

Crisis Communication, Potential Liability, and Activism in the Age of Social Media:  
A Case Study of The Weinstein Company, Harvey Weinstein, and the #MeToo Movement

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## **Abstract**

Although crisis communication and crisis management are large, evolving fields of public relations research, the intersection of crisis mitigation and legal concerns is under-explored. This study attempted to fill this gap by conducting a case study of a potentially liable organization and individual in crisis. Specifically, this thesis used a qualitative content analysis to examine The Weinstein Company's and Harvey Weinstein's mitigation efforts during the sexual misconduct allegations that surfaced in 2017, as well as the resulting rise of the #MeToo activist movement. In answering the research questions of this study, findings suggested that newer theories, such as the social-mediated crisis communication model, may be more appropriate to understand crises that involve potential liability, many stakeholders, and interacting traditional and social media; pointed to several tangible recommendations for potentially liable entities in crisis; and illustrated important nuances and factors that they should consider when responding.

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## Introduction

On July 19, 2013, the documentary *Blackfish* premiered. The film – filled with first-hand accounts by former employees and compelling video footage – provided extensive, graphic details claiming that SeaWorld, “a theme park and entertainment company” (SeaWorld, 2017), was illegally capturing and mistreating orcas, which led to the deaths of multiple trainers. The film earned more than 21 million viewers when it aired on CNN (Beaumont-Thomas, 2014); launched a large, ongoing activist campaign; and resulted in improved animal-welfare legislation. The release of *Blackfish* also created a public relations and legal nightmare for SeaWorld.

Ultimately, *Blackfish* wreaked significant short- and long-term damage. SeaWorld was fined approximately \$25,000 for “failing to properly protect its employees” (Miller, 2015) and has faced multiple lawsuits. The chain of theme parks also continues to be the subject of federal investigations (Owens, 2017), faces concerning falls in attendance, and confronts “lingering negative consumer sentiment” (Bomey, 2017) more than four years after the premiere.

SeaWorld’s case illustrates the nuances and complexity of managing crises that involve potential liability. On one hand, SeaWorld’s attorneys had to prepare for the lengthy litigation and investigations. However, the communications team also had to act, as communicating during a crisis is important for both the stakeholders and the organization involved (Coombs, 2007). Crises can create “psychological stress” for stakeholders and a “need for information” (Coombs, 2007). But, they can also threaten an organization’s “reputation capital,” which includes its relationships with stakeholders and how well it is regarded (Fombrun & van Riel, 2004, p. 32). An adverse change in reputation will often have behavioral consequences; for example,



stakeholders might stop purchasing products or supporting a company if its reputation falls (Coombs, 2007).

This reputation threat, coupled with the fact that SeaWorld quickly became headline news in both traditional and social media, made it important that SeaWorld protect its reputation and relationships by communicating with its affected stakeholders, including: the victims' families, investors, the media, current customers, potential customers, and employees. Though each group had a different relationship with SeaWorld and thus inherently different needs and perspectives, it is likely that those involved wanted to know, at a minimum, what happened and what was being done to resolve the problem, as these are common questions during crises (Coombs, 2007).

These basic questions, however, are not easy for potentially liable organizations in crisis to answer. Depending on the jurisdiction and content, statements that a corporation makes in these situations can be exempt from hearsay rules and possibly admitted as evidence against it in court (Myers, 2016). Therefore, organizations and individuals in crisis must be mindful about what they communicate and might hesitate to answer questions about the situation.

These legal considerations also lead companies to question whether they should apologize. Though scholars have debated the effectiveness of apologies, accepting responsibility when an organization is at fault is recommended by leading crisis communication theories (Benoit, 1997; Coombs, 2007). However, as previously discussed, apologies could negatively impact legal battles (Myers, 2016). This makes it difficult for organizations and individuals in crisis to decide on a message strategy and might make them choose a less-than-optimal approach. SeaWorld's crisis management illustrates this, as it did not apologize, admit fault, or

accept responsibility in response to the claims made in *Blackfish* despite the recommendations of leading crisis theory.

Despite this tension between crisis communication theory and the law, there are few studies that explore and compare both the possible public relations and legal short- and long-term outcomes of communicating about and managing crises involving potential liability. This study attempted to fill this gap by providing insights about the situational and contextual factors that affect how different publics perceive a potentially liable organization in crisis, as well as those that affect how an organization should respond.

More specifically, this study employed a case study approach to examine a recent crisis, for which the organization and individual involved are potentially liable. Analysis of the case evaluated the contexts in which the crisis occurred; the mitigation efforts across media channels; the media and the public's responses; the influence of third parties; and the financial, reputation, and legal outcomes. The study concluded by identifying factors to consider when organizations must decide how to manage a crisis in the courts of law and of public opinion, recommendations for organizations in similar situations, and theoretical implications for crisis communication.

This topic is also important to study because publics affected by an organization, either positively or negatively, have an efficient way to share their stories, rally support, and spread information through their social networks. Thus, if an organization chooses to say little or nothing about a crisis publicly, its stakeholders will be able to share their opinions with no competing message from the organization. Therefore, it is important to investigate how current crisis communication theory applies when considering the role of legal concerns and apologies so that organizations and individuals can make the best decisions for their future reputations, financials, and stakeholders.

## **Literature Review**

This literature review is divided into four sections. The first will introduce background research on crises and their potential impact on reputation and stakeholder relationships. The second section will discuss major crisis communication theories, as well as the different crisis response options available to organizations – particularly apologies. Following this, the literature review will consider professional applications of crisis theory and legal considerations for potentially liable organizations. The last section will outline this study’s research questions.

