"> <li>• The IRS should develop an in-house cognitive research lab to understand taxpayer behavior and devise more effective products and programs</li> </ul>			<p>compromise, and proactive outreach can help victims of failed payroll service providers and increase employment tax compliance</p>			
<b>Number of Recommendations issued to address the above problems</b>	8	10	15	13	17	11	11	13	7	10	19	15

*Appendix D: Dictionary for the USCIS Ombudsman Office's Case*

<p><b>List of Pervasive Problems Identified at USCIS</b></p>	<p><b>National Security</b></p> <ul style="list-style-type: none"><li>● Fraud</li><li>● Name and Security checks</li><li>● Privacy</li></ul> <p><b>Customer Service</b></p> <ul style="list-style-type: none"><li>● Case Status</li><li>● Inadequate Information</li><li>● Green card delivery issues</li><li>● USCIS funding structure (filing fees)</li><li>● Unnecessary requests for Evidence (RFEs)</li><li>● More methods of payment needed</li><li>● The National Customer Service Center (NCSC) telephone line frustrating</li><li>● Issues with the Service Request Management Tool (SRMT)</li><li>● Issues with the Petition Information Management Service (PIMS)</li><li>● Revoked petitions</li><li>● Policy accepting Form G-28 for representatives</li><li>● Challenges filing thru the electronic system ELIS</li></ul> <p><b>Improving Internal Processes and Procedures</b></p> <ul style="list-style-type: none"><li>● Backlogs</li><li>● Processing Times</li><li>● Technology Issues</li><li>● Coordination and Communication</li><li>● Standardization Across USCIS</li><li>● Subjectivity on adjudications</li><li>● Training and Staffing</li><li>● Fingerprint process</li><li>● Case management system</li></ul> <p><b>Humanitarian</b></p> <ul style="list-style-type: none"><li>● Challenges assisting victims of trafficking</li><li>● Addressing criminal activity</li><li>● Protection for Deferred Action (DACA) and Asylum cases</li><li>● Complexities for unaccompanied alien children and special immigrant juvenile</li><li>● Provisional and other waivers of inadmissibility</li><li>● Defining extreme hardship</li></ul> <p><b>Family and Children</b></p> <ul style="list-style-type: none"><li>● Problems for survivor benefits</li><li>● Issues impacting military families</li><li>● Reunification Parole</li></ul>
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	<p><b>Employment</b></p> <ul style="list-style-type: none"> <li>● Improve EB-5 visa processing</li> <li>● Improve the E-Verify program</li> <li>● Delays issuing Employment Authorization Documents (EADs)</li> <li>● Errors on the Systematic Alien Verification for Entitlements (SAVE) system</li> <li>● H1-B and L-1 visas</li> <li>● Nurses and seasonal workers</li> </ul>
<b>Recommendations issued</b>	<p><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>● Suggestion</li> <li>● Proposal</li> <li>● Advice</li> </ul>

*Appendix E: Dictionary for the IRS National Taxpayer Advocate's Case*

<b>List of Pervasive Problems Identified at the IRS</b>	<p><b>Customer Service</b></p> <ul style="list-style-type: none"> <li>● Taxpayer access to IRS</li> <li>● Accuracy of assistance</li> <li>● Inconsistent guidance</li> <li>● Electronic services</li> <li>● Outreach efforts</li> <li>● Training employees</li> <li>● Database effectiveness</li> <li>● Transparency</li> <li>● Fees</li> <li>● Withholding verification</li> <li>● Notices</li> </ul> <p><b>Tax Return Preparation</b></p> <ul style="list-style-type: none"> <li>● Oversight of preparers</li> <li>● Scams</li> <li>● Returns</li> <li>● Penalties</li> <li>● Late-year tax-law changes</li> <li>● Audits</li> <li>● Power of attorney</li> <li>● Automated system</li> <li>● International taxpayers</li> </ul>
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**Privacy and Protection of Taxpayers Information**

- Mortgage verification
- Fraud
- Security of online system
- Confidentiality
- Whistleblower program

**IRS Processing Issues**

- Inconsistent procedures
- Processing ITIN applications and amended tax returns
- Errors
- Fling burdens

**Tax Law Enforcement and the Tax Gap**

- Strategy standards
- Levy program
- Identity theft
- Spouse claims
- Private Debt collection
- Low income taxpayers
- One-size-fits all lien filing policies
- Defining hardship
- Digital currency

**Taxpayer Rights**

- Independence
- Mediation
- Impartial hearings
- Resolution
- Complex tax law
- Limited English proficiency
- Access for those with disabilities
- Access to administrative appeals
- Disaster response
- Domestic violence

**Examination Issues**

- EITC Examination Nonfiler program
- Automated underreporter

**Collection Issues**

- FPLP levies on social security benefits
- Employment taxes
- Bankruptcy
- Combined annual wage reporting program
- Offshore voluntary disclosure program



	<ul style="list-style-type: none"> <li>● Third party payers</li> <li>● Trust Fund Recovery Penalty (TFRP)</li> <li>● Ponzi schemes</li> <li>● Performance measures</li> <li>● Burden on tax-exempt organizations</li> </ul> <p><b>Tax Administration Issues</b></p> <ul style="list-style-type: none"> <li>● State domestic partnership laws</li> <li>● Indian tribal taxpayers laws</li> <li>● Undelivered mail</li> <li>● Funding</li> </ul>
<p><b>Recommendations Issued</b></p>	<p><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>● Suggestion</li> <li>● Proposal</li> <li>● Advice</li> </ul>