How Could They Let This Happen?
Cover Ups, Complicity and the Problem of Accountability

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Abstract: Sexual abuse by clergymen, poisoned water, police brutality—these cases each involve two wrongs: the abuse itself and the attempt to avoid responsibility for it. Our focus is this second wrong—the cover up. Cover ups are accountability failures, and they share common strategies for thwarting accountability whatever the abuse and whatever the institution. We find that cover ups often succeed even when accountability mechanisms are in place. Hence, improved institutions will not be sufficient to prevent accountability failures. Accountability mechanisms are tools that people must be willing to use in good faith. They fail when people are complicit. What explains complicity? We identify certain human proclivities and features of modern organizations that lead people to become complicit in the wrongdoing of others. If we focus exclusively on the design of institutions, we will fail to constrain the perpetrators of wrongdoing. Understanding complicity is key to understanding accountability failures.

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Cover ups are one kind of accountability failure. By studying them, we come to a better understanding of what might be required for accountability generally to succeed. Our newspapers are full of stories of wrongdoing that has been successfully hidden for a long time before it finally comes to light. Consider just a few examples: sexual abuse by clergymen, date rape at colleges and universities, poisoned water supplies, concussions among football players, manipulation of scientific studies on the health impacts of tobacco, and police brutality. In every case, there are two sorts of wrong: the abuse or harm itself and then the attempt to avoid responsibility for it. Our focus is this second wrong—the cover up—and what it can teach us about accountability.

Abuse of power has always been a central concern to scholars of politics and ethics, and they have focused on institutionalized accountability mechanisms as one means to control or limit abuses. The conventional account views the problem of accountability as a problem of institutional design. Effective accountability requires three elements: a clear standard for what constitutes an abuse, transparency, and authority to sanction abuses (Keohane, 2003). In this view, accountability failures stem from the absence or inadequacy of one of these elements. To address such failures, scholars suggest more of the same: mechanisms that provide clearer standards, better transparency, and stronger sanctions (Grant and Keohane, 2005). Similarly, policy makers often react to accountability failures with recommendations for institutional responses: the creation of a new civilian review board or inspector general, for example.

Yet, time and again we see that abuses continue, even when accountability mechanisms are already in place. There have always been institutionalized procedures within the Catholic Church for disciplining priests, yet abuses persisted. There are established regulatory oversight processes for legal redress in response to corporate malfeasance, yet companies continue to put toxins in the water (Kelly, 2016; Rich, 2016), cook the books (Gibney, 2005), and deceive their customers (Flitter and Cowley,
2019; Reckard, 2013). What is the source of accountability failures in cases such as these? This is the puzzle that we address.

Our analysis of cover ups provides insight into the limitations of accountability mechanisms and the role of complicity. Our central argument is that taking account of complicity is the key to addressing many accountability failures. In all of the cases we considered, an abuse of power or threat to public safety persisted, even when accountability mechanisms were available, and even when many people knew, or should have known, about it. The failure to hold anyone to account for an initial wrongdoing often depends on a second wrong, when people become complicit in the initial wrongdoing by covering it up.

Complicity, generally speaking, entails the association with or participation in another person’s wrongdoing. It can take many forms, from silence to collaboration. ¹ Complicity is at work when people are unwilling to put accountability mechanisms to their intended use to prevent or sanction abuses. Common accounts of accountability failures neglect this critical consideration. It is not that well-designed accountability mechanisms are unimportant. On the contrary, they can be crucial. But mechanisms alone cannot solve the accountability dilemma. And in some—arguably many—cases, the mechanisms themselves can be misused to create obstacles to effective accountability, as we will see.

In Part I, we examine cover ups to show, first, that accountability can fail despite mechanisms that provide clear standards, transparency, and the opportunity to sanction abuses. Second, accountability mechanisms themselves can be employed to further the cover up. This counter-intuitive finding highlights the limitations of approaching accountability as a problem of institutional design. In

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¹ Lepora and Goodin offer a typology of eight practices that can be understood as forms of complicity: connivance, contiguity, collusion, collaboration, condoning, consorting, conspiring, and full joint wrongdoing. For our discussion of coverups, we are concerned with what they call “complicity simpliciter”—that is, the forms of complicity that are not themselves constitutive of the principal’s wrongdoing (Lepora and Goodin, 2013: 5, 41–51). It is worth noting that there is no entry for “cover ups” in the index of their book.
Part II, we address the question of how cover ups work. Across all sorts of institutions and types of abuse, there are strategies that appear regularly. They are a particular way of aiding and abetting wrongdoing that includes denial, suppression of information and the use of alternative narratives. These strategies depend on the willingness of people to be complicit in the wrongdoing of others.

In Part III, we turn to the reasons why complicity is a common response to awareness of wrongdoing. We briefly examine research in psychology and organizational behavior that sheds light on this question. This research suggests that pressure to conform, diffusion of responsibility, and rationalization, for example, all help to explain why people become complicit. In addition, we suggest that positive qualities like loyalty, trust and professionalism, which are essential for the functioning of modern institutions, can cripple a proper response to wrongdoing and contribute to cover ups. It turns out that complicity is a very difficult force to combat, but one that must be addressed if we are to improve accountability.

For this paper, we studied a wide range of cover ups (21) as part of a multi-year faculty working group. We chose to examine here a small enough number so that we would be able to include enough detail to show how accountability processes do and don’t fail in complex ways. In addition, we chose cases where there was sufficient information available for analysis. We then chose cases involving different sorts of abuses and different sorts of institutions to illustrate the claim that cover ups of all kinds exhibit similar patterns and characteristics and hence cover ups per se are an important subject for study. Here we highlight seven cases of cover ups across three types of institutions: corporations (three cases), government (three cases) and the church (one case) and involving abuses as different as child sexual abuse and polluted water. Our case selection strategy is not intended to provide hypothesis testing and is neither a random nor a representative sample of exposed cover ups. Instead, it is meant to illustrate recurring patterns of behavior and to offer a basis for revising the prevailing view of the problem of accountability.
Each of our cases involves wrongdoing that is egregious—the stakes are often life and death. They are cases where abuses persisted for a long time and many people had to have known of them. These are the cases that are most difficult to explain. Imagine a person who becomes aware of wrongdoing who must decide whether or not to reveal what she knows. She might weigh the severity of the abuse, the consequences for herself in coming forward, the consequences for the organization involved, and the legitimacy and value of the organization’s mission. It would not be difficult to understand the decision to cover up wrongdoing where the abuse is trivial and the consequences of revealing it would be disastrous for the organization’s ability to pursue important and principled aims. But where abuses are severe enough, organizational loyalty begins to carry less weight. In the cases we consider here, the abuses are severe, and in some, but not all of them, they go to the heart of the organization’s mission; for example, when the police are found to be victimizing the very people they are meant to protect or when clergy misuse their sacred authority. How could so many people let this happen? These are the hard cases, the ones most in need of explanation.

Many philosophical discussions of complicity are concerned with ethical questions. Is complicity ever justified? To what extent are people morally responsible for actively combatting abuses? What is the relation between individual guilt and collective responsibility? (Mellema 2016; Kutz 2011; Lepora and Goodin 2013; Pauer-Studer 2018; Kutz 2000; Williams 2018). Our questions are different. We are not seeking to judge acts of complicity, but rather to describe and explain them. We are asking how complicity functions as an essential element in successful cover ups and why it happens as frequently as it does.

Of course, we cannot compare cover ups that succeed with those that fail. If a cover up is successful, we will not know about it. Nonetheless, a great deal can be learned from the particulars of the cases we discuss about this pervasive type of evil and about the frequent failure of accountability mechanisms to prevent or respond to it. In many cases, a cover up may succeed for quite some time
until finally an accountability mechanism works. But, once a cover up attempt has been exposed, it is not always the case that accountability mechanisms have succeeded. Perpetrators may go unpunished and abusive practices may continue despite exposure. Effective accountability can be very difficult to achieve. Understanding the dynamics of complicity helps to explain why this is, and points to possible new directions for addressing accountability failures.

