As Ian savaged the Florida Gulf Coast in September 2022, FEMA's operations center carefully monitored the storm and engaged in regular press briefings.

Source: Kevin Dietsch/Staff via Getty Images

2 ACCOUNTABILITY

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LEARNING OBJECTIVES

- Understand the meaning of accountability, and the various approaches for defining it

- Explore the historical development of accountability

- Define the elements of accountability

- Connect the approaches to accountability to administrative ethics and the public service

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We use the word **accountability** a great deal. Amid massive school brawls in Baltimore, for example, parents demanded more accountability. The fighting in the schools, one parent said, was "out of control."[1]

However, we rarely stop to ask ourselves what it means, how it works, what we seek to control, or who controls whom. The issue has very deep historical roots. The word has its origins, as far back as the 1200s, in the notion that something ought to be capable of being counted. Medieval kings wanted to know what happened to their money. Accountability is even more important in a modern democracy. So let us examine these issues in turn: what it is, what we seek to accomplish, and how accountability works.

WHAT IS ACCOUNTABILITY?

Accountability is a relationship between people (who is accountable to whom?) about actions (what are they accountable for?). It is the foundation of bureaucracy in a democracy, because accountability depends on the ability of policymakers to *control* administrators' actions—and democracy depends on ensuring that administrators are held accountable. Control, in turn, can be either *positive* (requiring individuals to do something they ought to do) or *negative* (seeking to prevent individuals from doing something they should not do). Sins of omission as well as acts of commission are subject to investigation, criticism, instructions, sanctions, and, as we saw in Baltimore, tough media questions.

The principal focus of control is discovering bureaucratic errors and requiring the bureaucracies to correct them—a largely negative approach that tends to dominate for several reasons. First, it is easier to see—and to criticize—sins of commission, for they tend to be the stories that attract media attention; the more intense the news coverage, the stronger the policymakers' reaction is likely to be. In 2004, the abuse of Iraqi prisoners by a small group of American soldiers generated news stories for months, while the effective military service—and considerable suffering—of other American troops in Iraq received little attention in comparison. Second, a legislative body (such as Congress, a state legislature, or a city council) is naturally drawn more to shining a searchlight on particular problems. Figuring out how to solve them is always more difficult. When lead poisoning crippled the water system in Flint, Michigan, in 2015 and 2016, local and state investigators, along with federal regulators, worked to figure out the source of the problem and how to fix it.

Our exploration of accountability focuses on how policymakers seek to shape administrative behavior. It therefore focuses primarily on the negative aspects of external control: correcting bureaucratic behavior that policymakers believe is not in the public interest. However, we will also explore the complicated dynamics of how policy, often fuzzy, becomes translated into administrative action.

But do policymakers actually *want* to control administrators? Often they do not. If policymakers precisely specify policy goals, that would make them more directly responsible for the results. Policymakers often like to keep some distance between the decisions they make and the consequences that result. When problems occur—from accidents in the space program to the slow response time of fire trucks—reporters and top officials like to prowl for someone to blame. An unbroken chain from top policymakers to the front line would put the blame for problems directly into the laps of elected officials. Top officials certainly do not want to encourage problems, but they do not want the finger of blame pointing directly at them when problems inevitably occur. When the independent commission investigated the September 11, 2001, terrorist attacks, commission members discovered that the web of responsibility was so unclear that it was impossible to fix the blame. Despite heavy pressure to hold someone accountable for failures in intelligence and security, no one was fired. In 2005, when Hurricane Katrina produced the worst administrative failure in American history, only the administrator of the Federal Emergency Management Agency, Michael Brown, lost his job, despite manifest problems throughout the entire federal, state, and local policy systems. Despite his city's huge problems in responding to the storm, New Orleans Mayor Ray Nagin was reelected.

Avoiding the "Gotcha" of Accountability

Even if elected officials actually wanted a clear chain of accountability, it would create a "gotcha" effect: if administrators knew they would have to answer for every problem, they would make sure no one could see any problems they would have to answer for. Administrative problems rarely have simple solutions or leave a clear trail. How likely is it that some drugs will cause deformities in humans, or that landing an airplane in a thunderstorm is likely to be unsafe? How can a dangerous chemical dump best be cleaned? When a storm wobbles between snow, ice, and rain, when is it best to plow the roads, and how many chemicals should be applied to keep them clear (and what damage to the environment and to the roadways might the chemicals cause)? If we punish risk-taking, we are likely to get too-safe decisions that prevent government from doing its job. Excessive controls increase red tape and delay action. Finger-pointing leads to administrators digging deep foxholes instead of taking risks to achieve high performance.

So much energy can be spent attempting to control administrative activities—and backing up everything with reams of paper—that there may be little money or time left to do the job. Controls that are too tight, therefore, may actually *reduce* an administration's responsiveness to its public. Indeed, as British scholar Peter Self put it in 1972, "The tensions between the requirements of responsibility or 'accountability' and those of effective executive action can reasonably be described as *the* classic dilemma of public administration."[2] More recently, American Philip K. Howard wrote, "Governing sensibly is basically impossible in a bureaucratic and legal jungle. Common sense disappears into the quicksand of thick rulebooks, lengthy processes, and claimed rights."[3]

The problem at the core is this: policy can never cover every nook and cranny of the decisions that administrators will need to make. That means they inevitably have discretion over what not to do, what to do, and how best to do it. It is never possible to specify everything an administrator should do, for there are simply too many possibilities that come up along the way. Even if it were possible, it would be unwise to do so, because matching policy goals to the wide range of local conditions requires discretion. As administrators exercise discretion, they can run afoul of what policymakers wanted (or what they later discover they should have wanted). That creates political conflict—and the impetus for policymakers to intervene.

