In March 2016, Flint Mayor Karen Weaver talked with residents about the continuing problems with the city’s water system. The National Guard helped city officials distribute bottled water to residents struggling with lead-contaminated water.
No complaint about public administration gets repeated more often than that it’s inefficient—and that we’d be better off running government more like a business. In 2013, Microsoft cofounder Bill Gates complained about government’s dysfunction and argued, “You don’t run a business like this.” Government, he said, was on “a non-optimal path.” Gates concluded, “a business that is maximizing its output would proceed along a different path.”¹

This is precisely what Michigan Governor Rich Snyder promised when he took office in 2010. He campaigned using #onetouchnerd as his Twitter hashtag. Snyder was such a rising star that insiders openly discussed him as a possible vice presidential running mate in 2012 for Republican nominee Mitt Romney. By 2016, however, critics suggested his hashtag ought instead to be #onedonedude. Under Snyder’s administration, the city of Flint switched its water supply from the city of Detroit to the Flint River. The change, his analysts concluded, would save taxpayers millions of dollars—and that was what “running government like a business would mean.” Almost immediately, however, Flint residents began complaining that their water smelled, tasted, and looked funny. Even worse, nine people died from Legionnaires’ disease, which investigators suspected was connected to the water switch. The lead poisoned thousands of children—for life. Tens of thousands of citizens resorted to bottled water for drinking, cooking, and even bathing. “We were an experiment in their philosophy of government,” explained State Senate Minority Leader Jim Ananich, a Democrat and tough critic of Governor Snyder. “But unfortunately, it failed.”²

The water from the Flint River, as it turned out, was far more corrosive than the water the city had been getting from Detroit. The Flint water ate away at the pipes carrying it, which in turn caused higher levels of lead and coliform bacteria. The state could have added anticorrosion chemicals to the water but officials initially concluded it wasn’t necessary. In the end, the plan to save taxpayers money ended up costing far more tax dollars and led to far greater misery than officials had ever imagined. In an early 2016 interview, a reporter speaking to Snyder noted that critics had “called this [his] Katrina,” referring to the failed governmental response to the 2005 monster hurricane that devastated New Orleans and much of the Gulf Coast. He told a reporter, “It’s a disaster.”³

But Snyder then went on to criticize just about everyone. “This was a failure of government at all levels. Local, state and federal officials—we all failed the families of Flint,” he told a congressional hearing in Washington, D.C., on March 17, 2016. He blamed the state’s Department of Environmental Quality and argued that “bureaucrats created a culture that valued technical competence over common sense—and the result was that lead was leaching into residents’ water.” Snyder then singled out the U.S. Environmental Protection Agency (EPA), stating that “inefficient, ineffective and unaccountable bureaucrats at the EPA allowed this disaster to continue
Following the switch in Flint’s water system, there was a debate about how much the change might have affected children’s health. The issues centered on two parts of the debate: whether the change, in general, increased the lead in Flint’s water; and whether some neighborhoods were more affected by the change than others. Here is a table showing the research.

### Percentage of Elevated Blood Lead Levels in All Children Aged Younger Than 5 Years

<table>
<thead>
<tr>
<th></th>
<th>All Flint (N=1746)</th>
<th>High Water Lead Flint (N=742)</th>
<th>Rest Of Flint (N=1004)</th>
<th>Non-Flint (N=1670)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PRE-SWITCH</strong></td>
<td>2.1%</td>
<td>2.5%</td>
<td>1.8%</td>
<td>0.6%</td>
</tr>
<tr>
<td><strong>POST-SWITCH</strong></td>
<td>4.0%</td>
<td>6.3%</td>
<td>2.4%</td>
<td>1.0%</td>
</tr>
</tbody>
</table>


### QUESTIONS

1. Do the data show that lead levels in children’s blood changed after the switch to the new water system?
2. Some of the data are from “high-water lead Flint”—homes with the highest concentration of lead. Does this suggest that the lead problem had more impact in some neighborhoods than others?
3. How does the level of lead in children’s blood in Flint compare with other communities surveyed?

unnecessarily.” Flint resident Nakiya Wakes went to that hearing to try and get answers but left without the accountability she sought. But, at the least, she did get to take a shower in uncontaminated water—and she could drink water right out of the tap during her visit to Washington.

Not only did “running government like a business” fail in this case, but it also created a vast public health disaster for the city’s residents. It also set off a wave of finger-pointing, with Democrats blaming a Republican governor and Republicans blaming the EPA and the Democrats in the Obama administration. The state government blamed local authorities and all of them complained about the feds. Left with undrinkable water and poisoned children, the residents of Flint, 57 percent of whom were black, wondered why their government had failed them.