Part I: Accountability Failures

Scholars have been motivated by the desire to understand the root causes of accountability failures. They have pursued this question across different domains, from democratic elections and the consumer marketplace to world politics and humanitarian intervention (Buchanan and Keohane, 2004; Goodhart, 2011; Grant and Keohane, 2005; Young, 2004). In these discussions, accountability usually describes a relationship between a “power wielder” and an “accountability holder” in which powerful actors face the threat of significant sanction if they misuse their power (Grant and Keohane, 2005; Rubenstein, 2007). The nature of this relationship is sometimes understood as a principal-agent relationship in which accountability failures can be attributed to poorly aligned incentives (Ferejohn, 1999; Shapiro and Stiglitz, 1984). Others have pointed to various problems that can undermine the effective use of accountability mechanisms, like systemic economic inequality or when wrongdoing arises from “many hands”, making it difficult to assign responsibility (McCormick, 2006; Rubenstein, 2007; Thompson, 1980; Warren, 2011).

2 Others have argued that forms of accountability which focus on incentives can crowd out trust; (Baier, 1986; Borowiak, 2011; Mansbridge, 2003). They point to contexts in which we would want a relationship of accountability to allow for greater discretion in the use of power. In such cases, accountability may be best served by focusing on mechanisms other than reward or punishment (Mansbridge, 2014; Warren, 2014).
All of these approaches to accountability ignore a central problem—a problem that is exposed by considering cover ups. Accountability mechanisms are meaningless if people are not willing to put them to their intended use. Consider, for example, the many cover up cases where the “higher ups” use their authority to hide the transgressions of their subordinates. Moreover, the usual view overlooks how, paradoxically, accountability institutions themselves can be subverted and become tools of wrongdoing, contributing to continued abuse. These problems cannot be solved by improved institutional design alone. Scholars and practitioners often recognize the importance of culture and norms, in addition to institutions, for understanding how organizations work. But when it comes to the issue of accountability, they tend to place greater faith in the efficacy of institutions than is warranted. People need to be willing to use accountability mechanisms, but they must also use them in good faith. Analyzing cover ups exposes this difficulty.

We define a cover up as knowingly concealing a transgression or abuse of power or threat to safety. This definition covers cases where the perpetrator is also managing or participating in the cover up and cases where the perpetrator and those engaged in the cover up are not the same people. The latter become aware of the former’s wrongdoing and decide to conceal their knowledge of it, for example. This is the situation most commonly termed a cover up.3 By engaging in the cover up, non-perpetrators become complicit in the abuse.

This definition excludes cases where what looks like a cover up is in fact a dispute over whether there has been wrongdoing. To knowingly conceal an abuse, you must believe that it is an abuse. For example, in the case regarding football players’ severe head injuries, NFL leadership can only be said to have covered it up if they believed the science demonstrating that concussions cause traumatic brain injury. The same could be said of management at Johnson & Johnson and the claims linking talc-based...

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3 Sometimes, there is no identifiable “perpetrator.” Consider, for example, the brain damage caused by repetitive concussions in football. The NFL attempted to cover up this threat to safety.
baby powder to ovarian cancer. So, in many cases, the question becomes how to identify an abuse. In determining whether cases qualify as cover-ups we looked to the behavior of those involved. The NFL systematically omitted data in its study of the relationship between concussions and brain injury, while Johnson & Johnson for decades suppressed its own internal findings of traces of asbestos in its talc.

The definition also requires us to specify exactly what it means to “knowingly” conceal an abuse. Often people both “know” and “don’t know” simultaneously. They may have reason to suspect wrongdoing, but suppress their suspicions, particularly when acknowledging them would be distressing or when acknowledging them would entail an obligation to act. People often deny the evidence that is right in front of their eyes. Alternatively, they may acknowledge their suspicions but rely on the fact that they are only suspicions, delaying action until there is no longer any doubt. In both types of cases, we might say that they “should have known.” At some point, there is sufficient evidence to require scrutiny on the part of those responsible. And if they persist in denial, we call it “culpable ignorance.” When all the evidence points in one direction, but the evidence is ignored, then the denial, even if not fully conscious, is consistent with a cover up.

For our cover up cases, we looked at the performance of seven distinct types of accountability mechanisms to see whether and when they fall short (Table 1). These mechanisms, when they succeed, can sanction perpetrators of wrongdoing. Each mechanism represents a different answer to the question: who has the power to sanction abuses? Hierarchical accountability is the authority within an organization that superiors have over their subordinates; they can remove subordinates from office, constrain their room for discretion and adjust their compensation. Supervisory accountability occurs between organizations where one organization can regulate the activities of another, require reports, and sanction violations. Government regulatory agencies, for example, are supervisory accountability mechanisms.

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4 Compare the seven types of accountability mechanisms in international politics identified by Grant and Keohane (2005).
mechanisms. *Internal review* processes operate within an organization to evaluate its policies and practices with a view to determining whether or not sanctions are appropriate. *Legal* accountability requires agents to abide by formal rules or laws and to justify their actions in administrative or judicial tribunals. *Market* accountability does not refer to abstract and invisible “market forces.” Rather, it occurs when customers and investors sanction the companies that engage in wrongdoing by refusing to do business with them. *Peer* accountability is a matter of the social norms within an organization and the power of one’s peers to sanction individuals who violate them. *Media* accountability occurs when media reports on wrongdoing cause reputational damage. When it works, it can trigger other forms of accountability. Our analysis of cover ups suggests that a distinct set of strategies are employed to avoid accountability or otherwise cause these mechanisms to fail (Table 2).

When accountability mechanisms are misused, some of them can even perversely serve to perpetuate a cover up rather than expose it. Looking more specifically at the cases we analyzed, we see how frequently accountability mechanisms can actually undermine what are considered the three requisite components of accountability: mutually recognized standards of behavior, information relevant to judging when an abuse of power has occurred, and the capacity to impose costs on the powerful. In the DuPont case regarding the dumping of toxins into a town’s water supply in West Virginia, when faced with the threat of a class action lawsuit, DuPont both used its internal review processes and cooperated with the West Virginia EPA, in theory a supervisory agency, to revise its own definition of what constitutes safe PFOA exposure, increasing the levels from one part per billion to 150 parts per billion (Rich, 2016). DuPont was able to use the internal and supervisory mechanisms to obscure the threat to safety created by its chemicals.

When standards are less amenable to being revised or fudged, our cases demonstrate how accountability mechanisms can be used to limit access to information, the second component required for accountability. In the Pennsylvania Catholic Church child sexual abuse cover up, there was no
room for contesting standards of harm. But the case shows how clergy found plenty of ways to ensure that accusations and confessions of abuse would not see the light of day. Officials would use their higher positions of authority in the Church to shift abusive priests to a new diocese rather than disclose the danger these priests presented. The Vatican rejected the applicability of laws that would have otherwise required priests to report abuse to a supervisory organization like law enforcement. And Church officials conducted sham investigations, in the form of internal reviews, asking few questions and making credibility determinations about their peers—clergy with whom they often lived and worked.

Similarly, in both the Flint and Johnson & Johnson cases, those involved in the cover up used supervisory, internal review and media mechanisms to obstruct rather than promote transparency. After the drinking water supply of Flint, Michigan was contaminated with toxins, city and state officials attempted to cover up the threat to public health and the negligence that led to it. In the midst of Flint’s water crisis, a consultant firm hired by the city to independently audit (in a supervisory role) the city’s compliance with federal and state safety standards omitted reporting on the dangerously high levels of lead they found (Holden et al., 2019). When city officials tested the water for their internal review, they relied on tendentious reasoning to exclude samples with high lead content, in addition to distorting other results (Rodrick, 2016). In the Johnson & Johnson case, company executives persuaded government officials not to release unfavorable findings about talc to the news media, while the President of Sinai hospital publicly discredited the hospital’s own study of asbestos toxicity in baby powder (Rabin and Hsu, 2018). Between 1971 and the early 2000s, moreover, employees involved in internal processes for testing talc powder did not disclose to regulators evidence of small amounts of asbestos.

Lastly, even when transparency is achieved, our analysis shows how accountability mechanisms are sometimes used to neutralize or counteract, rather than trigger, sanctions, the third component of
accountability. Legal mechanisms can become accountability barriers, as when Pennsylvania dioceses entered into settlements with victims that contained confidentiality agreements forbidding victims from speaking out. When Laquan McDonald was murdered by a Chicago police officer in a case that police officers immediately and wrongly termed self-defense, the legal settlement with his family included a provision to keep confidential the video of the police killing. In the Flint case, the governor provided a kind of de facto immunity from hierarchical accountability by failing to sanction the city’s emergency managers for their decisions, including their rejection of the community’s request to switch from Flint back to Detroit water. The governor's exclusive hierarchical control over the emergency managers also precluded the possibility of sanctions from the city council, which could not remove the emergency managers or immediately reverse their decisions.

