

Regulators' Challenge: Correct the Error or the Cover-up?

5:04 PM Monday April 19, 2010

by Roger Martin | [Comments \(1\)](#)

The outrage over the [Upper Branch Mine Disaster](#) in West Virginia is profound even almost two weeks after the horrific event. One of the first instincts driven by outrage is to clamp down more tightly — more rules, greater punishment — so this won't happen again. The reaction is utterly understandable. One needs to look no further than the families and loved ones of the 29 miners to leap in that direction.

But as much as the outrage is legitimate and the desire to clamp down is understandable, clamping down harder will not necessarily reduce the probability of another such disaster.

To understand why, we need to understand why disasters happen. Because the facts are not yet clear in the Upper Branch disaster — and there is undoubtedly litigation to follow — I will use other examples to illustrate. Disasters can happen for two entirely different reasons: error and cover up of error.

Twenty five years ago, I witnessed a disaster of the first type. I was picking up my rental car at the Hertz lot at [Detroit Metro Airport when a Northwest Airlines jet](#) crashed a couple hundred yards from me killing everybody aboard except a baby strapped into a car seat that miraculously survived probably because it was oblivious to the crash. After an extensive investigation of the crash, it was determined that the crash was a direct result of pilot error. The pilots failed to extend the wing flaps for take-off. This

guarantees a crash in a full plane with a full load of luggage, which was the situation for this ill-fated flight. In this case, the crew and passengers died directly because of error.

Interestingly, there was also cover up of error. Numerous pilots testified at the safety hearing that they saw the plane take off with the wing flaps fully extended. They were attempting to cover up for their fellow (late) pilot friends. Unfortunately for their credibility, the wings at the crash site did not have the flaps extended, nor did the black box show that the flaps were ever activated. But in this case, cover up had no negative impact on the passengers and crew; error was the problem.

Contrast this with another disaster, **an e-coli outbreak in the water system of a small Ontario town about a decade ago** that killed seven people and sickened hundreds more, some of whom will live with terrible side-effects for the rest of their lives. The reason that the seven died is that a chlorinator in the town's central water system failed and the general manager of the public water utility knew that the chlorinator had failed.

Tragically, not only did he do nothing about it, he both falsified the water readings coming out of the failed chlorinator and when questioned early in the disaster by the Medical Officer of Health, denied that there was any problem in the water system. Had the general manager phoned the Medical Officer of Health the minute the chlorinator failed, the Officer would have gone door to door in the town to issue a boiled water warning and nobody would have died or been sickened. So in this case, error (break down of the chlorinator) was not the problem: cover up of the error was the killer.

Why does this distinction matter to the Upper Branch Disaster? It is because there is a relationship between attempts to reduce error and the encouragement of cover-up: the greater the punishment for error; the greater the incentive for covering up error to avoid punishment of error. The reason the general manager lied about the chlorinator was because he was incompetent and was fearful that he would be fired if he admitted that the chlorinator wasn't working. And for him, it would have been a personal disaster. And he was so incompetent that he didn't really think that the chlorinator was important, so he didn't think he was putting his neighbors' lives at risk.

So we have to ask: what killed the 29 miners? Error or cover up of error? From what I have read, I suspect that it will be determined to be cover-up of error. If it was error, nobody would have known about the unsafe build up of methane and/or coal dust. But it certainly appears that lots of people (including the regulators who issued the safety citations) knew all about these safety violations but that they were covered up from the miners who bore all the risks.

The risk then for clamping down on the **Massey Energys** of the world is that the primary result will be a higher level of cover up to attempt to avoid punishment. Yes, stiffer punishments may make us feel better in the wake of the next disaster, but that won't save the miners who die in that disaster.

So how should we respond if we're to actually save miners' lives rather than just make us think that lives will be saved? The answer, which won't go down well with those most outraged, is greater collaboration on safety between regulators and miners.

Rather than viewing the relationship as an adversarial cops-and-robbers situation, we have to think of regulators and miners as partners in safety, along with the miners themselves. They all have to agree on the desired output and ways of helping each other achieve it. If we really want to avoid another Upper Branch Mine, therefore, let's talk more about collaboration and less about clamping down.

Roger Martin is the dean of the Rotman School of Management.