Sadly, this case reinforces the biggest challenge facing American government as it heads into the second quarter of the 21st century: the profound distrust Americans have for their political institutions. Two distinguished scholars of the political system, Thomas E. Mann and Norman J. Ornstein, contended not only that the system was broken but also that *It’s Even Worse Than It Looks*, as the title of their 2012 book put it. Presidential candidates have squabbled over who’s to blame, and Congress has found itself tied in knots, unable to
get much of anything done. But nothing is more fundamental to the distrust of government than the concern that too much of government just doesn’t work well: that Americans find themselves paying high taxes for programs that underdeliver. Bureaucracy is the centerpiece of distrust. Nothing is more important to understanding the relationship between citizens and their government than understanding how government delivers what it promises. Nothing is more important to the future of American democracy than ensuring that programs work for citizens. At its very core, that is the story of the politics of the administrative process.

Although distrust has hit a boiling point in the United States in recent decades, there is nothing really new about the problem. Our founders, after all, used distrust of King George III as the foundation for a revolution. Their view of the king could not have been lower. Their aspirations for the new country could not have been higher. The Declaration of Independence has soaring, inspirational words: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.” Stop and think: the revolutionaries who founded our government wanted to protect their liberty—and they wanted a government that would allow them to be happy. When was the last time you thought about “happiness” and “government” in the same sentence? (Actress Goldie Hawn, in fact, makes just this point in the 1984 movie, *Protocol.* ) Then there’s our basic framework, captured in the Constitution. It starts with a foundation in “We the People” and pledges justice, domestic tranquility, defense, the general welfare—and “the Blessings of Liberty to ourselves and our Posterity.” Yet the 2016 presidential campaign swirled around charges that the rich and powerful had captured the system, steering the government to enrich itself at the expense of we the people.

We’re the “posterity,” living and walking today, but we’re often not feeling especially happy about our government. The revolutionary DNA is still in our body politic. We battle over whether to shrink government to cut taxes or expand it to provide more protections. We quite deliberately vote opposing forces into office and then complain about congressional gridlock. But that doesn’t stop much of the rest of the world from admiring our commitment to freedom and the society our government has built. In fact, we are often a puzzle to people in other parts of the world, who admire our government and are amazed at the way we govern ourselves. Those who look at us carefully from a distance understand what we often overlook: both our progress and our battles flow from our uneasy relationship with government, from our simultaneous efforts to empower and control it, and from our ceaseless struggles to figure out how to secure justice, defense, and the general welfare while seeking tranquility and happiness. The politics of the administrative process is the struggle to balance our lofty expectations for government with our deep distrust of it.

It’s one thing to argue the case for justice, but it’s another to make our state prisons secure without abusing inmates. It’s one thing to argue for domestic tranquility, but it’s another to determine how much force local police should use in fighting neighborhood crime. It’s one thing to promise to defend the country from terrorists, but it’s another to find just the right balance of weapons to protect the country without bankrupting it and undermining our freedoms. It’s one thing to advance the general welfare, but it’s quite another to decide which citizens whose homes are destroyed by a superstorm should get federal aid. (And how many times should we pay to rebuild the same property? One study found that we’ve paid to rebuild 2,109 properties at least ten times. One Louisiana home has gotten flood insurance payments forty times.*) It’s our answer to the basic administrative questions, on the front lines of government, that define what our government really is and what values we protect.
No matter how bold or simple our policies, no matter how powerful our rhetoric, nothing in government has any meaning until we administer it.

For example, we have a clear national policy about the many oil-drilling platforms in the Gulf of Mexico. When companies extract the oil, our laws and regulations say they should keep their workers safe and ensure that their practices don’t pollute. But on the evening of April 20, 2010, everything went tragically wrong. Workers on the Deepwater Horizon, a highly specialized drilling platform—part boat, part oil rig—noticed a highly explosive burst of methane gas moving up the pipes. One crew member raced to trigger the blowout preventer, a massive device on the ocean floor a mile below that was designed to seal the drilling pipe in case of trouble, but it failed. Explosions rocked the rig and the decks became sheets of flame. Some workers scrambled for the lifeboats. Other workers, facing a choice between the flaming cauldron and the dark sea 75 feet below, took the seven-story dive into the inky water. Rescuers fished some of the crew out of the water, but the Deepwater Horizon’s accident cost the lives of eleven crew members. The massive fire burned for a day and a half until the rig sank to the bottom, leaving oil gushing from the broken pipes. More than 4 million barrels of oil flowed into the Gulf, contaminating beaches, marshes, and wetlands in the largest oil spill in history.

One worker later reported, “There was no chain of command. Nobody in charge.” It quickly became clear that the spill was an epic disaster, whose full dimensions were truly unknown. No one really knew what was happening on the floor of the Gulf of Mexico, so deep that only unmanned submarines could reach the source of the spewing oil, so dark that submarines had to bring their own lights to see anything, and pressure so great that awkward remote-control arms proved to be the only way workers could work to contain the spewing oil.