Discretion is inevitable in administrative action. It is desirable because we want experts to determine the best way to accomplish government's goals. Policymakers can never specify all of the steps a complex program requires, and frontline administrators inevitably have to use their judgment in making programs work. Even if legislators could specify all of the steps, the legislative process—from city councils to the halls of Congress—makes that impossible. Moreover, good administration requires adapting general policies to special circumstances. When first responders arrive on the scene of a serious traffic accident or a building collapse, what should they do first? How should firefighters approach a burning building, since every blaze is different? Good responses depend on good training and professional judgment. That always requires discretion. In fact, German Field Marshal Helmuth von Moltke famously wrote in 1871 that no military plan survives its first contact with the enemy.[4] Effective military strategy therefore requires substantial discretion for field commanders.

And that leads to the basic point. We want to give administrators enough room to make the right decisions, yet we want to hold them and their decisions accountable. Administrators must follow the law and meet the goals of public policy—at the same time.

Finding the right balance is an eternal challenge—and who makes the call? Who ultimately is accountable for what? This is an ancient puzzle. The Romans, in fact, worried about the problem. The poet Juvenal wondered, "*Quis custodiet ipsos custodes*?"—"Who is to watch the watchers?"[5] We all want accountability, but there is no absolute standard for what accountability is and who holds accountable those in charge of accountability. Accountability is a relationship, and like all relationships, it constantly changes—and is often full of tension.[6]

In the American constitutional system, these tensions are deeply rooted in the separation of powers structure invented by the founders. The bureaucracy, and the programs it administers, is the product of actions in the legislature (Congress, state legislatures, city councils, and county commissions). The legislature, in turn, delegates the responsibility for implementing the law to the executive branch, and the chief executive then delegates responsibility for carrying out the law to those in the bureaucracy. There are many variations in this basic principle, especially at the local level, where city managers report directly to city councils. This basic principle, however, structures the way we think about how accountability ought to work, the way that legislative policymakers tend to behave, and the constraints within which the executive branch operates. Chief executives—presidents, governors, and mayors—often bristle under these constraints and seek to expand their power in implementing the law. These tensions frame the politics of the administrative process and, as we will see in this chapter, the underlying problems that the search for accountability must solve.

These tensions lay at the very core of the battle against COVID-19. Americans looked to their government to solve the virus problem. Legislatures had created public health agencies, ranging from the Centers for Disease Control and Prevention (CDC) to local health authorities, and had given them responsibility for protecting the public. But the agencies involved in the process struggled both with the technical issues and with coordinating the efforts to beat back the virus. The COVID-19 issues we explored in Chapter 1 help illustrate the mega-issues of accountability in the American system.

Tracing Accountability to Individuals

The responsibility of individual administrators underlies the accountability debate. Can—should—must administrators follow the orders of top officials? Or: can—should—must they become "**whistleblowers,**" divulging to the public activities they believe are wrong? On the one hand, the answer seems clear. The post–World War II war crimes trials established that following orders was no defense against administrators who committed heinous acts. It's clear that administrators must exercise their own judgment. On the other hand, if administrators each exercised their own, individual judgment as they went about their daily work, coordination would evaporate, the work wouldn't get done, and there would be little meaning to accountability.

Over the years, we've had a very mixed view of individuals who take it upon themselves to disclose activities they believe are wrong. In a fascinating background story, *Wall Street Journal* reporter Ben Zimmer explains that the phrase "blowing the whistle" seems to have entered American language in the early part of the twentieth century, when fans expected sports officials to blow their whistles to stop play. If a football player committed a penalty or a boxer had beaten his opponent, fans called on referees to blow the whistle. A few decades later, during the 1930s, a new meaning crept in. "Blowing the whistle" took on the meaning of someone revealing a dramatic secret, often breaking a code of silence to authorities as a "snitch" or a "rat." In the 1970s, consumer advocate Ralph Nader deliberately changed the meaning. He challenged those with important information on misconduct, in either private companies or the government, to come forward, even if that meant "blowing the whistle against the system."[7]

This raises a fundamental question about accountability. How much obedience do government officials owe to organizational superiors and elected officials—and how much discretion should officials exercise on their own? Because there is no firm answer to that question, there is no single, clear approach to accountability. Accountability is, at once, the bedrock on which administrative power in a democracy depends and a puzzle that requires endless work in search of solutions. It is also critical for connecting the great power of public administration to the important goals of **diversity, equity, and inclusion.**

APPROACHES TO ACCOUNTABILITY

In the United States, the effort to resolve this dilemma has focused on three big issues: the search for *legal boundaries* to constrain and channel administrative action, what we call the **rule of law**; the *political challenges* that have surfaced when administrative realities stretch those legal

boundaries; and *evolving policy problems* that increasingly confound the strategies and tactics to hold governmental power accountable and to ensure that administration serves the public interest.

Legal Boundaries

The problem of balancing governmental power with individual freedom, of course, is nothing new. When King John met England's nobles in Runnymede in 1215, they pledged him fealty—but only after the king agreed to limits on his power, which were captured in the Magna Carta, an important document that has since shaped the way we think about constraints on governmental power.[8] The debate has been endless, but two things are clear. One is that the uneasy pact forged at Runnymede helped establish the basis for the modern state. The other is that the rule of law emerged as the guide for setting the balance between governmental power and individual liberty. Kings (and later queens) found power useful to work their will. Citizens sometimes found the exercise of that power overbearing and expensive. Across a wide range of issues, King John and his successors agreed to accept limits on their power in law, even though the British monarchs claimed that their power flowed from divine right.