The McDonald case powerfully illustrates how accountability can remain elusive even when each component of accountability for police conduct is present (Kalven, 2015). The standards of self-defense for appropriate use of lethal force were well-recognized. The relevant information in the form of the dash cam video and autopsy report were available to the authorities. And city and police officials had the power to sanction the officer. Nonetheless, these features were not sufficient to guarantee accountability.

What becomes apparent is not only that the mechanisms often fail, but also that they themselves can become impediments to genuine accountability. For example, the authorities in a situation where wrongdoing has been exposed often begin their defense by claiming that the problem is just a few “bad apples.” One finds this in cases of police misconduct, where the implication is that punishment or dismissal of a few individuals will solve the problem, and there is no need to address systemic racism

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5 State prosecutors charged fifteen state and local officials with crimes related to the water crisis, but most charges were eventually dropped. Rick Snyder, the former governor of Michigan, has recently been indicted on two misdemeanor counts of willful neglect of duty (Bosman, 2021).
or other problems within the department. In such cases, punishing the individuals, which is an exercise of hierarchical accountability, can itself be a part of the cover up, allowing abuses to continue.

Mechanisms of supervisory accountability prevent genuine accountability when committee reports or commissioned studies whitewash wrongdoing. In such cases, the investigation is the cover up. Or legal accountability may seem to be met by an out-of-court settlement, but actually a corporation merely pays a fine that is small enough to be considered a cost of doing business while the other party signs a non-disclosure agreement meant to undermine transparency. There is nothing about this legal result that effectively holds the perpetrators accountable—quite the contrary.

Part II: Cover Up Strategies

How does it happen that accountability can fail so spectacularly? We argue that to understand why these different forms of accountability so frequently fail, we need to look not only to the limits of the mechanisms themselves, or to the ways they are or are not deployed, but also to the active efforts to defeat them. Cover ups involve strategies designed to frustrate attempts to call wrongdoers to account. They are strategies for thwarting effective accountability by concealing wrongdoing.

Whether the institution is a corporation or a church and whether the abuse is pollution or child molestation, cover ups involve a distinct set of strategies, employed by “responsible parties” to escape blame (Table 2). Denial and suppression of information are implicit in the purpose of a cover up, so these strategies appear in all our cases. The use of an alternative narrative to undermine allegations of wrongdoing is also present in most of the cases we examine, though it is not necessary in principle for every case. Other features, such as intimidation of whistleblowers or victims, or challenging scientific studies, are frequently, but not always, present. Because cover ups are, at their heart, attempts to avoid accountability, these strategies are often used to corrupt accountability mechanisms.
Denial can take two forms: denial of fact, in which the existence of the initial wrongdoing is denied, and denial of responsibility, in which the fact is acknowledged but culpability for it denied. An example of the former is when the NFL’s co-chair appeared on HBO and rejected the possibility of a connection between concussions and dementia (Laskas, 2009). Police in the McDonald case provide an example of the latter. Rather than deny the police shooting occurred, police reports drawn from the accounts of officers at the scene fabricated a narrative that McDonald posed a threat and that Officer Van Dyke acted in self-defense.

Suppression of information takes place when the wrongdoing is recognized, but not disclosed. Amidst growing concern about the correlation between football-related head injuries and dementia, an NFL committee tasked with investigating the relationship omitted from its studies more than 100 cases of reported concussions (Schwarz et al., 2016). Across dioceses in Pennsylvania, Bishops kept complaints of sexual abuse by their priests locked in a “secret archive” that is mandated by the Church’s Code of Canon Law (Pennsylvania Diocese Victims Report, 2018). In Flint, the Governor’s office and city officials did not disclose internal reports indicating dangerous levels of toxins in the city’s water (Sorkin, 2016), nor did it reveal its concerns even as state offices reverted to using water coolers due to worry about water safety (Stack, 2016). During an investigation into the explosion of the Challenger Space Shuttle, which was caused by a design flaw in a rubber seal protecting the shuttle’s fuel tank from the discharge of the rocket boosters, NASA officials did not disclose in their testimony to the Presidential Commission the initial “no-launch” recommendation from rocket engineers at Morton-Thiokol (McDonald and Hansen, 2009).

Most of the cover ups we discuss involve the construction of an alternative narrative. Alternative narratives often try to account for wrongdoing that has been exposed with a plausible story that denies responsibility for it. The NFL attributed the behavior and suffering of former players to personal histories of mental illness (Fainaru-Wada and Fainaru, 2014; FRONTLINE, 2013). The
Chicago Police argued that Laquan McDonald had lunged at them with a knife, and they responded in self-defense, an account later belied by the autopsy report and a dash-cam video (Gorner, 2019; Gorner et al., 2015). Flint city officials claimed that brown color and particles in the water were “rust” and that tests showing inexplicably high levels of lead contamination were caused by a homeowner’s pipes, even though almost all of the pipes were plastic (Smith, 2015). Officials in the Governor’s office argued that investigative journalists, environmentalists, and academics who were blowing the whistle about lead poisoning should be ignored because they were liberal activists with a political agenda (Sorkin, 2016).

Sexual abuse in the Pennsylvania dioceses provides an example of another cover up strategy, *intimidation of whistleblowers and victims*. In one case, after hearing from a young girl abused by a priest, diocesan officials immediately sought information meant to discredit her and humiliate her family; in another case, diocesan attorneys threatened to “tear apart” the testimony of two young boys if their mother went to court with criminal charges against a priest—a point they demonstrated by interrogating her children until they cried (Pennsylvania Diocese Victims Report, 2018: 25, 620–621). Across a variety of institutions, intimidation often entails material retaliation, verbal denigration, and professional ostracism. Whistleblower intimidation can target both low-level employees and those at higher echelons of power and authority. As a result of two engineers revealing to a Presidential Commission investigating the Challenger Disaster that they had issued a “no-launch” recommendation, NASA partner and consulting company, Morton Thiokol, removed both from the company’s own investigative team, which was tasked with providing the company’s account of the explosion (McDonald and Hansen, 2009).

Organizations and their staff—often those involved in the initial wrongdoing—conduct their own or fund alternative scientific studies to either counter accusations that a wrongdoing has taken place, downplay the harm of the wrongdoing, or deny responsibility for it. Conducting or sponsoring
alternative studies is not, in itself, problematic; it is when the methodologies are indefensible or the study is purposefully misleading that they become an instrument of a cover up. For years, the NFL conducted its own studies of the relationship between concussions and dementia, with results that diverged from a growing consensus among researchers about the connection between the two (Union of Concerned Scientists, 2017). Early in the Flint water crisis, the Michigan Department of Environmental Quality (MDEQ) conducted its own study of lead poisoning (which excluded samples and targeted select homes with cleaner water) to challenge the EPA’s determination that intervention was necessary (Rodrick, 2016).

The DuPont case offers a paradigmatic example of these cover up strategies and how they interact and overlap, demonstrating how accountability mechanisms are frequently undermined or turned on their head. The initial accusations against DuPont focused on its contaminating the water supply in Parkersburg, West Virginia, leading to high rates of livestock death. In response, DuPont and the EPA commissioned three veterinarians to conduct an alternative scientific study of the property, which attributed cattle health problems to “poor nutrition, inadequate veterinary care and lack of fly control.” DuPont used this study to deny responsibility, pointing to an alternative narrative of “poor agricultural practices.” DuPont also engaged in denial of fact, insisting that PFOA was not toxic (Rich, 2016). It was later revealed, however, that going back to the 1950s, DuPont had conducted and then suppressed its own internal studies revealing the toxicity of PFOA. In 1984, the company began to secretly collect samples of local tap water from nearby homes, schools, and businesses. At headquarter meetings, DuPont executives recognized that its legal and medical departments would recommend eliminating PFOA entirely, but they rejected the idea because it would negatively impact their profits.6

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6 Minutes recorded at a meeting noted that “legal and medical will likely take the position of total elimination” of the chemical pollution, but executives at the meeting concluded that the available methods for cutting pollution were not “economically attractive,” after which the company increased its production of the chemical and continued its practices of dumping in landfills near the Ohio River (Kelly, 2016).
DuPont settled the initial lawsuit over cattle deaths, but as it quickly became clear that it would face a class-action lawsuit for harm to over 70,000 people, it turned to *a new scientific study and narrative*. Its own scientists and West Virginia EPA scientists raised DuPont’s internal limit of PFOA exposure from one part per billion to 150 parts per billion, redefining what constituted harmful exposure (Rich, 2016). DuPont settled the class action but continues to face individual lawsuits today.