### **Crisis Overview**

#### *Conceptualizing Crisis*

Although crisis communication is a “rapidly developing field of research” (Coombs & Holladay, 2014), there is no universal definition of a crisis (Heath, 2010, p. 3). Heath and Millar (2004, pp. 4-5) describe nearly 20 definitions, though they suggest that a crisis is typically defined as an “untimely but predictable event that has actual or potential consequences for stakeholders’ interests as well as the reputation of the organization suffering the crisis” (p. 2). This suggests that a crisis can “harm stakeholders and damage the organization’s relationship with them” (Heath & Millar, 2004, p. 2). Meanwhile, Coombs (2015a, p. 3) defines crisis as “the perception of an unpredictable event that threatens important expectancies of stakeholders related to health, safety, environmental, and economic issues, and can seriously impact an organization's performance and generate negative outcomes.” Thus, Coombs’ definition includes the idea that stakeholders’ perceptions determine whether a crisis exists, not necessarily those of organizations (2015a, p. 3). It also includes the important point that a crisis threatens stakeholder

expectations, or, as Heath (2010, p. 4) describes, accountability (“the willingness and ability ... to meet key stakeholder expectations”). Because Coombs’ definition best synthesizes common themes of other scholars’ descriptions (Coombs, 2015a, p. 3), it was used in this study.

Many scholars have discussed the life cycle of a crisis. First, Fink (1986, pp. 20-24) considered four stages, similar to a disease: (1) prodromal, the warning; (2) acute, when the crisis occurs; (3) chronic, the time for clean-up and recovery; and (4) crisis resolution. Later, Mitroff (1994) described five similar stages: (1) signal detection and (2) probing and prevention, both of which are designed to detect warning signs and prevent crises; (3) damage containment, which involves the response; (4) recovery, when an organization strives to return to normalcy; and (5) learning, which involves reviewing and critiquing the crisis management.

The three-stage model was first discussed in detail by Richardson in 1994 (Coombs, 2015a, p. 9). Coombs later used this to develop three macrostages of a crisis: precrisis, crisis, and postcrisis (2015, p. 9). Each includes substages and recommended actions for organizations to most efficiently and effectively manage different types of crises. The precrisis phase involves three substages: signal detection, prevention, and crisis preparation (Coombs, 2015a, p. 10). The crisis phase includes two: crisis recognition and crisis containment (Coombs, 2015a, p. 11). Finally, postcrisis includes crisis evaluation, learning, and other postcrisis actions, such as continuing important conversations with stakeholders (Coombs, 2015a, p. 11). Coombs’ model was designed to encompass the ones that preceded it and to accommodate additional insights (Coombs, 2015a, p. 10); therefore, it was used in this study.

### *Crisis, Reputation, and Relationships*

Corporate reputation can be defined as “the aggregation of a single stakeholder’s perceptions of how well organizational responses are meeting the demands and expectations of many organizational stakeholders” (Wartick, 1992). It is widely accepted that reputation is “an extremely valuable intangible organizational resource” (Coombs, 2015, p. 12). A positive reputation has been associated with favorable outcomes for organizations; for example, it could “attract customers, investors, and talented employees, leading to higher profits and stock prices,” as well as generate loyal customers, higher credit ratings, and employee morale (Alsop, 2004, pp. 11, 15-17). As discussed previously, a good prior reputation can also help a company recover from a crisis by serving as “reputation capital” (Alsop, 2004, p. 17).

Crises can threaten reputations because they may cause people to think negatively of an organization (Coombs, 2007). If this occurs, stakeholders can change how they were previously interacting with the organization and the benefits of a positive reputation could be lost (Coombs, 2007). Stakeholders who think poorly of an organization as a result of a crisis may decide to stop associating with it or spread their negative opinions to others (Coombs, 2007). This is dangerous in crisis situations because, as Cheung and Thadani (2012) explain, consumers often think word-of-mouth (WOM) sources are even more persuasive and trustworthy than traditional media.

WOM also occurs online, which is referred to as electronic word-of-mouth (eWOM) (Cheung & Thadani, 2012). eWOM is important to consider because the Internet is a main source of information during a crisis and can even be its source (Coombs, 2007; 2015, pp. 106, 28). The influence of eWOM can also be illustrated by the development of a crisis communication theory that emphasizes the relevance of social media, the social-mediated crisis communication model (SMCC) (Liu, Austin, & Jin, 2011). Furthermore, since the recent

increase in online activity, there has been an increased research interest in online opinion sharing behavior and the different factors that influence sharing rates among consumers, such as “the platform being used, the sentiment being shared, the relationship a consumer has with a product and the application of standard demographic categories” (Cabosky, 2016). These findings can be applied to crisis communication, as organizations should consider them when monitoring, preparing, and responding. For example, an organization might decide whether and how to respond based in part on who is affected and how likely they are to share their opinions.

After considering the power of WOM and eWOM, it is clear that practitioners should prioritize their relationships with their publics, especially during crises. If even a small number have a negative opinion, that damaging reputation could spread widely, whether through WOM, eWOM, or traditional media. This can be illustrated through the “United Breaks Guitars” public relations case. In that situation, musician Dave Carroll was left angry and dissatisfied with United Airlines after the carrier damaged his guitar and refused to compensate him for it (Swann, 2014, pp. 248-249). Carroll, in turn, produced a music video criticizing United that went viral on social media and landed him many media interviews (Swann, 2014, p. 252). As United learned, it is important for practitioners to understand how to maintain relationships with stakeholders and, when a crisis occurs, how to repair the relationship before damage is compounded.

The findings of this section also relate to another key aspect of stakeholders that practitioners should consider when deciding whether to respond to a crisis: stakeholder salience. Coombs describes this as being comprised of power, legitimacy, and willingness (2015a, p. 55). Power refers to “the ability of the stakeholder to get the organization to do something it would not do otherwise,” or “its ability to disrupt organizational operations” (Coombs, 2015a, p. 56). Legitimacy describes “actions that are considered desirable, proper, or appropriate” to other

stakeholders (Coombs, 2015a, p. 57). Finally, willingness describes “stakeholders’ desire to confront the organization about the problem” (Coombs, 2015a, p. 57). Thus, stakeholder salience can be used to examine “the likelihood and impact of an expectations gap” and allow organizations to “prioritize stakeholders and focus ... on those that have the greatest potential to initiate crises” (Coombs, 2015a, p. 55).