At first, BP assured everyone that it would get the spill under control and that the company would deal with the environmental damage. At every step, though, television coverage undermined the corporation’s pledge of quick, effective relief. Video of the out-of-control fire gave way to new shots of oil slicks on the water’s surface and sludge-coated birds on the shoreline. Exasperated by the intense news coverage, BP’s chief executive, Tony Hayward, told reporters, “I would like my life back.” That infuriated Gulf residents who worried, “Our way of life is over,” as Tom Young, a Louisiana fisherman, told a reporter. “It’s the end, the apocalypse and no one outside of these few parishes really cares. They say they do, but they don’t do nothing but talk…. Where’s the person who says these are real people, real people with families, and they are hurting?” Hayward asked. BP didn’t know how much oil was flowing out of its well and couldn’t seem to stop it. State and local governments pleaded for help.

BP called the spill “a well control event” that “allowed hydrocarbons to escape.” In plain English, the spill was the result of a blowout caused by the failure of private companies to manage their operations safely, including BP and its two major contractors: Transocean, the world’s largest ocean drilling company and the operator of the Deepwater Horizon, and Halliburton, a company that supplies a wide range of support services including, in this case, cementing the well on the floor of the Gulf. The spill was a private-sector failure—but congressional investigators began asking whether the federal government was doing enough. President Barack Obama decided that the federal government needed to act, and he appointed Coast Guard Commandant Admiral Thad Allen as the “national incident commander” to coordinate the response. As a tough and burly commander who had distinguished himself in leading the government’s response to Hurricane Katrina five years earlier, Allen had become the federal government’s go-to leader for impossible jobs. In the months
that followed, Admiral Allen struggled to pull together the many players—and the thousands of workers—who were involved in the response effort.

In short order, a failure by a private company to manage its drilling operations became a demand for government to respond: private problems became public problems. The government response, in turn, was not just a program to be managed but a vast, complex, interconnected network to be built, across many government agencies, levels of government, and public-private connections. Overcoming the ooze depended on how well that network worked. There was enormous political pressure. Fishermen fearful of going out of business and a Republican governor with presidential ambitions, Louisiana's Bobby Jindal, had to join with the Democrats in the Obama administration. BP had to contain the oil, repair its image, and fend off the inevitable lawsuits. Residents along the Gulf just wanted the assault on their lives and their beaches to stop.

The Flint water crisis and the BP spill both capture the essence of modern government: We the people identify problems that we expect the government will solve, to promote the general welfare. How does it do so? Government, on behalf of us all, sets goals and then creates complex organizations to meet those goals. The Flint and BP crises also capture a fundamental challenge: does government have what it takes to do what its citizens expect?

These challenges are huge, so the story can sometimes be depressing. But this book is built on optimism, out of an enduring belief that government can get smarter, serve citizens better, and support the fundamentals of American democracy on which the country depends. To a degree often not appreciated, government depends on public administration as the connection between those who make policy and the citizens who expect results. Running through public administration, moreover, are three enduring themes.

The first theme is politics. Many people often see administration as the business of the detail, which can't possibly be interesting. In reality, because no decision—especially no political decision—has any value except in the way it's implemented, public administration inevitably shapes and is shaped by politics. Politics (and, therefore, public administration) is about the choices among values, including which values get emphasis and which don't. That is the very fabric of public administration. Which neighborhoods get extra police protection? Who gets the speedy line through airport screening? When it snows, which highways are plowed first—and which see plows last? Each of these is a matter of detail richly wrapped in politics, and all administrative acts have political meaning. Indeed, the story of Flint's water crisis, at its core, is a political tale.

The second theme is performance. Public administration exists to get things done. How well does it work? How long does it take to respond to a house fire or report of a mugging? Do Social Security recipients get their checks on time and in the right amounts? Do state prisons keep prisoners inside, protecting citizens outside without abusing inmates inside? We expect public administration to work well, delivering effectiveness (high-quality goods and services) and efficiency (goods and services at the lowest cost to taxpayers).

The third theme is accountability. The prospect of a powerful bureaucracy out of control rightly terrifies citizens. The fear of a despotic government, after all, drove colonial Americans to revolution against the king. It brought down the Nixon administration in 1974. Worries that Obamacare will unleash a powerful, out-of-control bureaucracy have plagued the administration throughout Obama's time in office. Accountability is a relationship. It is about answerability to whom, for what. When we debate whether public administration is accountable, we are asking to whom individual administrators must answer (legislative bodies like the city council, state legislature, and congressional committees, as well as administrative superiors up the chain of command) and for what
activities they must answer (including the value judgments they make and the performance they demonstrate).