The cover up strategies exhibited in the DuPont case exemplify behavior that appears again and again. Moreover, these strategies of evasion and deceit are not *ad hoc* but can become routinized, a “standard operating procedure.” When a priest is accused of child abuse, a secret file is created; he is transferred to another parish; and every effort is made to keep it quiet. When a policeman is accused of misconduct, there are people who formulate the official story and have those involved sign off on it. Within several hours of Laquan McDonald being declared dead, the department issued a press release under the superintendent’s letterhead presenting the official narrative. The story here is not about the availability of accountability mechanisms, or even of their quality. It is of the unwillingness of those with access to accountability mechanisms to put them to their intended use.

Part III: Complicity

Why do people participate in cover ups, turning to strategies like suppression and denial? There is no mystery as to why a perpetrator might cover up his own crime. But why do people, who would not otherwise be held responsible for an abuse of power or public harm, so frequently become complicit in the wrongdoing of others? Complicity is the association with or participation in another

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7 Various industries have worked from the same playbook, using a common set of strategies to downplay wrongdoing or obscure harms to public health, from industrial chemicals to climate change to tobacco smoke (Oreskes and Conway, 2010).
person’s wrongdoing. It is a distinct form of wrongdoing that so often renders ineffective the accountability mechanisms that have been designed to hold the initial perpetrators of a wrong to account. Complicity can range from active conspiracy to passive indifference, simply turning away. In U.S. law, a person can be called to account for anything from failing to make the required effort to prevent an offense to aiding or abetting a perpetrator.

“Why complicity?” is a question that received a great deal of attention in the postwar period for obvious reasons. Since then, researchers have developed two competing approaches to understanding why people engage in wrongdoing, including complicity. The first view explains wrongdoing as a matter of individual character or “disposition.” It focuses on personality traits that lead certain kinds of people to become complicitous. The second view emphasizes institutional pressures, structures and roles or “situation.” According to this view, there can be bad results without bad individuals under conditions where the organizational system creates pressures towards wrongdoing. This binary has governed the postwar debate beginning with *The Authoritarian Personality* (disposition, note the title) and continuing through Philip Zimbardo’s *The Lucifer Effect: Understanding How Good People Turn Evil* (situation-again, note the title) (Adorno et al., 1950; Zimbardo, 2007).

Strikingly contrasting accounts of the Ford Pinto car explosions in the 1970s illuminate these alternative approaches (McDonald and Hansen, 2009; Vaughan, 2002). The story of the Ford Pinto has become a landmark narrative of immoral corporate behavior. According to this account, presented in Mark Dowie’s 1977 report in *Mother Jones*, Ford rushed the design and production of the Pinto to compete with imports, ignoring internal tests which suggested that the design of the gas-tank could lead to deadly fires when ruptured by low-speed rear-end collisions. Executives and engineers at Ford, according to Dowie, relied on a cynical memo analyzing the costs and benefits of adding safety modifications, like an $11 protective fuel tank cover (Dowie, 1977). Unwilling to pay the price of increased safety, Ford personnel were culpable for the deadly consequences of their decisions.
Others have called into question this narrative of corporate wrongdoing driven by heartless profit-seeking actors (Lee and Ermann, 2002; Schwartz, 1990). According to Malcolm Gladwell, the decisions made by Ford were legitimate judgments within the decision-making parameters that applied to an engineering mindset. For engineers at Ford, questions of design or recall were engineering issues, not moral ones (Gladwell, 2015). If we are to judge their decisions to be immoral, as unconcerned with consumer safety, we would need to look to the *situation* in which they made those decisions—to the regulatory bodies that prescribed a certain value to human life, to professional and economic pressures, or to corporate structure and the compartmentalization of responsibility.

The intensity of the disposition vs. situation debate is fueled in part by what are taken to be the moral implications of the competing positions. Identifying certain people as moral “monsters,” who are characteristically prone to wrongdoing or to acquiescing to it, absolves the rest of us from any responsibility. But to attribute evil to situational factors alone seems to diminish the evil: if all of us would respond to the situation in the same way, how can we blame those who comply when they find themselves in roles requiring or encouraging wrongdoing?  

It is not necessary to adopt one approach exclusively. Of course, people’s behavior is affected by the expectations associated with the roles they play within organizations but they do not all react to those expectations in the same way.  For that reason, insights from both perspectives are helpful here. We first consider research in psychology and then turn to organizational behavior to better understand complicity in cover ups. Both sources suggest the same conclusion. When a cover up is exposed and

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8 For a more nuanced view of the complex factors involved in complicity, see (Mihai, 2019).
9 The obedience studies of Stanley Milgram, famous for demonstrating that everyday Americans were essentially capable of the sort of blind obedience that made the Holocaust possible, highlight the malleability of human behavior (Milgram, 1963). Milgram ran many variations of the experiment which asked research subjects to administer electric shocks to a “learner” whenever he made mistakes, changing just one variable at a time (Milgram, 1965). He showed that, while alarmingly high rates of obedience are found under certain circumstances, almost everyone is also capable of resisting authority. Depending on situational variables, compliance rates with the highest levels of electrical shocks could be as high as 90% or less than 10%.
we learn of some horrific abuse that has persisted, we are often surprised. But given what we know about both human proclivities and modern organizations, we should not be. There are reasons why complicity happens as often as it does.

Research in psychology does not usually directly speak to why, when, or how people are likely to become “complicit” in the wrongdoing of others. Nonetheless, the literature in psychology does address related behavior such as dishonesty and concealment, conformity and compliance, bystander intervention, and rationalization. These studies can help explain why complicity continues to be a significant factor in abuses of power. For example, peer accountability derives its strength from the desire for acceptance by the group and for the approval of others. That desire was recognized long ago as the primary motivator for human behavior, even by classic authors thought to give primacy to self-interest as a motivator (Locke, 1689: Bk II, XXXVIII. 12; Smith, 1759: part III, section I). Contemporary studies confirm their insight, illustrating the strong tendency of people to conform to consensus opinion even against their better judgment. Study participants who were able to give a correct answer to a simple observational question when questioned alone would give an incorrect answer when questioned in a group of people maintaining that incorrect answer. Only a quarter of participants maintained complete independence in their responses (Asch, 1956, 1987).10

The observation is also consistent with research on dishonesty and concealment that finds that people are motivated to appear moral, but not so much to be moral (Van Prooijen and Van Lange, 2016: 6). People find all kinds of ways to rationalize dishonest behavior. For example, we create moral license for ourselves by arguing that our personal history of good deeds should allow us to commit a single bad deed. We convince ourselves that our intentions are good (Effron, 2016). People are almost always able to find ways to remain the hero of their own narrative (Moore, 2016: 98, 114).

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10 Follow-up studies showed that the pressure to conform starts to become significant in groups of four or more, and that providing an ally whose views support those of the participant will greatly diminish the pressure to conform to majority opinion even after the ally leaves the group (Deutsch and Gerard, 1955; Kiesler et al., 1966).
We emphasize the parts of the story that uphold a moral view of the self, redefine what happened to make it seem more justifiable, and selectively forget details that undermine our preferred narrative.

Just as with dishonesty generally, there are many rationalizations readily available for complicity in cover ups. Here too there are similarities across institutions and across cases. The same rationales come up repeatedly. “The evidence is inconclusive.” “This is an aberration.” “It’s not my business.” “It’s above my pay grade.” “Nothing good will come of it if I intervene.” More disturbingly, “If the abuse comes to light, our political opponents will be handed a win.” And finally, “the reputation and future of this enterprise are at stake, and my responsibility is to the enterprise, not the victims.” This rationale allows one to deplore the abuse while covering it up nonetheless for the sake of a higher value.

Dishonesty is an active form of complicity; but often complicity is the consequence of indifference and inaction. The 1964 murder of Kitty Genovese in New York City spurred social psychologists to investigate the so-called “passive bystander.” The mainstream explanation blamed the callous disposition of New Yorkers for the fact that nobody summoned help when they heard her screams.11 Challenging this view, two professors conducted experiments that tested the situational factors influencing bystander intervention (Darley and Latane, 1968). Their research established the counter-intuitive conclusion that the greater the number of people who witness an emergency, the less likely any of them will intervene. This conclusion is generally explained as the diffusion of personal responsibility (Fischer et al., 2011). Each bystander feels a weaker sense of personal responsibility when they assume that other people can or will intervene.