### **Crisis Communication Theory**

Because of the significant negative impact crises can have on organizations and stakeholders, scholars have found crisis management to be an important area of study. As Coombs explains, the main goals of crisis management are to “prevent or minimize damage, maintain the organization’s operations, and repair reputational damage” (2015a, p. 139). Relatedly, crisis communication has a significant impact on crisis mitigation (Coombs, 2015a, p. 139). Scholars have theorized a number of different ways to examine crisis communication responses. However, the “most complex and perhaps controversial” response is an apology, which is often concerning because of potential liability (Coombs, 2015a, p. 148). Therefore, after discussing crisis communication responses and theories, this literature will present research regarding the use of apologies.

### *Background*

Crisis responses were first studied as apologia (Coombs, 2015a, p. 144), which describes strategies that are used by organizations to reduce blame in a crisis (Seeger & Sellnow, 2016). However, apologia was not able to fully capture all of the strategies organizations used when mitigating crisis situations (Coombs, 2015a, p. 144). Benoit (1997) expanded on apologia when

he presented his image restoration theory, which focuses on the different message options available to organizations and outlines 14 different response options grouped into five categories: denial, evasion of responsibility, reducing offensiveness, corrective action, and mortification. Ten years later, Coombs (2007) expanded on the work of Benoit and other communications scholars when he presented his situational crisis communication theory (SCCT).

### *Situational Crisis Communication Theory (SCCT)*

SCCT is one of the prominent theories in crisis communication (Austin, Fraustino, Jin, & Liu, 2017, p. 435) and was thus used as a theoretical framework for this study. It was designed to explain the relationship between response strategies and crisis situations (Coombs, 2007). This model is grounded in attribution theory, which is the idea that people will attribute responsibility for an event and have a resulting emotional reaction to it (Coombs, 2007). It also asserts that the amount of responsibility stakeholders attribute to an organization will influence their reactions and, in turn, the best response strategy (Coombs, 2007).

Before an organization chooses a strategic response, Coombs argues that stakeholders must first receive instructing information, which tells them how “to protect themselves physically,” and adjusting information, which helps them “cope psychologically” (2015a, pp. 139, 142). Coombs considers corrective action to be part of adjusting information (Coombs, 2015a, p. 142). Then, Coombs groups crises by increasing levels of responsibility and reputation threat: (1) the victim cluster, which includes low responsibility events such as natural disasters, rumors, workplace violence, and product tampering; (2) the accident cluster, which includes minimal responsibility events such as challenges (when stakeholders claim an organization is acting inappropriately), technical-error accidents, and technical-error product harm; and (3) the



preventable cluster, which includes events with strong attributions of responsibility such as human-error accidents, human-error product harm, and organizational misdeeds (2007).

According to Coombs, after an organization identifies the crisis type, it needs to consider its crisis history and prior reputation to determine the extent of the reputation threat (2015a, pp. 150-151). If an organization has a history of similar crises or a negative prior relational reputation with its stakeholders, perceived responsibility for a crisis can increase and, indirectly, create a greater reputational threat (Coombs, 2007). Research has also shown a direct effect on reputation threat for both crisis history and prior reputation (Coombs, 2004a; Coombs, 2004b, p. 284). This suggests that considering the context of the crisis is integral to successful mitigation.

Additionally, SCCT argues that negative affect (i.e., anger) increases and feelings of sympathy decrease as attributions of crisis responsibility increase (Coombs, 2007). Because those with negative affect are less likely to report positive behavioral intentions related to the organization and are “more likely to engage in negative [WOM]” (Coombs, 2007), it is important for crisis managers to consider how much responsibility stakeholders attribute to an organization. Before using any other response, SCCT claims that instructing and adjusting information should be provided when there are victims, and that this response alone is enough for crises in the victim cluster when there is no crisis history or previous negative reputation (Coombs, 2015a, p. 152). SCCT then organizes the different responses on a defensive to accommodative scale (Coombs & Holladay, 2004), which reflects how much concern organizations show for victims (Coombs, 2015a, p. 147). As reputation threat increases, SCCT recommends that organizations use more accommodative responses (Coombs, 2015a, p. 151).

Denial strategies, which include attacking the accuser, denial or scapegoating, should only be used when there is misinformation involved (Coombs, 2017, pp. 24, 33). Diminishing

strategies, which include providing an excuse or justification to minimize responsibility, can be used when attributions of crisis responsibility are minimal (Coombs, 2017, pp. 24, 33). These cases include victim crises when there is a crisis history or negative reputation, or accidental crises when there is no crisis history or negative reputation (Coombs, 2015a, p. 152).

Rebuilding strategies, which include compensating victims or apologizing (accepting responsibility and asking for forgiveness) (Coombs, 2017, p. 24), should be used for any preventable crisis (Coombs, 2015a, p. 152) or when attributions of responsibility are likely to be strong (Coombs, 2017, p. 33). Finally, bolstering strategies, which include reminding stakeholders of an organization's good actions; ingratiation; and victimage, which involves painting the organization as a victim; try to "create positive perceptions of the organization" and can be used in addition to other strategies (Coombs, 2017, pp. 24-25, 33).

### *Social-Mediated Crisis Communication (SMCC)*

Although SCCT is a major crisis communication theory, scholars have noted that "it does not address how information form (traditional media, social media, or WOM) impacts publics' crisis communication behaviors" (Austin, Liu, & Jin, 2012). It can also be criticized for being too organization-oriented – especially with its focus on reputation as an outcome – so, some have suggested incorporating more audience-oriented measurements (Fraustino & Liu, 2017, p. 133).