These three themes shape the big debates about public administration, because they frame the fundamental debate about the power of government. In 2013, for example, Louisiana Governor Bobby Jindal staged an attack on what he labeled the “two central philosophies of the Obama administration—the massive expansion of the size and power of the federal government and a lack of trust in the American people.” What evidence did he present? He pointed to conflicting stories that the administration had presented about the attack on the American mission in Benghazi, Libya; mismanagement within the Internal Revenue Service; and “disastrous attempts to enforce Obamacare,” the administration’s health care reform. And what does this evidence have in common? All focus on how administrative agencies to exercise power on behalf of government. Jindal suggested that the agencies were unaccountable to the people, that they were not performing on behalf of the public interest, and that they were the focus of administration decisions that, in Jindal’s view, represented the wrong political decisions. Of course, Jindal’s attack was itself political. How could it be otherwise? What government does is about politics—and political decisions take their meaning in the ways public administrators carry them out. Government’s power centers on public administration.

These themes also capture the inevitable tradeoffs at the core of government power. Steps to increase accountability, including more rules to restrict administrators’ power, can reduce efficiency by multiplying red tape. Streamlining government to make it more efficient can risk making administrators less accountable. At every stage, these basic questions frame the size and role of government, and there’s nothing more fundamental to politics than that.

Public administration is about everything that’s important about government, and everything that’s important about government touches on or flows through public administration. Those twists and turns are often hidden, and the issues can be subtle. But if we care about government—especially if we care about making government work better—we need to pay very careful attention to the politics of the administrative process. And that’s the mission of this book.

For example, consider the mundane problem of plowing snow from city streets. Could it possibly be about politics? Just ask former New York Mayor John Lindsay. Following a blizzard in February 1969, much of the city was impassable for days. Almost 40 percent of the city’s snow removal equipment was sidelined because of poor maintenance, and the borough of Queens was especially isolated. When Lindsay used a four-wheel-drive vehicle to make his way to the snowbound residents, they booed him and called him a bum. He managed to win reelection, but the story haunted him for the rest of his career and undermined his 1972 presidential campaign. A 1979 storm in Chicago torpedoed the campaign of Chicago Mayor Michael A. Bilandic. Washington Mayor Marion S. Barry Jr. suffered for years after a blizzard hit his city while he was enjoying sunny weather in Southern California, where he was attending the Super Bowl. A senior official in a Midwest city once confided in me that there was a
special snow removal plan for election day, to ensure that the precincts most likely to vote for the mayor got plowed out first.

It’s not especially surprising to discover that officials use government power to advance political purposes—or that administrative actions like snow plowing have political consequences. This is an echo of a great scene in the movie *Casablanca*, which might well be the best film of all time. Police Captain Louis Renault loves Casablanca’s nightlife but the Nazis who occupy the city expect him to enforce public order, in the way they want it done. When the Nazis insist he crack down on his friend Rick’s casino, Renault picks an ironic pretense. “I’m shocked, shocked to find that gambling is going on in here!” he tells everyone—just before his favorite dealer hands him his own winnings. We should be no more shocked to discover that politics surrounds the exercise of public power through public administration.

**HISTORICAL ROOTS**

These tensions and tradeoffs have deep roots in American history. We might not like politics or government much, but we like bureaucracy even less. Our founders rebelled against King George III, but the prime complaints were against his administrators. The Boston Tea Party was a public act of rebellion against the king’s tax collectors. (For a small historical tidbit, check the modern heritage of colonial brewer Sam Adams, who was a ringleader of the Tea Party and whose name lives on today.) The Declaration of Independence specifically condemns King George III, saying, “He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people and eat out their substance.” Signing the document required tremendous bravery on the part of the signatories, but declaring independence was the easy part. First they had to win the war against the world’s most powerful army, and then they had to make independence stick by learning how to govern. The new government, in fact, failed an early test of governing, when it stumbled in putting down a rebellion in 1786, led by Daniel Shays in western Massachusetts. The founders concluded that protecting their hard-won democracy required a stronger government. That led in 1787 to another major Philadelphia convention, this time to write a constitution.

Determining the role of administrators in the new constitutional system, however, proved difficult. No one wanted to recreate the tyranny against which the founders had rebelled, but a weak government risked inviting invasion and conquest. The founders famously and delicately balanced government’s power through the legislative, judicial, and executive powers. They finessed the tough question about how to exercise those powers, especially the administrative powers. Article II of the Constitution vests “the executive power” in the president, but the definition of executive power is fuzzy and the founders carefully balanced the exercise of this power through the powers given to the other two branches. Trying to define executive power further risked fracturing the fragile coalition that brought the new country together. What they left out couldn’t draw political fire, and they left to future leaders how to administer the nation they worked so hard to create.