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11 The original story of Kitty Genovese’s murder published by *The New York Times* was inaccurate in many ways, including its claim that 38 strangers witnessed the attack and did nothing. In fact, it is likely that only two people were fully aware of what was happening—one of whom did nothing. The other witness, we now know from more recent investigation, knew Genovese personally but fled from the scene and only later called the police (Cook, 2014; Johnston, 2014).
These are just a few examples of research in psychology that bears on the question of complicity. There are many motivations for complicity including fear of ostracism, fear of reprisals, greed, a sense of powerlessness, a sense of impunity, and callous indifference to low status victims. Moreover, it is not possible to respond to every case of wrongdoing that we learn about. We sometimes need to deny or repress disturbing information, particularly if we are not in a position to do much about it. This is a useful defense most of the time—and so it becomes habitual. We would like to think that complicity is rare; that most people would respond aggressively to knowledge of wrongdoing. This research indicates some of the reasons why it is disturbingly ordinary.

Organizational dynamics also contribute to the prevalence of complicity and particularly to cover-ups. Sociologists have explored how modern corporate structures can seem to have an inertia and an impact of their own (Perrow, 1984; Sagan, 1993). As Vaughan has noted in analyzing the case of the Challenger Space Shuttle disaster, “much organizational deviance is a routine by-product of characteristics of the systems themselves,” systems that are often innocuous and commonplace (Ermann and Lundman, 1987: 9; Vaughan, 1999: 274). Moreover, the normalization of accidents, wrong-doing, and corruption can change workplace expectations to be less sensitive to the observation of wrong-doing, and thereby spread complicity.

The Unocal petroleum spill in central California, which continued for two decades in plain view of industrial workers and their supervisors, illustrates this dynamic. The spill incrementally accumulated while Unocal workers were engaged in routines that regimented how they related to one another and their environment (Beamish, 2002). Over time and through habit, these routines reinforced institutional assumptions about what was important or unimportant. In this case, workers became gradually accustomed to observing a slightly increasing amount of spilled oil each day. Since small leaks are an ordinary part of oil production, nothing appeared to be problematic at first. But even as the severity of the leak became more readily observable, the workers did not see the spillage as a problem,
because their awareness of it was dulled by the daily readjustment of their perception of normalcy. Moreover, the hierarchical nature of the organizational structure relieved individuals of the responsibility of determining right from wrong and insulated them from moral culpability. The workers also tended to give up their sense of personal responsibility, as most people tend to do when an official relieves them of their decision-making responsibilities. The question of whether to report the petroleum leak was finally forced when the spill became too disastrous to plausibly ignore. But widespread complicity had left everyone subject to a collective fate, which ensured that no one would speak out. Together, these features explain how the structure of the Unocal corporation served to acclimate workers and supervisors in the oil field to a gradual intensification of wrongdoing. When the spill became impossible to ignore, the socialization of workers promoted a culture of silence that sacrificed the individual moral integrity of workers for the sake of the organization's protection.

Some authors argue that the specialization of the modern workplace, with its hierarchy and diffused responsibility, encourages complicity (Katz, 1979: 309). One author notes that, while hierarchy and specialization are good for efficiency, they also afford opportunities for cover ups. These features of modern institutions provide reasons to be complicit that could seem honorable. A professional wants to do the job she has been assigned, she does not want to judge the work of others, she does not want to presume to an authority she has not been granted, she wants to fit in and be a team player, etc. In short, she turns a blind eye to many things because that, implicitly, is her job.

Particularly within a bureaucratic structure where responsibilities are compartmentalized, people need to trust others to do their part of the job and expect to be trusted in turn. And this compartmentalization necessarily plays a part in one’s "knowledge" of what is going on. The working definition of a cover up emphasizes "knowingly concealing a transgression or abuse of power or threat

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12 Note the use of this same term in passive bystander studies.
13 Another comments that the corporate and business environment are potentially "criminogenic" (Punch, 1996: 2).
to safety," but, as we noted earlier, one can go along, business as usual, knowing and not knowing—in
effect, covering up without being fully aware of any dereliction of duty.

Under ordinary circumstances, we move through life with a certain amount of trust in others,
trying to do our own jobs well without meddling in everyone else’s business. Habits of loyalty to the
groups and institutions of which we are a part, often developed over many years, are sometimes in
tension with doing the right thing in a particular situation. The very same qualities that are highly
functional, indeed essential, in the ordinary operations of any institution—for example, professional
loyalty, trust, and concern for social approval—can prove toxic, even fatal, in situations where we are
called upon to react actively to expose or resist serious abuses (Euben, 2006).

When we suspect wrongdoing, we are called upon to act in ways that are out of the ordinary for
us and to act in ways that may threaten longstanding relationships as well as our own more material
interests. Speaking up is extraordinarily difficult to do. We are reminded of the well-known fairy tale,
“The Emperor’s New Clothes.” It is no accident that it is a child, innocent of the power relations
involved, who can speak truth to power in this tale. The situations in which cover ups are most likely
are situations where, in order to bring the truth to light, people are required to act in ways that are both
out of order and out of character: challenging authority, criticizing colleagues, acting with distrust.
Facing these pressures, some will remain silent; some will say nothing and remove themselves from the
situation; and some will make efforts in the direction of addressing wrongdoing, but then exit when
they meet resistance (Carreyrou, 2018; Press, 2016).

Some people may rise to the occasion on their own and become whistleblowers, and that can
initiate an accountability process. (Though whistleblowers alone are not an accountability mechanism,
since they have no authority to sanction wrongdoers). Robert Boisjoly, a mechanical engineer working
on rocket boosters for the space program, was able to resist some of the social and organizational
pressures that led his colleagues at Morton-Thiokol and NASA to ignore safety concerns prior to the
launch of the Challenger Space Shuttle (Berkes, 2012). Boisjoly eventually exposed the cover up of his “no-launch” recommendation by speaking anonymously to the press. Supporting whistleblowers is an obvious way to combat complicity, but it is not a simple thing. These intrepid few tend to have idiosyncratic motivations, both good and bad, which makes their course of action difficult to encourage or predict (Baynes, 2002). Mark Felt, the whistleblower who brought the Watergate Scandal to light, was likely motivated in part by a frustration with having been passed up to become Director of the FBI; and Mark Whitacre, who exposed an international price-fixing scheme by Archer Daniels Midland, one of the largest corporate cover ups ever, was likewise partly motivated by a desire for professional advancement and a concern that his own embezzlement crimes would eventually be discovered (Eichenwald, 2001; Holland, 2012). Renewed efforts over the past twenty years to strengthen statutory protections for whistleblowers have, at best, produced mixed results—encouraging whistleblowers while often failing to protect them effectively from retaliation (Callahan and Dworkin, 2000; Peffer et al., 2015). When individuals blow the whistle on wrongdoing it is a salutary reminder that any one of us can be a force for good in the world, but we clearly cannot have a system where accountability depends upon heroes.

Conclusion

Time and again, in very different situations and within all kinds of institutions, serious harm is perpetrated and those who are aware choose to conceal or ignore the problem. When these abuses are forcefully brought to our attention, the reaction is ordinarily a combination of outrage and disbelief: “How could people let this happen?” (Kantor and Twohey, 2019; Twohey et al., 2017). Complicity is an ordinary form of wrongdoing, yet the part it plays in failures of accountability has not received the attention it deserves.
Our aim has been to reconsider the problem of accountability by studying cover ups, something that has not been done before to our knowledge. Our analysis refocuses our attention in two ways. First, understanding accountability requires including enablers, as well as perpetrators in the analysis. Complicity is a crucial factor in understanding abuses of power and accountability failures. Second, a common approach to accountability research focuses our attention on problems of institutional design: on providing mechanisms to set standards, ensure transparency, and sanction abuses. Our analysis shows that, even when institutional design is strong, these safeguards against abuses are regularly circumvented by people who are willing to ignore them or misuse them to their own advantage. For this reason, the analysis of accountability must include consideration of the facets of human behavior and social organization that encourage this behavior.

Complicity is rooted in the basic human inclination to seek the approval of others and to conform to their expectations. Organizational culture and customary practices establish what those expectations are. When organizations regularly engage in denial or accept manipulation of data, for example, and especially when such practices have become “standard operating procedure,” many people will participate in such behaviors out of loyalty and the desire to be seen as a “team player.” Conforming to norms that we may find questionable is aided, in turn, by the formidable human capacity for rationalization and motivated reasoning.