The *rule of law* thus became enshrined in English common law. In practice, the rule of the sword often pushed aside written agreements, and it took centuries for kings to realize that modern government required real accountability to the people. It is not surprising, therefore, that the story of the rule of law is the story of struggle and conflict.[9] The rule of law seeks to define and protect the basic rights of citizens against a too-powerful government, although claims of the Magna Carta's historical impact have been much exaggerated.[10] Its most important contribution, however, is this: it establishes the importance of having a system where everyone knows the rules and where the rules apply to everyone. Finally, the rule of law creates the foundation for administrative accountability. Since government in action is often the action of administrators, the rule of law provides the mechanism for constraining how administrators exercise their power. It tells them what they can do and what will happen to them if they step beyond their boundaries.[11]

This basic outline, of course, is far clearer in theory than it ever was in practice, but the rule of law provided at least a basic blueprint for the founders of the United States. In *Common Sense*, Thomas Paine wrote that "a government of our own is a natural right," with that right protected by the law, because

> in America the law is king. For as in absolute governments the king is law, so in free countries the law ought to be king; and there ought to be no other. But lest any ill use should afterwards arise, let the crown at the conclusion of the ceremony be demolished, and scattered among the people whose right it is. (1791)

The rule of law was central to the colonial founders as they tried to create their new government. Paine, and others, argued that citizens could establish that government because they would also bind its power.

The Role of Politics

The Articles of Confederation, the principles that guided the nation in the uneasy days between independence from the British crown and the adoption of the 1787 Constitution, was a clumsy first effort. But the Constitution that followed is a web of crosscutting restraints on government and the basic strategy for administrative accountability in American government: give the government power but set legal bounds to limit the dangers of its use. In the United States, the founders did not trust a single check. Multiple backstops, through separated institutions sharing authority, provided the extra insurance that the wary founders wanted. But this balance of powers was an unsteady deal. In the nation's first decades, officials created a national bank only to close it; they tried a second time and closed it again. Alexander Hamilton's powerful argument for government's help in promoting the economy repeatedly encountered a hurricane of citizen opposition.

The conflict became razor-sharp during the Progressive Era, toward the end of the nineteenth century. In tackling the problems of rising corporate power and the enormous potential of the industrial age, the **Progressives** sought a strong government that could restrain the power of big companies. But they faced a dilemma. They were convinced that stronger government, with new programs and stronger agencies, was necessary to drive the country forward and to constrain the giant private companies. They also knew that citizens would be nervous about a more powerful government, for the American Revolution against King George III's tyranny remained in the country's collective consciousness. How could the government grow without creating bureaucratic tyrants? For the Progressives, the answer lay in the rule of law. (It's important to note that, for the early Progressives, they focused on creating strategies to make government work better. Only in subsequent decades did "progressive" come to be associated with liberals and an expanding role for government.)

Before being elected president, Woodrow Wilson, then a political scientist at Princeton University, famously sketched a solution:

> If I see a murderous fellow sharpening a knife cleverly, I can borrow his way of sharpening the knife without borrowing his probable intention to commit murder with it; and so, if I see a monarchist dyed in the wool managing a public bureau well, I can learn his business methods without changing one of my republican spots.[12]

Wilson, along with his fellow Progressives, contended that government administrators could be empowered to do government's work without threatening individual rights because the rule of law would hold them accountable. Delegation of power to administrators from elected officials and hierarchical control through authority controlled the use of power within administrative agencies. Separating politics from administration, in what became known as the **politics-administration dichotomy**, was their strategy for an effective administrative state in a modern democracy: politicians would determine policy, and administrators would carry out that policy within the bounds set by elected officials.[13]

The Progressives' reliance on the rule of law was an elegant solution to a very tough problem. As they contemplated the twentieth century, they concluded that government would have

to become far stronger. Caught between the growing corporate power of the railroad barons and captains of industry and the limitless opportunities of industrial and territorial expansion, the reformers found in the rule of law a way to fit old theories to the new prospects. The rule-of-law formulation was not the last word for the Progressive movement, any more than it was for King John, but it provided a way to expand government in the twentieth century while holding it accountable.

Political Solutions

Of course, this approach was a bit too neat, and it soon crumbled as big problems fell into government's lap during the twentieth century. When the stock market crash shook the economy in 1929, Herbert Hoover and his advisers fumbled in their response. When Franklin D. Roosevelt launched the New Deal to attack these problems, critics complained it was a vast and unconstitutional overreach of power. Analysts replied that the rule of law provided a way to expand government's power while holding it accountable. But the theory inevitably collided with politics, as John M. Gaus reminded everyone: "A theory of public administration means in our time a theory of politics also."[14] Not only did the rule of law fit uneasily between governmental power and individual liberty; it rested on the inescapable reality, captured so well by Gaus, that administration has always been about politics. Political pressures pushed King John into putting his seal on the Magna Carta, and they have swirled around the rule of law since then.

In his 1936 essay "The Responsibility of Public Administration," Gaus noted that cracks had appeared in the rule of law from the earliest times. He described a replica of a Babylonian monolith, which displayed a carving of the Code of Hammurabi from 2000 B.C.E. Above the code is a relief of Hammurabi, the king of Babylon, receiving the command to establish a just law from the sun-god, Shamash. That, Gaus pointed out, established the "earliest conception of political responsibility": "Somewhere in the wisdom of God was to be found the absolute code, the fixed standard, which the ruler was to follow." However, he continued,

> the inadequacy of such a conception of responsibility is obvious. Responsibility is accountability, but who, under such conditions, could call power to account? Is God's will always so clear? Should not, then, His vicar interpret him? But can one be sure that the vicar is correct in his interpretation?[15]

That's the core conflict for administrative accountability and the rule of law. It's hard to beat an accountability system coming directly from God. But it's also impossible to translate, with complete transparency and total predictability, the rule of law directly into administrative action. As administrators interpret the rule of law to bring the law to life, the law slips in its hold on their rule. Gaus concluded in his essay that "neither the electorate nor the legislature can express in concrete detail the specific policy which it desires the administrative organization to enforce,"[16] so administrative discretion is the inevitable result of any administrative act. Indeed, the dilemma of building sufficient capacity to allow Congress to oversee executive branch actions is a puzzle that has echoed through the American Political Science Association lectures given in Gaus's name.[17]