An alternative to SCCT and a possibly more "comprehensive" approach is the SMCC model, which is "an emerging framework" that "sheds light on interrelationships among social media, traditional media, and WOM communication, explaining and, in some instances, predicting crisis communication flow across organizations, news media, and publics" (Austin et al., 2017, p. 437). It was originally called the blog-mediated crisis communication model

(BMCC), but after finding other forms of social media that are influential in crisis situations, researchers suggested renaming it SMCC (Liu, Jin, Briones, & Kuch, 2012).

The first part of SMCC claims there are three main publics that communicate crisis information: influential social media content creators, social media followers, and social media inactives (Austin et al., 2017, p. 438). These categories evolved from the three types of publics in the BMCC model, which were “influential bloggers,” “blog followers,” and “nonblog followers” (Liu, Jin, Briones, & Kuch, 2012). Social media creators will post content on social media, followers will communicate on- and offline and will post the creators’ information, while inactives will gather information about the crisis from traditional media and communicate it via WOM to creators and followers (Austin et al., 2017, p. 438). Additionally, all three groups can look for and share information with other individuals, news outlets, or organizations (Austin et al., 2017, p. 438).

The second part of SMCC uses SCCT, rumor psychology, and best practices to suggest crisis response strategies for different mediums (traditional media, social media, and WOM) (Austin et al., 2017, p. 438). Like SCCT, the responses “frame messages with varying levels of accommodation based on publics’ levels of blame attributed to the organization;” however, it also considers their negative emotions associated with the crisis, existing relationships, and perceptions of crisis history (Austin et al., 2017, p. 438). SMCC treats social-mediated crises as rumors and outlines how to respond based on the rumor-generation phase (Liu & Jin, 2010). It also adds the response strategies of transcendence, endorsement, ignore, and legal action (Liu et al., 2012). Additionally, SMCC considers the origin of the crisis, the type, the infrastructure (centralized vs. localized), the message strategy, and the message form (Liu et al., 2012).

Cheng and Cameron (2017) reviewed SMCC research and found that much of it relies on “artificial experiment environments or a small sample size.” They suggest that future research include case studies and explore themes such as: “the interaction of traditional and social media for diffusion of information, the impact of word-of-mouth communication on public opinion, and the exact influence of a dialogic (positive or negative messages transmitted) communication on the crisis communication practice” (Cheng & Cameron, 2017).

SMCC was used as one of the theoretical frameworks of this study. Including SMCC helped to answer the research questions because, as previously discussed, SMCC incorporates additional variables, such as information form, and considers important differences among members of organizations’ publics, such as their social media usage (Austin et al., 2017, p. 438).

An additional reason to include SMCC is that, in a recent meta-analysis of SCCT research, while Ma and Zhan (2016) found a strong association with attributed responsibility and reputation, they found that matching response strategies by attributions of responsibility, as SCCT calls for, does not completely mitigate the reputation threat posed by attributions of responsibility (Ma & Zhan, 2016). This indicates that other strategies, such as the bolstering options, are worth exploring, as well as measuring different aspects of reputation and organization types (Ma & Zahn, 2016). In response, researchers have conducted case studies to examine the effectiveness of strategies that organizations used, and they explored whether those were matched or mismatched to the crisis type as defined by SCCT (Richards, Wilson, Boyle, & Mower, 2017).

### *Apologies Overview*

One frequently used strategy in crisis communication is an apology, which will be a primary focus of this study. As Cohen and Samp explain, apologies can “undo the effects of our mistakes, restore and nurture relationships, affirm commitments to shared moral values, and cultivate virtue and well-being” (2013). For victims, they can also help lead to recovery, reduce resentment, and decrease negative feelings such as victimization (Cohen & Samp, 2013). Through a philosophical argument, Cohen and Samp assert that there are some cases when corporations can, should, and are even expected to apologize (2013).

In support of that assertion, Benoit and Drew (1997) tested the effectiveness of different image repair options and found that apologies, concessions, and corrective action were “perceived as more effective and appropriate.” This is perhaps because, as Benoit and Drew explain, we expect people to apologize if they are responsible for “offensive act[s] ... and we are often willing to forgive them when the apology seems sincere” (1997). Relatedly, Benoit (1997) recommends that a company at fault admit it immediately. It is important to note, however, that issuing an apology does not necessarily equate to admitting fault.

### *Types of Apologies*

The apology referred to in SCCT involves accepting full responsibility and is one of the recommended responses for crises with high attributions of responsibility (Coombs, 2015a, pp. 145, 147). It is a full apology, which can include acknowledging the mistake, accepting responsibility, showing regret, and promising the error will not happen again (Kellerman, 2006). A prominent example comes from the 1982 Johnson & Johnson Tylenol crisis, in which seven people died from taking pills laced with cyanide (Kellerman, 2006). The CEO took responsibility

and apologized immediately, while Johnson & Johnson stopped production and advertising, recalled items, and told consumers not to take Tylenol (Kellerman, 2006). Though this cost millions, it remains a seminal example of effective crisis management (Kellerman, 2006).

However, organizations can also issue partial apologies, which are usually only an expression of regret and concern (Coombs, 2015a, p. 148). This will be discussed more thoroughly in the following section, but the reason to differentiate between this and a full apology emerges from a concern for legal liability (Coombs, 2015a, p. 148).

A final type of apology is a non-apology, which mimics apologies in the sense that some concern or regret could be included, but it does not involve accepting responsibility (Coombs, 2015a, p. 149). Kampf (2009) identified several types of partial or non-apologies, including those that apologize for the outcome and for any harm but not for the act itself, for the style or tone of voice instead of the actual offensive speech, and if someone was hurt or offended.