The role played by cultural norms in encouraging complicity suggests that, while institutional change is important, cultural change is essential—and here we mean both the institutional culture within an organization and the broader culture within which institutions operate. This is particularly necessary if we are seeking lasting change. Punishing a few individuals will not solve the problem. Improving institutional procedures for accountability has limited effect. There must be sustained effort to alter what is understood to be acceptable behavior and what is not. Imagine that the reputation of an
organization was enhanced, rather than threatened, by open acknowledgment of wrongdoing in its ranks. A norm change like that would surely make an enormous difference.

Taking the point of view we develop here raises a host of new questions and broadens the scope of investigation into abuses of power. Which accountability mechanisms are most easily and regularly subverted? What are the specific conditions that make a cover up more or less likely? What is the role of leadership in establishing norms within an organization? How do organizational cultures change? Relevant insights could be found in many disciplines. We might even gain understanding of complicity by looking to studies on bullying and tattling among children.

The clear implications of this discussion are that the problem of accountability may be even more difficult to “solve” than the usual view suggests. What the study of cover ups reveals is that accountability mechanisms ought to be regarded as tools, rather than as solutions. They can be well used to call wrongdoers to account or they can be misused to subvert and avoid accountability. Which path is taken depends largely on the good faith or complicity of those who are aware of wrongdoing. When cover ups fail and wrongdoing does come to light, if we only respond by multiplying institutional mechanisms of accountability, we will miss the heart of the problem and find ourselves back where we started. Because it is complicity that defeats accountability mechanisms, understanding complicity is the central and urgent task.
References


### TABLE 1: ACCOUNTABILITY FAILURES

#### CORPORATIONS

<table>
<thead>
<tr>
<th></th>
<th>Hierarchical</th>
<th>Supervisory</th>
<th>Legal</th>
<th>Market</th>
<th>Peer</th>
<th>Media</th>
<th>Internal Review</th>
<th>Which Mechanisms Eventually Worked</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not Enough Information</td>
<td>The EPA and DuPont commissioned a study by veterinarians that eventually blamed cattle illness on “poor husbandry” (since the study was jointly commissioned by DuPont, it is also relevant to the Internal Review category). After reviewing the issue with the West Virginia EPA, state regulatory officials raised the safety limits of PFOA from one part per billion to 150 parts per billion. There was a longstanding revolving door between DuPont and the West Virginia EPA, leading to a lack of regulatory oversight of PFOA.</td>
<td>DuPont created a spin-off company, Chemours, and engaged in other mergers and divestments to avoid legal liability.</td>
<td>There was minimal market reaction to lawsuits filed against the company, as reflected in changes to stock values.</td>
<td>Not Enough Information</td>
<td>The media was not directly involved in exposing the cover up, although there was some media coverage following lawsuits. The reputational consequence for DuPont is unclear. The feature-length film <em>Dark Waters</em> provided a dramatic portrayal of the New York Times Magazine’s vivid account, focusing on the environmental lawyer Robert Bilott and his case against DuPont.</td>
<td>There was a joint study commissioned by the EPA and DuPont. A review of the issue with the West Virginia EPA led officials to raise the safety limits of PFOA (see Supervisory).</td>
<td>LEGAL: Discovery process required DuPont to release internal records exposing the cover up. Further investigation resulted in a class action settlement with mandatory medical testing and led to scientific studies, paid for by DuPont, establishing correlation between PFOA and health problems. Opened the door to further injury lawsuits. In January 2021, DuPont and Chemours agreed to a four billion dollar settlement for injuries, with each company paying half. The companies continue to face lawsuits from state governments in New Jersey, New Hampshire, North Carolina and New York.</td>
</tr>
</tbody>
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### NFL: Concussion and Brain Injury

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hierarchical</td>
<td>Not Enough Information</td>
</tr>
<tr>
<td>Supervisory</td>
<td>Eventually worked (see below)</td>
</tr>
<tr>
<td>Legal</td>
<td>Eventually worked (see below)</td>
</tr>
<tr>
<td>Market</td>
<td>There has been no apparent drop in NFL viewership due to public awareness of concussions.</td>
</tr>
<tr>
<td>Peer</td>
<td>Not Enough Information</td>
</tr>
<tr>
<td>Media</td>
<td>Peer-reviewed journals, such as <em>Neurosurgery</em>, published problematic and misleading NFL research on concussions.</td>
</tr>
<tr>
<td>Internal Review</td>
<td>The NFL’s committee on Mild Traumatic Brain Injuries (MTBI) published scientific studies claiming that repeated head-bashing did not cause brain damage.</td>
</tr>
<tr>
<td>Which Mechanisms</td>
<td><strong>Supervisory:</strong> The National Institute for Health (NIH) did not succumb to NFL pressure to remove a key person from a Boston University study in order to shut it down (which led to the NFL withdrawing its funding for the study).</td>
</tr>
<tr>
<td></td>
<td><strong>Legal:</strong> Eventually, there was a class-action settlement. As of January 2021, the NFL has approved $827 million in claims.</td>
</tr>
<tr>
<td></td>
<td><strong>Media:</strong> Public attention to the issue helped expose the NFL’s problematic concussion research. <em>Neurosurgery</em> also published numerous studies challenging studies funded by the NFL.</td>
</tr>
</tbody>
</table>

### Johnson & Johnson: Talc Baby Powder’s Link to Cancer

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hierarchical</td>
<td>As early as 1971, some executives raised concerns about asbestos contamination that were ignored by senior staff.</td>
</tr>
<tr>
<td>Supervisory</td>
<td>Companies persuaded the National Toxicology Program to defer an official decision on the status of talc, and persuaded the government to prevent unfavorable findings from being made public. The federal government has still not regulated asbestos in cosmetic talc or identified a preferred method for detecting it.</td>
</tr>
<tr>
<td>Legal</td>
<td>First case in 1999 was dropped for lack of sufficient proof. It would be another two decades until further cases emerged. Outcomes of cases have been mixed.</td>
</tr>
<tr>
<td>Market</td>
<td>Eventually worked (see below)</td>
</tr>
<tr>
<td>Peer</td>
<td>Not Enough Information</td>
</tr>
<tr>
<td>Media</td>
<td>The President of Mount Sinai Hospital issued a news release dismissing its own findings confirming presence of asbestos, possibly due to conflict of interest. The hospital had previously received funding from the Robert Wood Johnson Foundation (RWJF), which has ties to Johnson &amp; Johnson.</td>
</tr>
<tr>
<td>Internal Review</td>
<td>Internal tests revealed that from 1971 to the early 2000s, raw talc and finished powders “sometimes tested positive for small amounts of asbestos.” This was not disclosed to regulators.</td>
</tr>
</tbody>
</table>
### RELIGIOUS INSTITUTIONS

<table>
<thead>
<tr>
<th>CATHOLIC CHURCH: SEXUAL ABUSE IN PENNSYLVANIA</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>HIERARCHICAL</strong></td>
<td>Bishops overlooked countless allegations of abuse, and even confessions by priests that they had molested children. Church officials defended clergy and/or moved them to a new diocese.</td>
</tr>
<tr>
<td><strong>SUPERVISORY</strong></td>
<td>Government has had limited, if any, role in holding the Catholic Church accountable for abuses. The Vatican has rejected laws requiring priests to report sexual abuse.</td>
</tr>
<tr>
<td><strong>LEGAL</strong></td>
<td>Settlements regularly contained confidentiality agreements, forbidding victims from speaking out. Statutes of limitations often prevented investigations, and District Attorneys sometimes used statutes to refuse investigating current abuses.</td>
</tr>
<tr>
<td><strong>MARKET</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>PEER</strong></td>
<td>For decades, Bishops and priests defended the accused, made excuses for them, found them new ministries, and denied their wrongdoing.</td>
</tr>
<tr>
<td><strong>MEDIA</strong></td>
<td>Reporters and editors for the <em>Boston Globe</em> did not initially follow up on reports of sexual abuse in the Church, perhaps delaying other investigations and media exposés, such as those in Pennsylvania.</td>
</tr>
<tr>
<td><strong>INTERNAL REVIEW</strong></td>
<td>No proper investigations. Church officials asked few questions and were tasked with making credibility determinations about their fellow clergymen.</td>
</tr>
</tbody>
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### WHICH MECHANISMS EVENTUALLY WORKED

**MARKET:** In the days after media exposé, Johnson & Johnson stock value dropped ten percent. Since 2011, sales have declined by twenty percent in baby care unit, leading to a “line relaunch”—which J&J says is not due to safety concerns but is rather in response to consumer preferences.