What solution does Gaus offer? If forces external to the administrator cannot adequately shape the exercise of discretion, then democracy must necessarily rely on the administrator's professional norms. Gaus's argument set the stage for one of the most trenchant battles of public administration theory, the 1940 debate between Herman Finer and Carl J. Friedrich on whether professional training or external controls could best hold administrators accountable.[18] The battleground was the rule of law, as Finer made the case for the long tradition of administration held accountable by legal standards. But Friedrich echoed Gaus in making an inescapable point: if the law cannot fully control administrative action, then how can administrators be held accountable? For Gaus and Friedrich, the case for relying on professional norms was the inescapable conclusion. They argued that government had to rely on what it had at its disposal. That, in turn, not only makes public administration about politics, since it brings the value judgments of administrators squarely into the process; it also brings in the question of *whose* political values shape administrative action.

Evolving Policy Problems

Resorting to pragmatism beyond the law was perhaps inevitable, but it also set the stage for a fierce debate about administrative theory and practice. The United States relied on the rule of law to define and protect individual rights, but few rights have ever been absolute and the debate over how to shape them has always involved substantial cross-pressures. As governmental programs became more complex in the first half of the twentieth century, and especially as more public programs involved partnerships with the multiple levels of government and with the private sector, strains on the rule of law hit the breaking point. Gaus argued:

> In a state in which the powers of government intermesh widely with those of industry, commerce, and finance the traditional restraints upon the discretion of the administrator through making him responsible to the electorate, the courts, and the legislators are inadequate.[19]

Although Gaus wrote this in 1936, he could easily have been describing COVID-19 and a host of other crises with which public policymakers have struggled.

Those changes in the complexity of governmental programs accelerated during the 1930s. Roosevelt's New Deal programs, in particular, not only pushed more reliance onto the professional norms of administrators; they also brought more players from a wider variety of organizations into the pursuit of public policy. World War II spawned a massive network of private contractors to help the war effort, and that accelerated the trend. These steps, in turn, had two effects.

First, it became far more difficult to rely on any single rule-of-law standard to guide administrative action. There was a theoretical simplicity in the basic model—policymakers could track the exercise of discretion by administrators through the hierarchy and through the rule of law. With the creation of new, complex partnerships, in which each member operated inside its own traditions, it became much harder to define and enforce a single rule of law to guide those partnerships.

Second, different governments—and different government agencies—have very different cultures, and that makes it hard to ensure that any single set of professional norms can shape administrative behavior. The federal government has a different culture than its state and local partners, and the cultures of each government agency often have surprising variations. NASA, with its exotic spacecraft, is very different from the Transportation Security Agency, with its airport screeners. Professionals in the government's private and nonprofit partners often live by far different cultures that stretch far beyond the typical profit-making or public good motives presumed to be at the core of their missions. Community-based organizations are very different from international environmental protection organizations, and they differ tremendously from defense contractors and road builders. There have even been famous squabbles at the scene of local incidents, where police officers and firefighters have thrown punches over who was in control.

The rule of law, of course, was always livelier in theory than in practice. But the rise of such mixed federal-state-local-public-private actions further undermines the theory's applicability. Since no single model of accountability is likely to work, how can government be effective, efficient, responsive, and accountable in the world of twenty-first-century politics?

ELEMENTS OF ACCOUNTABILITY

When we look at how we hold government in check, we focus on three elements of accountability: fiscal, process, and program.[20] In **fiscal accountability**, we seek to ensure that agency officials spend money on the programs they are charged with managing—and only on those programs. This issue cuts both ways. On the one hand, we want to make sure that, in fact, the money is spent. A recurring complaint in the early 2000s was that the U.S. Department of Homeland Security was too slow in distributing funds to state and local governments for strengthening their security efforts. On the other hand, we want to make sure that the money is spent according to the law and is not wasted.

In 2011, for example, Fox News pundit Bill O'Reilly and then–*Daily Show* host Jon Stewart tangled over charges that the U.S. Department of Justice paid $16 for each muffin served at a Washington conference. A vast number of very senior Obama administration officials spent a huge amount of time tracking down the story, which turned out to be "mostly untrue," according to a later analysis by fact checkers. In reality, the $16 muffin included beverages, some fruit, a fee for the meeting space—and the muffin. Although the muffin was not cheap, it certainly was not a vastly overpriced baked good—and anyone who has ever arranged for an event in a large event space knows how the facility builds its costs into the charges for items ranging from coffee and soda to chips and sandwiches.[21] But the tale underlines the fact that there's nothing like a headline on wasted government money to fuel political conflict.

Process accountability is concerned with *how* agencies perform their tasks. While we often argue about the meaning of procedural fairness, government agencies regularly find themselves charged with unfair treatment. Massive problems in the 2000 presidential election focused national attention on the voting machines that many state and local governments used and whether problems with those machines had prevented some votes from being counted. Those

complaints about process led to a massive investment in new machinery for future elections. But that certainly did not prevent raucous battles over whether voters could trust the outcomes of the 2020 and 2022 elections.

Program accountability is the most difficult objective of control systems. Is a public program achieving its purpose, as defined in law? The U.S. Government Accountability Office (GAO), the investigative arm of Congress, has increasingly conducted program analyses to measure how well federal agencies answer this question. At the local, state, and federal levels, governments have developed sophisticated performance measurement systems to gauge how well programs meet their goals. These new systems increasingly try to put hard numbers on the tough question of whether programs actually work.

Everyone agrees that citizens deserve accountability for their hard-earned tax dollars. But we tend to measure accountability in these three different ways—sometimes relying more on one standard than another and rarely trying to reconcile all three into an overall picture of an agency's performance.