### *Effectiveness of Apologies*

Several scholars have investigated the relative effectiveness of full and partial apologies, and there have been mixed results. Some have found that, in alignment with SCCT, a full apology is effective in intentional crises. For example, one experimental study about Toyota's recall crisis by Choi and Chung (2012) found that an apology was effective for repairing reputation if it was perceived as sincere and if the public was highly involved; but, they also found that an apology did not increase purchase intentions.

Several studies have demonstrated that taking responsibility for wrongdoing is more effective for organizations. First, Pace, Fediuk, and Botero (2010) found that, in a transgression, when a corporation accepts responsibility for its role, stakeholders are more likely to view its

reputation positively. Although, they also found that expressing regret led stakeholders to view the organization more positively, so partial apologies might be an alternative if the organization is concerned about the negative effects of accepting responsibility (Pace, Fediuk, & Botero, 2010).

In further support of full apologies, a case study of Amazon's crisis when it had to delete illegal copies of an eBook that it sold found that a full apology was successful (Coombs & Holladay, 2012). Meanwhile, Bradford and Garrett (1995) found that accepting responsibility in different types of crises produced a more favorable corporate image than denial, excuse, justification, or silence.

However, some studies have questioned the effectiveness of apologies in certain situations. Particularly, Coombs and Holladay (2008) claim that previous research supports apologies because they were compared to non-accommodative strategies, such as denial or justification. When they compared apology to compensation, sympathy, and information-only responses in an experiment, they did not find a significant difference in terms of reputation, anger, or negative WOM intentions (Coombs & Holladay, 2008). This would suggest that apologies are not more beneficial, but findings are limited by the use of a low to minimal attribution crisis that did not have a clear cause (Coombs & Holladay, 2008). The authors also note that these findings only hold true for non-victims (Coombs & Holladay, 2008). However, Coombs and Holladay suggest that in cases of high responsibility, apologies still might be more appropriate (2008). Additionally, these results are not generalizable to all publics and companies, especially because the sample only consisted of college students.

Overall, apologies are recommended by SCCT in situations where there are strong attributions of responsibility and particularly in competence-based crises (Coombs, 2015b). If the

crisis is integrity-based, compensation or apologies are also options, though it is possible that an apology could emphasize the integrity violation and thus not be beneficial (Coombs, 2015b). However, if the corporation is responsible, an apology is not likely to do further harm (Coombs, 2015a, p. 149). But, different crisis types and situational factors can overlap, so many factors must be considered (Coombs, 2015b).

### **Crisis Communication Applied**

This section will begin by discussing research findings about current industry practices, followed by a section explaining the legal considerations and a related alternative crisis response typology. Finally, the study will present case examples to illustrate these points.

#### *Current Trends*

Recently, scholars have found that organizations are not often using the most effective crisis response strategies (Arendt, LaFleche, & Limperopulos, 2017). Specifically, denial postures are most commonly used but are least successful, while corrective action is most successful but only the third most common response (Arendt, LaFleche, & Limperopulos, 2017). These findings also indicate that mortification strategies, or those involving apologies, are not among the most common strategies, possibly because of the potential for legal action (Arendt, LaFleche, & Limperopulos, 2017), despite them being recommended by leading crisis theory (Coombs, 2007; Benoit, 1997). This discrepancy illustrates the need for future research about crisis communication theory and a deeper understanding of the nuances involved in these cases involving potential liability.



Additionally, scholars have identified several “mitigating factors” that influence the success of a strategy, which include: “one’s guilt or innocence, remaining silent, potential legal action, the scope of the crisis, and promptness in responding” (Arendt, LaFleche, & Limperopulos, 2017). Because they influenced the success of the strategies, these mitigating factors will be considered in this study.

In another study, scholars found that in crises of strong attributions of responsibility, organizations adopted “legal strategies” more than “public relations strategies” (Tao & Kim, 2017). The exact difference will be discussed later, but this implies that the organizations were not admitting responsibility or apologizing publicly, as using a “legal strategy” meant minimizing communication (Tao & Kim, 2017).

One content analysis focused on crises posted to the Facebook pages of Fortune 500 companies in an eight-month span and found that justification and full apologies were most common (Ki & Nekmat, 2014), contrary to others’ findings. However, it only studied one platform, Fortune 500 companies, and crises that occurred in a short time period (Ki & Nekmat, 2014). Therefore, while it is worthwhile to consider these findings, the findings of Arendt, LaFleche, and Limperopulos (2017) give a more comprehensive view of the current landscape.

These findings justify the purpose of this study, which is to gain a better understanding of how organizations should manage crises for which they might be held legally responsible. Organizations are not using strategies that might be effective (mortification and apologies) possibly due to legal concerns (Arendt, LaFleche, & Limperopulos, 2017). Thus, if this study can provide organizations with additional knowledge regarding the possible short- and long-term impacts of handling these situations in different ways, they will be better equipped to make more effective crisis management decisions, which will benefit organizations and their publics.

Finally, Heath (2010, p. 7) discussed the idea that current research might focus too much on the organization in crisis and not enough on other persons or institutions involved. Therefore, he suggests that research should examine more parties than simply the “organization that is in the spotlight” because external organizations also have power during a crisis (2010, p. 7). He claims this is important because not all publics will be satisfied with the same statements; rather, what could help an organization’s relationship with one public could worsen it with another (Heath, 2010, p. 7). Therefore, while this study still focused on potentially liable organizations, it also considered the context and effects on other parties involved.

### *Legal Considerations*

To answer this study’s research questions, it is important to first understand how the American legal system treats apologies. At the federal level, the Federal Rules of Evidence dictate what is admissible in court (Myers, 2016). Generally speaking, relevant evidence is that which “has any tendency to make a fact more or less probable than it would be without the evidence” and that “the fact is of consequence in determining the action” (Federal Rule of Evidence 401). However, there are some limitations on what can be considered relevant evidence, such as if a statement is considered hearsay (Meyers, 2016). Hearsay is a “statement that the declarant does not make while testifying at the current trial or hearing” and that “a party offers in evidence to prove the truth of the matter asserted in the statement” (Federal Rule of Evidence 801).