There is profound irony here. The founders were determined to prevent a recurrence of the abuse of power that prompted the revolution, but when they had the chance to define the power of the new government, they sidestepped the question. From its first moments, American public administration was grounded in politics—the political battle against the king, followed by the delicate political balance to get the Constitution ratified. The political issues about public administration colored Washington’s two presidential terms, as
John Adams and other Federalists battled with Thomas Jefferson and his Democratic-Republican colleagues about how far the government's power should go. Defining the nature of executive power produced the first big divisions in the new nation, fueled a feud that cost the life of the Secretary of the Treasury in a duel, and fed the creation of political parties with very different views on how that power ought to be exercised. (The story is so gripping, in fact, that this part of it led to a hit Broadway musical, *Hamilton.*) The discovery that government power was about public administration and that public administration was about politics was about as surprising as Captain Renault’s discovery that there was gambling—gambling!—going on in the casino where he did his betting.

The struggles change with the times, but the basic issues are as old as the United States: creating an administration strong enough to do the public’s work but accountable enough to prevent the tyranny that the nation’s founders sought to guard against. That leads us to a more detailed examination of the puzzle of accountability.

**THE MEANING OF ACCOUNTABILITY**

We use the word *accountability* a great deal, but we rarely stop to ask ourselves what it means, how it works, what we seek to control, or who controls whom. 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. The issue is even more important in a modern democracy. So let us examine these issues in turn.

**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. Control, in turn, can be either positive (requiring an agency to do something it ought to do) or negative (seeking to prevent an agency from doing something it should not do). Sins of omission as well as acts of commission are subject to investigation, criticism, instructions, and sanctions.

The principal focus of control is on discovering bureaucratic errors and requiring their correction—a largely negative approach that tends to become dominant 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, an external control body (such as Congress, a state legislature, or a city council) can more easily identify specific problems to be solved than it can devise a broader strategy to be followed. Oversight hearings promptly focused on the behavior of that handful of troops, but Congress struggled to sort out the far more complex issues underlying American policy in the region. 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 discussion focuses on efforts of policymakers 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 must explore that issue also in the context of the often confusing dynamics of the underlying policy.

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 flow from them. 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 also 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. When Hurricane Katrina in 2005 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 federal, state, and local policy systems. Despite his city's huge problems in responding to the storm, New Orleans Mayor Ray Nagin was reelected.

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 roadway might the chemicals cause)? If we create a climate that punishes 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 filing the paperwork to document that the control standards have been met—that there may be little money or time left to do the job. Controls that are too tight, therefore, may actually reduce administration's responsiveness to its public. Indeed, as British scholar Peter Self put it, "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."\(^{11}\)

Discretion is inevitable—and desirable—in administrative action. 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—make that impossible, because reaching compromise on hard problems usually means blurring the lines. Moreover, not all circumstances are the same, and good administration requires adapting general policies to special needs. 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 one is different? Good responses depend on good training and professional judgment. That always requires discretion. We want to give administrators enough room to make the right decisions, yet we want to hold them 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? The ancient Romans, in fact, worried about the problem—including the question, “Quis custodiet ipsos custodes?”—“Who is to watch the watchers?” as Juvenal put it. We all want accountability, but there is no absolute standard for accountability 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.

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 that they believe are wrong? On 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 whistleblowers—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.”

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 builds and a puzzle that requires endless work in search of solutions.

**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 Runnymead 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.¹⁵ 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’s not surprising, therefore, that the story of the rule of law is the story of struggle and conflict.¹⁶ 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.¹⁷ 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.¹⁸

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 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 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. But 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 “big 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.19

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.20

The Progressive 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 CHALLENGES. Of course, big problems soon strained this neat formula. Herbert Hoover and his advisers fumbled in their response to the 1929 stock market crash. When Franklin D. Roosevelt launched the New Deal to attack these problems, critics complained it was a vast and unconstitutional overreach of power. The rule of law had real appeal, both because of its common law and historical roots and because it provided a logical answer to the nation’s pragmatic problems. 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.”21 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 maneuvered 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. Above the code is a relief of Hammurabi 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?22

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,”23 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.24

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.25 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 Magna Carta was important because it established the premise that law could limit the king’s power, but the Runnymede meeting did not erase the enormous pressures on the exercise of political power that came before or after. 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
On June 1, 2016, Fox News anchor Greta Van Susteren saw a story that appeared on NBC Nightly News. In 2015, a National Aeronautics and Space Administration (NASA) spacecraft had flown by Pluto and captured truly remarkable photos. On that June day, NASA released the pictures. Van Susteren wasn’t impressed and tweeted, “Why did they wait until NOW to release these? [P]ics taken in 2015 and we pay their salaries in tax dollars.”

Through some careful digging, Washington Monthly reporter Nancy LeTourneau discovered that there was a complicated but interesting story about why it took so long for NASA to release these photos.