Holding Administration Accountable

The related problems of making administration work efficiently and ensuring that it is democratically accountable are deep and lasting. Administrators can follow the basic doctrine of accountability, through the hierarchical system of delegated authority. When that leaves gaps, they can use their best judgment to discover the intent of the policy, rely on their professional judgment to determine how best to achieve that intent, and consult with the controllers to resolve uncertainties.[22]

But this is certainly not a magic solution. Administrators may face multiple controllers, and these controllers may not always agree on an agency's priorities. Congress might pass a law that conflicts with the president's priorities. That can leave agency heads, appointed by the president, to choose what to obey. Appointees who choose the legislature's course could find themselves replaced by appointees more willing to follow the president's wishes. Indeed, during the Trump administration, critics pointed to big efforts to replace senior officials in the Department of Defense with administration loyalists. For the administration's fans, this was a way of making the Pentagon more accountable. For opponents, it was a worrisome sign that the administration was trying to change policy without changing the law.

Turning to Congress can often prove difficult and confusing, since there is no "Congress"— only congressional committees and their chairs who exercise great power in the sphere of their committees. Their fuzzy legislation, in fact, is often the source of uncertainty to begin with. At the state and local levels of government, of course, the same problems occur. And because the implementation of public policies often depends on coordinating federal, state, and local actions, these uncertainties often compound themselves throughout the system. They make it even harder to know what "accountability" means.

Administrators must solve these problems in a world full of uncertainty and political conflict. In doing so, they inevitably must rely heavily on their own internal compasses—their personal character, professional training, devotion to the public service, and respect for faithful execution of the law. When those with the responsibility of controlling the bureaucracy give

conflicting directions or confusing signals, administrators face conflicting loyalties. In the classic collection of options, they can choose **voice**: remaining in their positions and fighting for what they think is right, even if that risks dismissal. Or they can choose **exit**: resigning, possibly with a public attack on the controller whose mandate they condemn.[23] But administrators know that the exit option may put the policies they care about at even greater risk, for they can be replaced by people who will bend more easily to the very pressures they have battled against.

In fact, the idea of a conscience-driven exit from government is more popular in the press than in reality, because civil servants often have families to support, college tuition to pay, and relatively few available job options. In contrast, most high-level political appointees, cushioned by established reputations and extensive contacts outside government, can often exit to private-sector jobs at higher salaries. Furthermore, an attack by a resigning official is usually only a one-day media event, so anyone deciding to resign in protest must weigh the short-term political effect against the long-term personal impact.

In the end, the solution to the problem of accountability hinges on the balance between forces that come from outside administrators, including efforts by outside controllers, and forces that emerge from administrators themselves, including their character, background, and training. Theorists for generations have debated which forces are—and should be—more important. Should we assume that external controllers can never know enough about an administrator's actions, and that setting the administrator's internal compass is most important? Or should we insist on extensive external controls to compensate for the tendency of administrators sometimes to stray off course? Friedrich and Finer were unable to resolve this debate in the 1940s. Subsequent scholars and practitioners have not done any better. Accountability, in the final analysis, is a fine balance between external and internal controls. This balance, in turn, depends ultimately on ethical behavior by administrators.

GOVERNMENTAL POWER AND ADMINISTRATIVE ETHICS

Citizens and elected officials alike demand a higher standard of ethics than typically prevails in the private sector. Indeed, that ethical upgrade often comes as a shock for political appointees who come to government from the private sector.[24] As Calvin Mackenzie writes,

> At one time or another in their work lives, most business leaders have found jobs in their own companies for family members or friends, have entered into contracts with firms in which they had a financial interest, or have accepted substantial gifts from people with whom they regularly do business. . . . When public officials engage in similar activities, however, they break the law.[25]

The pursuit of high **ethical behavior** in government raises a different trade-off. On the one hand, we want skilled employees who can ensure that government's work is done well. In particular, we don't want to make the process of screening and hiring officials to be so burdensome, in the pursuit of high ethical standards, that we drive away good people. On the other hand, the public expects that those who exercise the public's trust will meet high standards and that, in particular, they will not use their power to line their own pockets, advantage their friends, or trade in the future on the relationships they developed in public service.

In his 2008 inaugural address, Philadelphia Mayor Michael A. Nutter emphatically made the point that this issue crosses all governmental boundaries. "There is nothing government does that cannot be done ethically and transparently," he said. His goal, he told Philadelphians, was "a government that serves all of us, not a few."[26] Nutter's speech underlined the recurring central themes of public administration: creating governmental power to serve citizens; holding that power accountable to elected officials and ultimately to voters; exercising power ethically, according to high standards of public service; and ensuring accountability through transparency.

The Public Service

In the end, the quality of government's work depends on the quality of the individuals recruited and retained in the public service, on their respect for bureaucratic accountability and ethical behavior, and especially on their commitment to the constitutional, democratic system. Instilling such values is a task for society. It depends on communication by family, schools, and peers. It also depends on creating a system that is accountable within our political system—especially since, in so many ways, the politics of the administrative process shapes the performance of American government.

Those capabilities encompass much more than they did in the past. Public administration is no longer primarily the direct execution of governmental programs. Much of it now is administration by proxy, as we will see in the next chapter, with complex partnerships among government agencies, for-profit companies, and nonprofit organizations responsible for the implementation of government programs. That, in turn, multiplies the problem of public ethics, since many private and nonprofit employees find themselves doing the public's work, during at least part of their time, but often without a clear signal that they are entering the public realm.

An ethical government begins with ethical public servants—public servants devoted to the fundamental challenge of helping "to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, and secure the blessings of liberty to ourselves and our posterity."[27] Encouraged by such possibilities, they will recognize that the public service, as President George H. W. Bush said, is "the highest and noblest calling."[28] In running for the presidency in 2008, Barack Obama was more direct. His goal, he said, was "to make government and public service cool again."[29] Few vocations offer greater promise for improving the lives of so many of the world's citizens. Charting the course is the fundamental challenge of this book.