However, if the statement in question was “offered against an opposing party” and either: “(a) was made by the party in an individual or representative capacity; (b) is one the party manifested that it adopted or believed to be true; (c) was made by a person whom the party authorized to make a statement on the subject; (d) was made by the party’s agent or employee on

a matter within the scope of that relationship and while it existed; or (e) was made by the party's coconspirator during and in furtherance of the conspiracy," it could be exempt from hearsay rules (Federal Rule of Evidence 801).

As Myers explains, this means that statements made outside of court by the individual party or by their representative can be admitted (2016). This has "harsh consequences for apologies, which are frequently characterized as admissions of guilt" (Myers, 2016). For example, if a company apologized, either publicly or privately, that statement could be admitted because it could be considered an admission under Rule 801 (Myers, 2016). This applies to individuals as well. For example, Myers (2016) describes that in the case of *State of Ohio v. Butcher* (2004), an apology card given to the victim of a vehicular assault was admitted as evidence against the defendant even though it was a statement made outside of court.

Even though states generally defer to federal rules, some have created exceptions for apologies (Myers, 2016). These are referred to as "I'm Sorry" laws, the specifics of which depend on the state (Myers, 2016). Thirty-seven states and the District of Columbia have these laws in place, but 28 apply to healthcare providers only, while ten are general laws (Meyers, 2016). All of these "I'm Sorry" states exclude applicable statements of remorse from evidence (Myers, 2016). However, of the 38 jurisdictions offering some sort of "I'm Sorry" law, 18 still include apologies that have statements of fault as evidence, while 20 even exempt those with statements of fault from evidence (Meyers, 2016). Additionally, in order for any of these 38 "I'm Sorry" laws to be applied, the statements in question must be presented to the victims or their families (Myers, 2016).

With this in mind, when public relations professionals are considering the use of an apology, they must know whether their potential litigation will be in federal or state jurisdiction

(Myers, 2016). Myers explains that, according to the US Code, federal jurisdiction would be applied if the case involves federal commercial speech regulations, an issue with a federal regulatory agency, or a disagreement between parties in two different states that involves damages exceeding \$75,000 (2016). The state level laws usually apply to cases in which all parties live in the same state or to those that involve state law (Myers, 2016).

Additionally, practitioners must consider whether their companies' actions indicate guilt, as actions are not exempt from evidence at either the federal or state levels because they are not statements and thus cannot be considered hearsay (Myers, 2016). Finally, it is important to note that apologizing is still an option even if they are admissible because even if an apology is admitted, it is still only one piece of evidence that juries can consider in the context of the case (Myers, 2016).

There are also some potentially positive legal effects of apologizing and admitting responsibility. First, as Patel and Reinsch explain, an apology that helps a corporation's reputation could help jurors and other members of the court view it more positively (2003). It could also help avoid lawsuits or decrease damages (Patel & Reinsch, 2003). Although most of the research relies on hypothetical scenarios and does not yet fully explain how apologies help legal settlements or prevent lawsuits, findings suggest that apologies can be beneficial to both the plaintiff and defendant in some cases (Helmreich, 2012). For example, one study found that a full apology increased the likelihood of accepting a settlement offer (Robbennolt, 2003). A second study found that, while someone giving a full apology was seen as "more moral," "experiencing more regret," and "more likely to be careful in the future," a partial apology resulted in negative effects if there were stronger attributions of responsibility (Robbennolt, 2003). However, one experiment found that a corporation's apology during a personal injury

lawsuit did not significantly change how much the judge ordered the corporation to pay in fines (Rachlinski, Guthrie, & Wistrich, 2013). These contrary findings suggest that the context might play a key role in determining the possible benefits of apologies in a legal setting.

### *Public Relations-Legal-Diversionary Typology*

Because there can be legal concerns about admitting responsibility, some scholars have approached crisis communication by considering the different advice attorneys and public relations professionals might give instead of using SCCT or SMCC. Namely, Fitzpatrick and Rubin (1995) devised a public relations-legal-diversionary typology, which has been used in a few studies. It defines a traditional public relations strategy as one that: (1) “state[s] company policy on the issue (if appropriate),” (2) “investigate[s] the allegations,” (3) is honest, (4) “voluntarily admit[s] that a problem exists,” and (5) undergoes corrective action (Fitzpatrick & Rubin, 1995). Meanwhile, it defines a traditional legal strategy as one that: (1) advocates silence; (2) recommends saying little, as quietly as possible; (3) recommends saying little while “citing privacy laws, corporate policy, or sensitivity;” (4) uses denial or acts “indignant” at the accusations; and (5) shifts or shares blame (Fitzpatrick & Rubin, 1995). The typology also identifies the possibility of combining the legal and public relations strategies as a “mixed strategy,” as well as a diversionary option, which involves: (1) trying to distract the media and the public, (2) saying that the organization is angry while taking minimal action in response, and (3) claiming the issue is resolved or that the “alleged offender” is stepping down for unrelated reasons (Fitzpatrick & Rubin, 1995).

Although a few studies have used this typology, it is not clear that it is the best way to examine crisis communication as related to legal issues. First, in a study by Tao and Kim (2017),

the typology only accounted for 60 percent of the responses in the sample, so researchers suggested that it might not be comprehensive enough and might instead be used as a supplement to other theories. Additionally, Kim and Wertz (2013) surveyed crisis managers about their crisis management and found that almost none of the criteria outlined by this typology were mentioned; instead, Kim and Wertz suggest a full vs. limited disclosure model.

Furthermore, it is not clear that attorneys will always advocate for saying as little as possible, as there might be some legal benefits to apologizing. It is also not clear that public relations professionals will always suggest transparency. Therefore, while this study acknowledged the usefulness of the typology, it was not the primary one used.