First, Pluto is a very, very long way from earth. The distance: 3 billion miles. Even at the speed of light, it takes radio signals 4.5 hours to travel back home from Pluto. Second, the photos are high resolution, so there are a lot of data in each photo. Third, the spacecraft took a lot of photos.

The June 1 photo showed remarkable detail from the best photos ever taken of earth’s distant neighbor. NASA released the June 1 photo when it arrived and, given the huge volume of data and the long distances, NASA expected it would continue receiving photos until the end of 2016.

But instead of doing a story on NASA’s triumph, Van Susteren “used her platform to spin the age-old tale about the inefficiency of government in spending our tax dollars,” wrote LeTourneau. “That is as good of an example as I’ve seen to explain why we can’t have nice things,” she concluded.

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. In fact, when Tony Hayward complained in the BP case that he wanted to “get my life back,” he demonstrated the frustration of a private-sector executive operating within the realm of public policy, in harsh public light. Combining private actors and public expectations created a very nasty mix.

The rule of law, of course, was always more powerful 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 can 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. 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 The 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. 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. Despite the investment, however, many voters waited hours after closing time in the 2012 presidential election to cast their ballots.

**Program accountability** is the newest and most difficult objective of control systems. Is a public program achieving its purpose, as defined in law? The U.S. Government Accountability Office, 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.

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 which to obey. Appointees who choose the legislature’s course could find themselves replaced by appointees more willing to follow the president’s wishes. Those who follow Congress might find their funds slashed or their time taken up by endless oversight hearings. Seeking clarity from Congress, furthermore, can be difficult, since there is no “Congress” to talk to—only a congressional committee or its chair (or sometimes its staff), whose interpretation may not conform to the view of Congress as a whole, whose muddy legislation 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 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 controllers give conflicting directions or confusing signals, administrators face a conflict of 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. 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. 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.

The pursuit of high ethical behavior in government raises a different tradeoff. 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.”

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, 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.” Encouraged by such possibilities, they will recognize that the public service, as President George H. W. Bush said, is “the highest and noblest calling.” 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.” 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.
In July 2013, U.S. Department of Homeland Security employees received a message warning them not to use their home computers or personal smartphones to look at an article on the Washington Post website. The website, it turns out, contained a “top-secret” slide leaked by former intelligence analyst Edward Snowden. If an agency employee viewed the top-secret material from an unclassified computer, it would constitute “classified data spillage,” which had to be reported to supervisors like a toxic chemical spill.

Here’s the email, as the Post reported it:

From: [REDACTED]
Sent: Friday, July 12, 2013 9:50 AM
Subject: SECURITY ALERT ***Washington Post Article***
Importance: High
FYSA … From DHS HQ
Per the National Cybersecurity Communications Integration Center:
There is a recent article on the Washington Post's Website that has a clickable link titled "The NSA Slide you never seen" that must not be opened on an Unclassified government workstation. This link opens up a classified document which will raise the classification level of your Unclassified workstation to the classification of the slide which is reported to be TS/NF. If opened on an Unclassified system, you are obligated to report this to the SSO as a Classified Data Spillage (Opssecurity@hq.dhs.gov<mailto:Opssecurity@hq.dhs.gov> ).

Again, please exercise good judgment when visiting these webpages and clicking on such links. You may be violating your Non-Disclosure Agreement in which you sign that you will protect Classified National Security Information. You may be subject to any administrative or legal action from the Government.1

What caused all the fuss was a PowerPoint slide revealing the basic structure of the federal government's PRISM program.2 No one but highly placed insiders had previously even known about the program. Through PRISM, the National Security Agency (NSA) worked with a wide variety of information technology companies, including Apple, Google, Skype, Yahoo, and Facebook, to collect information on the communications of individuals that the NSA wanted to investigate. The companies shared the information with NSA, which then put its analysts to work to determine whether any of the communications constituted a threat to national security. How many “targets” was NSA investigating? At the time of Snowden’s leak, there were 117,675 targets. Other Americans, however, might have had their communications shared with NSA “incidentally,” as a result of the agency’s work.

So if you have a top-secret security clearance and if you read this case, you must immediately go to your supervisor to report a "classified data spillage." If you don’t have a top-secret clearance, you’ve just read something you weren’t supposed to see to begin with. Either way: Do NOT read this case!

QUESTIONS TO CONSIDER

1. What do you think about this government surveillance program, which allows the NSA to work with popular service providers like Facebook, Google, and Skype to collect personal information without the user’s knowledge? On the one hand, terrorists frequently use the Internet to plan attacks. On the other hand, such surveillance is clearly an invasion of individual privacy.

2. The memo to employees might seem silly to some. But the government has a broad policy on not allowing users to look at classified information on unclassified computers. Why? Unclassified computers can be infiltrated by viruses and spyware, which allow others to capture anything that goes across the screen. (The Central Intelligence Agency and the NSA do not allow cell phones inside their buildings’ secure zones.) If you were a manager, how would you handle this situation?