CASE 2.1: THE STORMS THAT TEST LOCAL GOVERNMENT

With Hurricane Ian barreling down on Florida in late September 2022, Mark and Rhonda Wilkerson decided to hunker down and ride out the storm. But unlike thousands of other residents of the Fort Myers area, their home didn't even lose a shingle.

They had moved into Babcock Ranch, a planned community where the development included a host of strategies to minimize damage in a major storm. Utilities are underground. Power is solar. Retaining ponds collect stormwater runoff. The latest building codes guide construction. Because of the developer's steps, the community lost but a traffic light, a few palm trees, and a couple of street signs. The town's residents told *60 Minutes* that none of them lost power.[30]

But in Fort Myers itself and other Lee County communities, cars ended up in the water and boats sat on city streets, sometimes piled on top of each other. Some trailer parks were completely wiped out. James Burdett, who had moved to the area from Virginia, surveyed the damage from his leather chair. Next to the chair, he had his remote control, but the rest of his home had been destroyed. "I literally watched my house disappear with everything in it, right before my eyes," he said.[31] All told, forty-five deaths in Lee County were attributed to Ian's Category 4 devastation.

The contrast between the experiences of the Wilkersons and Burdett could scarcely have been greater. And the huge difference underlines two critical points: with climate change threatening even more extreme weather events, the impact will vary enormously across the country. And the burden for preparing for, managing, and responding will rest almost entirely on local governments.

It's not only storms. Coalinga, California, for example, is projected to run out of its water allocation from the San Luis Reservoir well before the end of the year. The city's only option will be to purchase water from other suppliers, including farmers and irrigation districts. But Sean Brewer, the assistant city manager, reported that the cost of water might jump from $190 per acre-foot to $2,500. Just to buy enough water to get to New Year's might cost the city 25 percent of its annual budget.

Meanwhile, the state's fire-suppression expenditures jumped to $1.2 billion in the most recent year, almost double the year before. Airborne tankers and ground-based crews are spending far more time putting out historically large fires—fires whose aftermath will mostly be left for local communities to cope with.

Enormous Inequalities

When disasters strike, the Federal Emergency Management Agency (FEMA) typically comes riding to the rescue and, despite partisan haggling, Congress has usually appropriated enough money to help local communities begin their recovery from climate-induced disasters. No amount of money, however, can begin to compensate those communities for the pain of putting themselves back together. For those who do get federal money, FEMA's grants typically are capped at far less than the cost of temporary shelter, let alone rebuilding. And congressional appropriations for disaster relief are becoming more contentious, so there's no guarantee that the money will continue to flow.

Local governments increasingly bear most of the burden of dealing with these disasters, whether from drought or flooding, tornadoes or earthquakes. But lurking in the background is another subtle but important point: for local communities, the challenge not only is recovering from weather disasters; it's also dealing with the often-enormous inequalities that the storms tend to produce.

Even before Ian's wrathful run through Florida, researchers were pointing to how hurricanes tended to harm vulnerable communities the most. When Hurricane Maria struck Puerto Rico in 2017, the highest death rates occurred in the lowest-income areas. The same

was true for Hurricane Katrina's Gulf Coast rampage in 2015. So when Ian hit Florida, it was no surprise that lower-income neighborhoodsgot hit hardest.

The larger impact of big storms on lower-income areas collides with the prescription that many economists make for reducing storm damage: insurance. Insurers can price the risks that storm-prone areas face (and, for that matter, fire- and drought-prone areas) into the premiums they charge. That can help homeowners rebuild and, more importantly, create incentives for individuals to stay away from areas where they are most at risk.

This is an elegant solution. But it doesn't work. Lower-income individuals tend to move where land is cheapest, and that's often in the most risk-prone neighborhoods. In New Orleans, for example, wealthier individuals gravitated to neighborhoods on higher ground. What was left for poorer families, like the Lower Ninth Ward that Katrina devastated, tended to be on lower ground, and the residents paid for it. Climate disasters hit the poor hardest because they tend to be more likely to live in the bull's-eye.

And relatively few of these homeowners have flood insurance—just 17 percent in the Texas area hit by Hurricane Harvey in 2017, and most of them were wealthier homeowners. In Florida, Ian's initial strike landed in areas where 24 percent of homes had flood insurance. Farther inland, the percentage dropped to about 2 to 4 percent.

Couple that with the fact that the area already ranked high in income inequality—the most unequal area in the state with the nation's second-highest level of inequality. And compare that with the fact that the National Flood Insurance Program paid sixteen times to rebuild a Houston home over an eighteen-year period—a million dollars of outlays for a $120,000 home. A Baton Rouge home flooded forty times, while another property north of St. Louis produced thirty-four claims.

So the flood-insurance program has often failed in creating incentives to encourage people to stay away from flood-prone areas. Insurance is so expensive that many homeowners don't buy it, so many who need flood insurance the most don't have it. For some other homeowners, the program has been a waste, funding rebuilding in storm-prone areas instead of encouraging them to move to higher ground.

Building for Wind and Water

That takes us back to the Wilkersons and their neighbors in Babcock Ranch. The key to dealing with hurricane damage is, first, not to build or live where the threat is the highest, and then to be sure that the homes that *are* built are most able to resist a megastorm. The key to Babcock Ranch's success was that its developers used building strategies designed to fight off the winds and to protect from the water.

The same was true of nearby Punta Gorda, where the city created one of the toughest building codes in Florida. When Hurricane Charley churned through in 2004, it cleared out many of the older homes. The properties reconstructed afterward had to meet the new codes. As Joe Schortz, who owns a local building company, said after Ian, "Everything with a 2007 code and beyond pretty much was fine."[32]

It helps to more securely tie down the roof to the walls and connect the walls to the foundation. It helps to elevate homes above the high-water mark. Communities that have put in place tough building codes have weathered storms far better. Some of the steps are expensive, but they are vastly cheaper than having to rebuild a home—let alone rebuild it again and again.