### *Case Examples*

As research indicates, there are many legal and public relations factors that organizations and individuals must consider when managing a crisis. To further explore those and to finalize the research questions of this study, this section will review several examples of potentially liable organizations or individuals in crisis. These will include criminal, civil, and administrative cases so that the legal and communications implications can be compared.

#### *Criminal*

Pennsylvania State University (PSU) became involved in a crisis when a grand jury report claimed that Jerry Sandusky, its defensive coordinator, had sexually assaulted minors from 1994 to 2009 (Swann, 2014, p. 370) and used his non-profit organization Second Mile as a means to find victims (Curry, 2013). The report, released on November 4, 2011, indicated that numerous senior officials at PSU, including Tim Curley, the athletic director; Gary Schultz, the

senior vice president; Joe Paterno, the head football coach; and Graham Spanier, the president, knew about but failed to report the assaults (Swann, 2014, pp. 370-371). After the report became public, the Penn State board of trustees removed all four from their positions (Swann, 2014, pp. 373-375). Ultimately, PSU hired a firm to conduct an independent investigation, Sandusky was found guilty of 45 counts of child sexual abuse, the NCAA imposed significant penalties (Swann, 2014, pp. 382, 384, 387), at least 25 lawsuits were filed (Curry, 2013), and PSU was fined more than \$2 million by the Department of Education for violating the Clery Act, which requires “prompt public alerts about safety threats as well as annual disclosures of campus crime statistics” (Saul, 2016).

This case illustrates several public relations principles, one of which is the need to consider the big picture when making crisis management decisions by considering their short- and long-term impact. There are several factors that contribute to this idea, which include:

- **Reputation.** Although organizations might focus on the short-term effects of a crisis, it is important to also consider the possible long-term effects as well. This might lead an organization to respond differently, as what is best in the short-term might not be ideal in the long-term. In PSU’s case, ignoring Sandusky’s assaults helped PSU avoid damage to its reputation contemporaneously, but it made PSU appear much worse when news finally broke because it looked like PSU had been enabling the sexual assault of minors for years.
- **Associations.** Not firing Sandusky and allowing him to continue using Second Mile to find victims to bring to PSU facilities was a poor decision. Choosing to associate with someone suspected of or known to be committing assault, as well as with the individual’s charitable organization, is harmful and unnecessary, as there were other coaches PSU

could have recruited and nonprofits it could have supported. While it would have been ideal for PSU to report the assaults as soon as they came to light, PSU could have at least reduced reputational and relational damage by severing ties once it knew of or suspected Sandusky's assaults.

- **Trust.** Stakeholders' trust in PSU was shaken when they learned that it had concealed Sandusky's abuse for years. Although trust still would have most likely been damaged if PSU had been upfront about the abuse, it probably would have been less severely affected and rebuilt faster if the public saw that PSU was taking the situation seriously and enacting concrete steps to stop Sandusky's abuse.
- **Media Coverage.** Media coverage and conversation on both traditional and social media erupted when the years-long assaults and cover-up were discovered. This did not help PSU's relationships with its publics and made it harder to recover. If PSU considered the long-term implications of a cover-up on media coverage, it might have been more forthcoming with information, as one assault would likely have been less newsworthy than a lengthy cover-up.
- **Ethics.** Neglecting ethics could have negative effects on society, stakeholders, and organizations. Because PSU was focused on the short-term and thus did not report the abuses, it indirectly allowed Sandusky to claim more victims, which hurt stakeholders and damaged its reputation. This is also contrary to industry standards, such as disclosing information and being honest (Public Relations Society of America, n.d.).

PSU's concealment is contrary to SCCT and Image Repair Theory, which advocates accepting some responsibility when at fault (Coombs, 2007; Benoit, 1997), and failed to protect PSU from a communications perspective. However, operating under this flawed rationale also



led to legal failure, illustrating a major legal principle: Taking responsibility could reduce liability and improve legal outcomes. Several factors contribute to this, which include:

- ***Vicarious Liability.*** Organizations can be held vicariously liable for their employees' actions in some circumstances. In one case against PSU, a vicarious liability charge was dismissed because Sandusky's actions were judged to be outside the scope of his employment (*Doe 6 v. Pennsylvania State University, 2013*). However, many of Sandusky's victims had sufficient grounds to sue PSU and win settlements because of its negligence (Curry, 2013), illustrating that organizations must consider how they might be responsible for their employees' illegal actions before they decide whether to take action.
- ***Scope of the Problem.*** Because PSU did not report the abuse, Sandusky's first offense grew into a systematic problem. This resulted in an increase of victims and liability for PSU, as it was fined a large sum for violating the Clery Act and the NCAA rules, and it was sued by multiple individuals. If PSU had contained the problem early by taking responsibility and reporting Sandusky, the crisis would have likely been less severe and the legal outcome could have improved, as there would have been fewer assaults and less negligence.
- ***Transparency.*** Part of accepting responsibility is being transparent. If PSU had been forthcoming about its role in the abuse, it could have reduced the time it spent in litigation and improved perceptions, as it is likely that stakeholders would have perceived PSU's choice to take ownership of its role in the crisis better than its lengthy cover-up.
- ***Money.*** Considering the financial implications of decisions is also important. Although PSU could have still taken a loss if it had been upfront sooner, it could have avoided the legal fees and fines it was forced to pay after concealing Sandusky's abuses.

In summary, PSU's crisis illustrates the importance of containing a crisis, accepting responsibility, and thinking long-term when making management decisions. If PSU had done so, law enforcement could have caught Sandusky sooner and PSU could have suffered less damage to its reputation, stakeholder relationships, and finances. This case raises important questions about when organizations should disclose its employees' misdeeds, when they might be liable for those actions, and how the timing of any disclosures made will influence outcomes such as reputation, financial, and legal decisions in the short- and long-term.