3. Perhaps nothing more sharply frames the problem of accountability in modern government than determining how to safeguard the personal communications of individual Americans while preserving national security. What kind of accountability system would you design to find the balance?

NOTES


2. To view the slide, go to http://www.washingtonpost.com/business/economy/the-nsa-slide-you-havent-seen/2013/07/10/32801426-e8e6-11e2-aa9f-c03a72e2d342_story.html.
Throughout much of the East Coast, the winter of 2010 was painfully burned into everyone’s memory. Children looking forward to snow days had their dreams fulfilled—and then some. By mid-February, the Washington, D.C., area had already shattered the all-time record for snow, with 55 inches of accumulation. For a time, Baltimore, Maryland, had more snow than Buffalo, New York. Many football fans found themselves stuck at home instead of partying with friends for the Super Bowl. Some local universities were shut down for a week as the snow removal crews struggled to dig out the sidewalks and parking lots.

Most people in the area tried to bring good humor to the onslaught, but in some neighborhoods snow plow drivers were threatened by angry residents. Stuck for days and watching the plows drive by without dropping their blades, some residents of a neighborhood in Prince George’s County, a Washington, D.C., suburb, told several snow plow drivers that they were going to “throw them out of their trucks and beat them up” if they didn’t stop to plow their streets. Other drivers called 911 for reinforcements when angry taxpayers made threats. A county spokesperson said that the drivers “are working as hard as they possibly can.” She explained, “I understand people are frustrated.… Obviously we know we have work to do and we’re trying … just as hard as we can. We want to go home.”

In nearby Arlington County, across the Potomac River, county officials pointed to their snow removal priority plan with a sophisticated map that charted which streets the plows worked on first. Plowing starts when the snow becomes two to four inches deep. The snow crews focus on priority areas: snow emergency routes marked with bright signs, main arteries, roads leading to hospitals and fire stations, and the areas around subway stations and police stations. Crews work twelve-hour shifts, get twelve hours off for food and sleep, and then come back to work again. Even that effort struggled to keep up with 2010’s blizzard of the century, and for months afterward residents complained about being marooned. Why, they asked, couldn’t the government plow them out faster?

**QUESTIONS TO CONSIDER**

1. Assume you are the head of the department of public works of your county. You’re in charge of snow removal. What streets would you plow first?

2. What would you say to residents whose streets end up at the bottom of the plowing priority list? After all, they will tell you: they pay taxes, too!

3. Following the blizzard, Arlington County considered an ordinance that would require local residents to join with the county in the snow removal effort. In particular, “the ordinance first would require all property owners to remove snow and ice adjacent to their property, creating a path that is a minimum of thirty-six inches wide (to accommodate wheelchairs, strollers, and adults with children in hand) within twenty-four hours after the snow stops falling, when accumulations are less than six inches, and within thirty-six hours when six or more inches of snow accumulate. Failure to comply with the ordinance could result in a civil penalty.” Would you favor the passage of such an ordinance, which brings individual citizens into a partnership with government in providing public services? What would you do for older and disabled residents, who might not have the physical strength to shovel their sidewalks? Just how far should a government’s reach into an individual’s property go?

4. One official of a Midwest town once admitted that the town had a special snow removal plan for election day. If it snowed, he said, there was a plan to make sure that the “right” neighborhoods—those most likely to vote for the mayor—were plowed first. The other neighborhoods—those most likely to vote for the mayor’s opponent—would have to wait much longer. Do you think that this is a proper use of government’s power, or of the way that administrative decisions shape values in society?

**NOTES**


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.

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.” 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. Enterprise 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 in 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 barbecues (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

2. Ibid.
Permission Slips for Oreos

Just by sending a frustrated tweet, a suburban Philadelphia mother set off a tsunami. “Insanity!” the woman fumed. “I have to sign a permission slip so my middle-schooler can eat an Oreo.” She was telling the truth, and her tweet inadvertently launched a national debate over whether a lawsuit-crazed society had finally gone too far.

The cookie in question was actually a Double Stuf Oreo. The permission slip came one day in March from Darlene Porter, a teacher at Welsh Valley Middle School in the suburbs of Philadelphia. The purpose: an experiment on the earth’s tectonic plates.

According to the permission slip, students would “model plate movement and observe earth’s features,” using the cookie to “simulate the [three] types of plate boundaries.” But then came the crucial part. “The students may eat the Oreo after the investigation if this is okay with you. The students do NOT have to eat the Oreo if they do not wish to do so.” A warning at the end: “Without a signed permission slip, my child understands that he/she will not be able to sample the Oreo.”