The surest way to mitigate the ravages of climate change is to act locally, and to act in ways that pay attention in particular to the needs of lower-income individuals who often

suffer most. That can mean strong building codes as well as tough zoning standards that can make it harder to make vulnerable areas a magnet for poorer residents—and creating new zoning standards to make housing more affordable elsewhere. But resilience is the surest way to avoid driving the wedge of inequality even deeper.

"This isn't just a Florida issue," explained Nicholas Rajkovich, associate professor at the University of Buffalo's School of Architecture and Planning. "This is a national issue. Thinking about a national strategy for resilience is really important for this country to be able to adapt to climate change."[33] And that national issue is, at its roots, a menu for local action.

Questions to Consider

1. Consider the strategies that helped the people of Babcock Ranch avoid serious damage during the hurricane. Which ones are—or could be—the result of public policy and public administration?
2. Should local zoning ordinances be changed to reduce storm damage?
3. If yes, should local governments be forced to do so? By whom? Or, if not, what alternative would you recommend?

Note: This case originally appeared in *Governing* magazine (October 2022).

CASE 2.2: DO SEWERS HOLD THE CLUES TO POLIO?

New York state officials struggled in mid-summer to get to the bottom of a polio outbreak. They used a time-tested approach that has gained new attention in monitoring the spread of COVID-19: collecting and analyzing samples of water containing human waste from sewage systems.

Wastewater surveillance has a long history in the battle against infectious diseases. Most recently, it has been put to work in at least eight states in tracking an outbreak of monkeypox. But it carries risks of its own, including the potential for undermining privacy and for being put to use for purposes outside of public health, such as in law enforcement—uses that, if taken too far, could further erode Americans' trust in government.

Certainly, there's no denying wastewater surveillance's value as a public health tool. Back in July, doctors in Rockland County, N.Y., diagnosed a twenty-year-old man with the first U.S. case of polio in almost a decade. Public health officials wanted to get ahead of the disease so they could roll out immunizations. In the disease's past, by the time they saw a case it was too late to protect the patient and, probably, too late to prevent polio's spread. So state officials went looking for signs of the disease in neighboring communities—in sewage water.

They found that polio wasn't a problem they could simply flush away. Along with Rockland County, wastewater tests found the disease in at least two other counties as well as in New York City, prompting Governor Kathy Hochul to declare a public health emergency and take steps to ramp up vaccinations.

Punching Back against COVID-19

During the COVID-19 pandemic, a major and ongoing problem had been tracking the spread of the disease and its variants. Counties were the basic building blocks of the data system, but data collection was often weak, particularly in states where top officials made COVID-19 into a political wedge. Moreover, across the country, not all the counties collected COVID-19 data the same way. It was hard punching back against the disease in the dark.

Researchers at the University of California, San Diego, discovered they could detect COVID-19's telltale RNA in wastewater throughout the campus. They collected the data and published it on a digital dashboard.[34] On a summer afternoon in 2020, the research team detected a single positive case. Over the weekend, they tested more than 650 people living and working in the dorm and helped stop one COVID-19 outbreak in its tracks.

The success of the UC San Diego experiment led CDC to create a new National Wastewater Surveillance System. The system funded the development of wastewater systems throughout the country, covering health departments in more than forty jurisdictions that serve more than 16 percent of the nation's population.[35] CDC estimated that at least 80 percent of the population could eventually be served by monitoring the poop and pee that flows through the nation's sewers. Other researchers picked up the theme; the University of California, Merced, created a dashboard, aptly called COVIDPoops19, that now tracks wastewater monitoring efforts in seventy countries.[36]

COVID-19, monkeypox, and polio show what wastewater monitoring can accomplish. But as Vladimir Putin's bizarre on-the-road practice shows, it can also raise big questions. Putin is apparently so concerned about what he might leave behind—and what it might tell adversaries about his health—that his bodyguards collect his excrement while he's traveling, put it into distinctive packets, pack them within a special briefcase, and take it home.

Presumably, few Americans would go to the extreme of creating a personal poop patrol. But wastewater monitoring raises big questions of privacy that go far beyond what's behind a closed door. It can, as we have seen, detect COVID-19, monkeypox, and polio. But it can also detect pesticides and pharmaceuticals—including illegal ones. The worry is that that could, in turn, bring extra police attention to individual neighborhoods.

Of course, monitoring sewage can't pinpoint anyone's individual waste (unless the system is as elaborate as Putin's). But the system can pinpoint issues in relatively small neighborhoods. The same science that made it possible for UC San Diego scientists to zero in on a particular dorm also would make it possible for local police to focus on a few blocks where the sewers suggest the use of cocaine or the manufacture of fentanyl.

The Issue of Gunshot Detection

Fancy technology pinpointing individual neighborhoods has already eroded trust. While Chicago's inspector general found that police responses to the ShotSpotter gunshot detection system "rarely produce evidence of a gun-related crime, rarely give rise to investigatory stops, and even less frequently lead to the recovery of gun crime–related evidence during an investigatory stop," the MacArthur Justice Center documented that the Chicago system had been "deployed overwhelmingly in Black and Latinx neighborhoods," exacerbating "distrust and fear from residents."[37]

Wastewater monitoring risks the same problems, especially as the technique gets more sophisticated and allows investigators to zero in on particular communities. It's possible

to imagine, in fact, the days not too far ahead that would allow investigators to get a search warrant to check on the waste flowing from a single building they find suspicious.