**MEDIA:** Many internal documents from Johnson & Johnson were published in an exposé by *Reuters*.

**SUPERVISORY:** Johnson & Johnson failed to persuade the FDA that an asbestos contamination of up to one percent in baby powder was safe. In February 2019, Johnson & Johnson disclosed that it had been subpoenaed by the Department of Justice and Securities and Exchange Commission about possible asbestos contamination in baby powder.

**LEGAL:** Johnson & Johnson now faces over 13,000 lawsuits. A verdict of $4.7 billion to compensate ovarian cancer patients and families is being appealed.
### Which Mechanisms Eventually Worked

**LEGAL**: The Pennsylvania Grand Jury investigation was an unusual but effective form of legal and public accountability. Other states have said they will follow suit.

**MEDIA**: The *Boston Globe* investigative team eventually exposed the cover up of sexual abuse in the Archdiocese of Boston, which led to investigations across dioceses in the United States (and internationally).

### Government

<table>
<thead>
<tr>
<th>Mechanism</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Hierarchical</strong></td>
<td>NASA superiors directed then-NASA budget analyst Richard Cook to essentially undermine and publicly deny the validity of his July 23 memo, which warned of a safety concern related to the rocket booster’s O-Ring design (a seal for mechanical joints made of special vulcanized rubber which protected the Space Shuttle’s fuel tank from the hot pressurized gas released by the rocket booster).</td>
</tr>
<tr>
<td><strong>Supervisory</strong></td>
<td>Initially, the Presidential Commission had inadequate information about events leading up to the launch, but an exposé by the <em>New York Times</em> eventually corrected this.</td>
</tr>
<tr>
<td><strong>Legal</strong></td>
<td>Lawsuits brought against NASA and Morton Thiokol by Robert Boisjoly ultimately failed. Families of the astronauts who died negotiated settlements with Morton Thiokol and NASA, which some consider unfavorable to the families.</td>
</tr>
<tr>
<td><strong>Market</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Peer</strong></td>
<td>Engineers, including whistleblowers McDonald and Boisjoly, shared their safety concerns about the O-Ring with colleagues and superiors, and even spurred the formation of an internal committee to study the issue, but these efforts stalled when they were met with indifference from anyone who had the authority to stop or delay the launch.</td>
</tr>
<tr>
<td><strong>Media</strong></td>
<td>Eventually worked (see below)</td>
</tr>
<tr>
<td><strong>Internal Review</strong></td>
<td>The joint NASA-Morton Thiokol failure analysis team (Marshall Space Flight Center Team) challenged the Commission. Throughout the hearings, they continued to argue that there were other possible causes for explosion, including flawed assembly at Kennedy Center. It would be two months before officials began to admit the O-Ring problem. NASA narrative continues to be evasive and tends to lay blame with Morton Thiokol.</td>
</tr>
</tbody>
</table>
| WHICH MECHANISMS EVENTUALLY WORKED | SUPERVISORY: Presidential Commission held both closed and public hearings, which helped to give voice to McDonald’s account about the initial no-launch recommendation. The Commission issued recommendations to NASA.  
MEDIA: The *New York Times* initially exposed internal memos within NASA expressing concern about the O-rings, which helped to shape the Presidential Commission hearings. ABC later exposed McDonald’s account of what happened at the closed hearing. NPR reported on an anonymous source, which turned out to be Boisjoly, who blew the whistle on Morton Thiokol’s failure to heed the no-launch recommendation of some of its engineers.  
Media used Freedom of Information Act (FOIA) requests to learn about the terms of the legal settlement between NASA, Morton Thiokol, and the families of the astronauts. |
<table>
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</thead>
<tbody>
<tr>
<td>HIERARCHICAL</td>
<td>After Flint’s emergency manager blocked the City Council’s request to switch back from Flint River water to Detroit water, the Governor failed to either intercede on behalf of the City Council or hold the emergency manager’s responsible for their fateful decision.</td>
</tr>
<tr>
<td>SUPERVISORY</td>
<td>The EPA battled the Michigan Department of Environmental Quality (MDEQ) behind the scenes for at least six months over the need to use corrosion-control treatment to prevent lead from leeching into drinking water. The EPA believed it had only weak enforcement and sanctioning authority, and MDEQ officials contested any attempt to force action. Veolia, a consultant group hired by Flint, reported that the city’s water met state and federal standards—but they omitted from their report anything regarding lead levels, which the company says was beyond the scope of its assignment.</td>
</tr>
</tbody>
</table>
| FLINT / MICHIGAN GOVERNMENT: WATER POISONING | **LEGAL**  
Seven of the fifteen employees charged with crimes related to the Flint water crisis pleaded no contest to misdemeanors, with no jail time or fines. The other eight cases were dropped.  
Prosecution of current and former state employees was dropped following allegations of prosecutorial misconduct. Investigations are ongoing.  
**MARKET**  
N/A  
**PEER**  
Not Enough Information  
**MEDIA**  
Eventually worked (see below)  
**INTERNAL REVIEW**  
City and state agencies “tested” drinking water but excluded samples with high lead content and used other strategies to distort the results. |
### Which Mechanisms Eventually Worked

<table>
<thead>
<tr>
<th>Hierarchical</th>
<th>Five government officials from the MDEQ, EPA, and the City of Flint lost their jobs.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal</td>
<td>Thirteen current and former state employees were charged with criminal wrongdoing, including two former emergency managers. Ex-Governor of Michigan, Rick Snyder, was charged with two misdemeanor counts related to neglect during the water crisis.</td>
</tr>
<tr>
<td>Media</td>
<td>An investigative journalist working for the Michigan ACLU produced a short documentary about concerns over Flint’s drinking water, which led Flint resident Lee-Anne Walters to leak a memo given to her by an EPA employee regarding Flint water tests.</td>
</tr>
<tr>
<td>Political</td>
<td>Mayor who initiated the water supply switch to Flint River lost his reelection campaign.</td>
</tr>
</tbody>
</table>

### Chicago Police: Laquan McDonald Murder

<table>
<thead>
<tr>
<th>Hierarchical</th>
<th>Sergeant Franko signed off on the erroneous police officer accounts of what happened. He claimed to have inadvertently looked away from the dash-cam video at a critical moment.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supervisory</td>
<td>For thirteen months, Mayor Emanuel sought to keep the dash-cam video confidential, and only released it upon court order.</td>
</tr>
<tr>
<td>Legal</td>
<td>Settlement with the McDonald family included a provision to keep the dash-cam video confidential. Cook County judge acquitted three police officers of conspiracy, obstruction of justice and misconduct.</td>
</tr>
<tr>
<td>Market</td>
<td>N/A</td>
</tr>
<tr>
<td>Peer</td>
<td>Police officers on-site at the time of shooting suggested self-defense, which contradicted the dash-cam video.</td>
</tr>
<tr>
<td>Media</td>
<td>Eventually worked (see below)</td>
</tr>
<tr>
<td>Internal Review</td>
<td>Detective assigned to the case determined police reports were consistent with the dash-cam video.</td>
</tr>
<tr>
<td>WHICH MECHANISMS EVENTUALLY WORKED</td>
<td></td>
</tr>
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</table>

**LEGAL:** Former Police Officer Jason Van Dyke found guilty of second-degree murder and sixteen counts of aggravated battery. Judge sentenced him to six years and nine months in prison (which some criticize as an inadequate sentence, showing the failure of legal accountability). Van Dyke was released from prison after serving about half of his sentence, and the US Attorney opted not to bring federal charges against Van Dyke due to the higher bar required to convict.

Judge rejected an attempt by defense attorneys to use a subpoena to compel investigative journalist Jamie Kalven to reveal the sources for his reporting, including his source for the dash-cam video.

**SUPERVISORY:** Chicago Police Board voted to dismiss four police officers for participating in a cover up. Once video footage was released, Mayor Rahm Emanuel acknowledged the code of silence and a “tendency in some cases to cover up the bad actions of a colleague or colleagues.” Mayor Emanuel also fired then police superintendent Gary McCarthy. Head of the Independent Police Review Authority was also dismissed. In 2016, there was a disciplinary investigation by the city’s Inspector General Office which led to the police superintendent moving to fire three patrol officers and a sergeant. In 2017, the DOJ released a “scathing report” which led to a federal consent decree mandating a series of reforms that will be overseen by a federal judge.

**MEDIA:** Jamie Kalven’s investigative journalism exposed the Laquan McDonald murder and its cover up, setting in motion supervisory, hierarchical, and legal accountability mechanisms.