The story exploded on social media. Dutchman61 complained about “the sheer [sic] idiocy of what our schools and institutions have become. And the really ugly truth is that there are idiots who would sue if their kid was allowed to have an Oreo.” From Scotland, AMCK1997 was sympathetic to the reasons for the permission slip, arguing a lawsuit could cost the teacher her job. Still, he concluded, “it does seem a bit ridiculous.”

Doug Young, the school district’s spokesman, told the press, “It’s one teacher who was really trying to do her due diligence, quite honestly.” A parent with an allergy tried to help by sending in gluten-free Oreos. And the mother who kicked off the battle made it clear that she didn’t blame the teacher. “I fault our crazy culture,” she said.

Was the Oreo fracas just one more indignity imposed by a super-suing, overregulated society? Or, given what we know about the way food affects kids’ health, was it an enlightened step forward? One school employee defended the cookie warning. “There are many children in the school I work at that have severe food allergies,” she wrote. “This mother needs to chill out and be happy that the teacher is concerned that one of her students has food allergies.”

The incident underscores a bigger divide among parents over how much supervision of children is too much supervision. One blogger wondered whether so-called helicopter parents in 2024 would give their kids swallowable sensors that would tell a smartphone if the kids were eating too much sugar, fat, or gluten. By then, this writer imagined, “letting kids do anything on their own will be considered completely irresponsible, or even insane.”

Humor columnist Dave Barry looked back to the 1960s. His parents, Barry reminisced in The Wall Street Journal, “didn’t worry about consuming trans fats, gluten, fructose, and all the other food components now considered so dangerous they could be used to rob a bank (“Give him the money! He’s got gluten!”).” A school nurse voiced the same sentiments. “You would not believe the insanity of the parents nowadays,” she wrote. “Gluten! Sugar! Allergies! There are parents who live in perpetual fear and want everyone else to be afraid with them. Sadly, most school districts give in to these demands.”

For some kids, however, gluten is truly no joke. The U.S. Food and Drug Administration has found that in some cases, gluten can cause serious gastrointestinal problems and life-threatening metabolic problems. Later in life, some of those with celiac disease, which is worsened by gluten, develop problems ranging from epilepsy and infertility to neuropathy and high-mortality cancer. Science has come a long way since the 1960s, when many children suffered from problems that researchers have since learned can be prevented. And some of that prevention comes from being careful with what the kids eat.

In fact, concerns about kids’ reactions to allergens aren’t just a matter of regulatory excess. Chicago Public Schools stock epinephrine autoinjectors, which allow the staff to treat potentially fatal anaphylaxis—difficulty in breathing and a possible heart attack—that can result when sensitive kids are exposed to certain foods. In the 2013–2014 school year, there were thirty-eight emergency injections. Half of the shots were for kids with a first-time reaction who had never had problems before. All survived. In the end, being extra careful about exposing kids to things that can hurt them is much more than an opportunity for blogger flippancy. Precautions have to be balanced with common sense, but it’s a mistake to sacrifice science to sarcasm.

Still, there’s one other comment that deserves careful attention. One blogger wasn’t worried about intrusive school nannying, but had an entirely different problem to complain about. How could the teacher use Double Stuf Oreos, he wanted to know, when Hydrox cookies were an obviously better choice for the experiment?

QUESTIONS TO CONSIDER

1. Is this a case simply over the top? Here’s a clever and creative teacher trying to do a demonstration for students—but asking parents to sign a permission slip before a child could eat an Oreo?

2. Consider how you’d feel if your child had a gluten allergy and might be affected by eating an Oreo in the class. Would you have concerns similar to those of AMCK1997 or Barry? Or would you consider it a necessary part of being a good parent? Explain your reasoning.

Copyright ©2017 by SAGE Publications, Inc. This work may not be reproduced or distributed in any form or by any means without express written permission of the publisher.
classroom. Would you want to subject the entire class to the burden of collecting permission slips for your child?

3. Just how should government set a balance in the behavior and accountability of its officials, between providing flexibility in the way they do their jobs and ensuring that nothing in the way they do their jobs could harm anyone?

4. How does this affect the meaning of accountability in the day-to-day operation of government agencies, like public schools?

---

**Note:** This case comes from my column in *Governing* (June 2015), http://www.governing.com/columns/potomac-chronicle/gov-school-lunch-regulations.html.

---

**KEY CONCEPTS**

- accountability 8
- ethical behavior 17
- exit 16
- fiscal accountability 15
- politics-administration dichotomy 12
- process accountability 15
- program accountability 16
- Progressives 12
- rule of law 10
- voice 16
- whistleblowers 10

---

**FOR FURTHER READING**


---

**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](http://www.oge.gov).

More broadly, the Council on Governmental Ethics Laws, [www.cogel.org](http://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.

---

**WANT A BETTER GRADE?**

Get the tools you need to sharpen your study skills. Access practice quizzes, eFlashcards, video, and multimedia at edge.sagepub.com/kettl7e.