At this point, the potential for the use of sewage monitoring outside of the realm of public health might be merely theoretical—at least in this country. Yet its value for tracking and fighting disease is so huge that its use for that purpose will likely continue to grow. With a monitoring system that uses a constant (in fact, inevitable) supply of raw materials and that can identify neighborhoods where diseases are emerging before many cases appear, it's easy to imagine wastewater analysis becoming a frontline tool in public health—what's already being called "sewage epidemiology."

But the risks are genuine. For a long time in American federalism, the adage has been that trust in government is greater the closer government gets to the people. Sewage monitoring is most useful the closer the scientists get to the people. That puts a whole new twist on the *eeewww* reaction that the mere mention of government evokes in so many Americans these days, pushing their concerns to those little rooms where people value their privacy the most. That might not be the prescription for building more trust.

Questions to Consider

1. Many local governments began relying more on sewage monitoring as a result of COVID-19, because direct data gathering became too expensive, too politically explosive, or both. Does the switch to indirect monitoring of wastewater make sense to you?
2. What problems can you see in using such indirect monitoring?
3. Do you see possible risks of inequality in how systems like wastewater monitoring and gunshot detection are run?

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Note: This case originally appeared in *Governing* magazine (September 2022).

CASE 2.3: GOOGLE EARTH VERSUS PRIVACY IN RIVERHEAD, NEW YORK

In Riverhead, New York, town officials launched an aggressive campaign to find backyard swimming pools whose owners hadn't obtained the required permits to build them. As the town's chief building inspector, Leroy Barnes Jr., explained, "It's a safety issue more than anything else." Faulty plumbing could cause water damage to neighboring properties. If electrical wiring for lights or filters were installed improperly, someone could be electrocuted. In addition, the town's ordinance required pool owners to install a fence around the pool to prevent small children from wandering in and accidentally drowning. The campaign, in this small town near the tip of Long Island, found 250 pools that had been constructed but whose owners had not received the requisite permits. In addition, the aggressive inspection program produced $75,000 in fees from violators.[1]

Barnes, however, quickly found himself under fierce attack from the American Civil Liberties Union (ACLU) and scores of angry townspeople. It wasn't because of the campaign to find violators, at least on the surface. Rather, it was because Barnes had cleverly used the Google Earth search program to find the pools. He used the program's online satellite feature to find pools, identify the address, check the address against the town's database

of permits, and find pools that did not have the permits required by law. Town officials wondered what all the fuss was about. After all, Google Earth is available to any user, on any computer. It doesn't show anything that anyone anywhere can't see. Why can't the town use publicly available information to enforce its laws?

"Technically it may be lawful," replied Donna Lieberman of New York's ACLU, "but in the gut it does not feel like a free society kind of operation."[2] Some local residents complained that it felt creepy to know that the town was peeking into their lives via satellite. Critics pointed out that the Fourth Amendment to the Constitution prevents government officials from conducting unlawful searches. Using remote satellites without a search warrant crossed the line, they argued.

Just how far should government go in combining emerging technology with its vast power? In Greece, as well as New York, government officials are using Google Earth to track down pools without permits in order to collect fines. Enterprising private citizens are also making innovative use of satellite surveillance. Thieves in the United Kingdom are using the technology to identify backyard ponds stocked with exotic fish, which they steal and sell for large sums. A private company is already using private satellites to photograph the parking lots of Walmart stores. Counting the cars tells analysts which communities have the fastest-growing economies. If private companies are doing it, should government be restrained from using the same readily available technology to enforce its laws?

It's easy to see even bigger issues in the future. If governments pass aggressive energy-saving laws to restrict backyard barbeques (too many hydrocarbons being released) and to require better insulation of homes (to prevent energy from being wasted), should the government be able to use remote-sensing devices to detect heat emissions? Private companies are now trying to sell special vans to local police that provide a comprehensive scan of every passing car. The scan can detect illegal items onboard without a search warrant. Should local police buy these disguised vans to locate contraband and possible terrorist threats—and deploy them without search warrants? What about antiterrorism forces in the Federal Bureau of Investigation? The federal government's Transportation Security Administration is deploying new scanners that can look through an airplane passenger's clothing to see, well, just about everything. Passengers boarding planes know that they are subject to searches, although there's always a debate about just how intrusive those searches ought to be. But should drivers steering their cars past a van parked on the side of the road have any expectation of privacy, even if they are carrying something illegal under the seat or in the trunk?

Public complaints in Riverhead forced town officials to end the Google Earth project, even though the information was available to everyone on the web and it was used to find people who had broken local ordinances. But it raised very tough questions about how government officials should exercise discretion in doing their jobs—and how they should wield their power.

Questions to Consider

1. Do you think there was anything wrong with the town's decision to use Google Earth to detect individuals who had broken local laws by installing pools without obtaining the required permits?
2. How should local officials, like Leroy Barnes, be held accountable for their actions?
3. Sam Adams, in addition to brewing beer, also helped lead the revolt that culminated in the Boston Tea Party, during which colonists tossed tea into Boston Harbor to protest the power of the English king. What do you think he and his fellow revolutionaries would think about the use of Google Earth to detect lawbreakers?

Notes

1. Russell Nichols, "Is Google Earth Eyeing Your Pool?" *Government Technology* (August 17, 2010), http://www.govtech.com/policy-management/Is-Google-Earth-Eyeing-Your-Pool.html?topic=117688#.

2. Ibid.

KEY CONCEPTS

accountability

diversity, equity, and inclusion

ethical behavior

exit

fiscal accountability

politics-administration dichotomy

process accountability

program accountability

Progressives

rule of law

voice

whistleblowers

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SUGGESTED WEBSITES

Extensive discussion on federal ethics laws and policies can be found on the website of the U.S. Office of Government Ethics, **www.oge.gov.**

More broadly, the Council on Governmental Ethics Laws, **www.cogel.org**, tracks policies on ethics. In addition, many state and local governments have their own sites—which search engines can readily locate—detailing laws and regulations on ethics