**POLITICAL:** Widespread street protests, especially following release of the dash-cam video. State Attorney for Cook County, Anita Alvarez, lost her re-election bid.
## Table 2: Cover Up Strategies

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<th>Corporations</th>
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<th>Alternative Scientific Assessment</th>
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<th>Alternative Narrative</th>
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<tbody>
<tr>
<td><strong>Dupont: Chemical / PFOA Dumping</strong></td>
<td>Yes, DuPont denied PFOA’s toxicity even after a settlement with the EPA. Denial continued at least until the results from an epidemiological study (funded from settlement) began to come in.</td>
<td>Yes, DuPont kept secret its studies of factory workers’ blood levels and the birth defects of the workers’ children. Did not disclose its knowledge of PFOA present in local water exceeding DuPont’s safety limits.</td>
<td>Yes, joint EPA/DuPont study by three veterinarians attributed cattle sickness and death to agricultural practices. In 1982 and 1992, DuPont wrote letters to West Virginia government agencies citing studies that called into question links between PFOA exposure and human health. Later, based on joint review with West Virginia EPA, increased company’s safety limits of PFOA from one part per billion to 150 parts.</td>
<td>Not Enough Information</td>
<td>Yes, DuPont initially blamed cattle deaths on poor husbandry.</td>
<td>Yes, intimidated and marginalized Bennett Omalu, a forensic pathologist and neuropathologist.</td>
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<td><strong>NFL: Concussion and Brain Injury</strong></td>
<td>Yes, the NFL responded to initial scientific journal articles about Chronic Traumatic Encephalopathy (CTE) as flawed, called for a retraction, and dismissed articles as “preposterous” and “purely speculative.” Denied on HBO special in 2007 any link between football concussions and brain damage.</td>
<td>Yes, the NFL never released a report by the neuropathologist Peter Davies supporting CTE conclusions. Excluded about 100 concussions from its studies.</td>
<td>Yes, the NFL conducted its own studies using flawed methodology which omitted concussion data. Members on the NFL’s Mild Traumatic Brain Injury (MTBI) research committee tasked with investigating the issue were associated with NFL teams, had often advised them, and were consequently investigating and judging their own decisions on patient care.</td>
<td>Yes, intimidated and marginalized Bennett Omalu, a forensic pathologist and neuropathologist.</td>
<td>Yes, claimed players had personal histories of mental illness. The MTBI committee chairman told Congress that some of the neurological diseases have genetic causes, environmental toxic causes, or unknown causes.</td>
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<td>JOHNSON &amp; JOHNSON: TALC BABY POWDER’S LINK TO CANCER</td>
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<tr>
<td><strong>DENIAL</strong></td>
<td>Yes, J&amp;J continues to insist that talcum-based products are safe, do not contain asbestos, and do not cause cancer.</td>
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<td><strong>SUPPRESSION OF INFORMATION</strong></td>
<td>Yes, in first case in 1999, J&amp;J refused to hand over test results. Suppressed internal documents showing that from 1971 through the early 2000s, raw talc and finished powder sometimes tested positive for small amounts of asbestos. Did not disclose to the FDA the results from three tests from the 1970s. Did not disclose the results from a study by a Minnesota professor to the FDA.</td>
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<td><strong>ALTERNATIVE SCIENTIFIC ASSESSMENT</strong></td>
<td>Yes, although most of J&amp;J’s tests did not reveal asbestos, its testing methods were arguably not sensitive to low amounts of asbestos and not all talc was tested.</td>
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<td><strong>INTIMIDATION</strong></td>
<td>Yes, the company intimidated two potential whistleblowers in 1970s. Allegedly pulled funding for doctoral student who worked in a NYU lab that found traces of asbestos in talc mines.</td>
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<tr>
<td><strong>ALTERNATIVE NARRATIVE</strong></td>
<td>No</td>
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| GOVERNMENT |  |
**NASA: CHALLENGER EXPLOSION**

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<td><strong>DENIAL</strong></td>
<td>Yes, NASA officials (and management at Morton Thiokol) denied that there had been pressure to change Morton Thiokol’s “no launch” recommendation to “launch.” Also denied that the O-Ring problem was the definitive cause of the explosion.</td>
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<td><strong>SUPPRESSION OF INFORMATION</strong></td>
<td>Yes, NASA concealed the initial “no launch” recommendation from the Presidential Commission. Management at Morton Thiokol and NASA were seen as working closely to coordinate their testimony to the commission.</td>
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<tr>
<td><strong>ALTERNATIVE SCIENTIFIC ASSESSMENT</strong></td>
<td>Yes, they debated the science on the threshold of cold temperature for launch safety, as well as role of the second set of O-Rings.</td>
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<td><strong>INTIMIDATION</strong></td>
<td>Yes, whistleblower McDonald was “demoted for telling the truth” and left off the failure analysis team. Congressional members of the Rogers Commission had to intervene to protect his job.</td>
</tr>
<tr>
<td><strong>ALTERNATIVE NARRATIVE</strong></td>
<td>Yes, relied on a narrative that the “data was inconclusive,” and proposed other possible causes for the explosion in an attempt to obscure the O-Ring problem. Also tried to undermine the credibility of the leaked “Cook Memo” which expressed concerns about the booster’s O-Ring seals six months before the Challenger explosion.</td>
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**FLINT / MICHIGAN GOVERNMENT: WATER POISONING**

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<tr>
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<td><strong>DENIAL</strong></td>
<td>Yes, city inspectors initially denied that mainline pipes were to blame for high levels of lead. Officials at the Michigan Department of Environmental Quality (MDEQ) denied they failed to add corrosion control treatment to water but admitted it many months later.</td>
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<tr>
<td><strong>SUPPRESSION OF INFORMATION</strong></td>
<td>Yes, didn’t reveal concerns about water safety even while simultaneously directing state employees to drink only from water coolers, and even while a General Motors factory reconnected to Lake Huron because it had discovered that Flint water was corrosive to engine parts. Governor’s office and city officials did not publicly disclose internal reports indicating dangerous levels of lead and other toxins.</td>
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<tr>
<td><strong>ALTERNATIVE SCIENTIFIC ASSESSMENT</strong></td>
<td>Yes, excluded certain high-lead water samples and targeted “low-risk” homes for supposedly random sampling. Regularly required residents to flush pipes by running water for 20 minutes before taking samples, and to run water at a trickle during collection of samples, which greatly distorted results. Hired consultant group to assess whether city water meets state and federal safety standards. Conclusions were positive but conspicuously omitted reporting on lead levels.</td>
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<tr>
<td><strong>INTIMIDATION</strong></td>
<td>Yes, there was some intimidation of an EPA water expert, Miguel Del Toral, who wrote an internal memo on the dangerous levels of lead in Flint water, and shared the report with Flint resident Lee-Anne Walters. MDEQ officials dismissed the report and characterized Del Toral as a “rogue employee.” Del Toral also claims he faced pressure to cut off communication with people in Flint.</td>
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</tbody>
</table>
### Alternative Narrative

Yes, governor’s office and city officials told residents that the “water is safe.” Claimed that brown color and particles in the drinking water were “rust” and dismissed complaints from residents as merely “aesthetic” concerns about color and taste.

Claimed contamination was due to old metal pipes, even when the residents’ pipes were primarily plastic—and the metal joints that connected them could not have sufficiently explained the high levels of toxins in the water.

Claimed that critics—journalists, environmentalists, and academics—were liberal activists with a political agenda.

### Denial

Yes, the Chicago Police Department denied responsibility by saying that its officers acted in self-defense.

### Suppression of Information

Yes, Mayor tried to suppress dash-cam video. It is suspected that police officers deleted a video of the incident from Burger King security camera footage (disputed). Police did not interview eyewitnesses to the shooting.

### Chicago Police: Laquan McDonald Murder

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<td>Intimidation</td>
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### Alternative Narrative

Yes, claimed police were acting in self-defense.
Table References

**DuPont: Chemical/PFOA Dumping**


**NFL: Concussion and Brain Injury**


**Johnson & Johnson: Tale Baby Powder’s Link to Cancer**


Catholic Church: Sexual Abuse in Pennsylvania


NASA: Challenger Explosion


Flint, Michigan Government: Water Poisoning


Clark A (2013) How an investigative journalist helped prove a city was being poisoned with its own water. *Columbia Journalism Review*, 3 November.


Chicago Police: LaQuan McDonald Murder


Gorner J (2019) Four Chicago cops fighting dismissals in alleged cover-up of Laquan McDonald shooting. Chicago Tribune, 10 April.


Issa N and Dudek M (2019) Four Chicago police officers face firing over Laquan McDonald shooting. Chicago Sun Times, 10 April.