### Civil

A second case that illustrates the interplay of public relations and legal principles is the 2009 scandal involving Tiger Woods. On November 27, 2009, Woods crashed his car into a fire hydrant and a neighbor's tree at 2:25 a.m. (Swann, 2014, p. 405). He did not provide adequate explanations to the media or the public for the crash or where he was heading so early in the morning, which quickly led to speculation (Swann, 2014, p. 406). Two days later, the *National Enquirer* claimed Woods was having an affair with a woman named Rachel Uchitel (Swann, 2014, pp. 405-406). This initial story led to more women claiming they had relationships with Woods, which fueled more media coverage, the loss of multiple sponsorships, and reputation damage (Swann, 2014, pp. 409-410).

This case is a prime example of how interrelated professional and personal crises can be. As much harm as this scandal caused Woods' reputation and business, it also hurt his relationships with his family and contributed to his divorce (Berman, Clarke, & Parise, 2010). This leads to an important public relations principle relevant to this study: Staying silent during a

developing crisis could have negative consequences, so it might be better to accept responsibility or at least provide some explanation. This involves several factors, which include:

- ***Speculation.*** Because Woods failed to explain his whereabouts on the day of the crash, stakeholders – especially tabloids – began to speculate and investigate, digging into Woods’ life until they discovered details of his affairs. This led to increased media attention and ultimately created more problems for Woods.
- ***Important Publics.*** In any crisis, the individuals involved must consider how their responses will be received by important publics, such as friends and family. By creating room for speculation and negative attention, Woods contributed to his family’s embarrassment and complicated any attempts to repair his relationships (Berman, Clarke, & Parise, 2010). Prioritizing his family could have also aided his reputation.
- ***Apologizing and Accepting Responsibility.*** If Woods had apologized, accepted responsibility, and asked for privacy as his family was dealing with the discovery of his affairs, he might have reduced media attention and improved his reputation, as it would have appeared that he was taking the situation seriously and was focused on his family’s well-being.

In addition to conveying the idea that it might often be preferable to accept responsibility or offer a reasonable explanation instead of remaining silent, this case also demonstrates a major legal principle: The legal implications of a crisis can go beyond liability concerns. There are a few factors that contribute to this, which include:

- ***Family Law.*** Although it is impossible to know if Woods and his spouse would have divorced had the scandal not been revealed or managed in this way, it is clear that reports

of the affairs contributed to his divorce (Berman, Clarke, & Parise, 2010). This illustrates that a public crisis could also have personal legal implications, especially for celebrities.

- **Legal Agreements.** In addition to his divorce, the scandal also influenced the final settlement with his ex-wife Elin Nordegren because it became important to Woods and his reputation that she stay silent about the alleged affairs. Ultimately, she received a large settlement in exchange for her agreement to not speak publicly about Woods' affairs ("Elin Nordegren gets \$750M," 2010), illustrating that legal agreements can be used to help prevent further reputational damage.
- **Sponsorships.** When celebrities are involved in crises, sponsors may have sufficient cause to terminate their associations with them, depending on the specifics of their contract. Although this study does not have access to Woods' contracts, it is likely that he lost his sponsorships through a violation of a "morals clause." Though the details vary by contract, a "morals clause" generally refers to:

A contractual provision that gives one contracting party (usually a company) the unilateral right to terminate the agreement, or take punitive action against the other party (usually an individual whose endorsement or image is sought) in the event that such other party engages in reprehensible behavior or conduct that may negatively impact his or her public image and, by association, the public image of the contracting company. (Pinguelo & Cedrone, 2009)

If Woods had given a reasonable explanation for his behavior or had admitted his affairs early and thus improved others' perceptions of him and reduced negative attention, it is possible that sponsors would not have exercised the termination clauses of their contracts.

Findings from this case suggest that this study should consider how a crisis could affect outcomes beyond those tied directly to reputation, such as personal legal, business, and relational outcomes. It also raises questions about when those in the public eye should disclose their personal misdeeds, how much information they should share, and how they should balance the needs of their important publics.

### Administrative

The final case this section will discuss is British Petroleum (BP)'s Deepwater Horizon oil spill, which occurred on April 20, 2010. As a result of the explosion, eleven workers were killed, seventeen were injured, and about four million barrels' worth of oil spilled into the Gulf of Mexico. A federal judge ruled that BP acted with "gross negligence" and assigned the company the majority of the blame for the worst oil spill in US history (Breslow, 2014), which caused severe environmental and economic damages. BP made several mistakes in its crisis management that led it to suffer tremendous backlash, damage to its reputation, and costly fines; it is estimated that the settlements and charges total approximately \$62 billion (Bomey, 2016).

This case, frequently discussed in public relations courses, illustrates several important lessons scholars and practitioners should consider. One that will be discussed in this study is that trying to deflect blame instead of taking responsibility might not be an appropriate response to a crisis of this magnitude. This is in line with SCCT, which warns against scapegoating (Coombs, 2015, p. 146). There are several nuances to this lesson, which include:

- ***Degree of Responsibility.*** BP was unsuccessful when it tried to blame Transocean, which owned the rig, for the accident (Swann, 2014, p. 206). This was partly because BP was clearly to blame: Its representatives had the final word on-site, designed the well, and chose the processes (Bergin, 2011, p. 162). This failure illustrates that attempts to blame others based on a technicality might not be successful.
- ***Organization Prominence.*** Another reason BP's deflection was not successful was because BP is a leader in the oil industry and thus held to higher expectations than Transocean, a lesser-known company. This concept has been illustrated in many other cases, such as when Sony unsuccessfully tried to blame hackers for its poor response

following a breach (Swann, 2014, p. 445). Additionally, established companies are expected to be prepared for crises that can be reasonably expected in their industries. So, when BP and Sony were not, it negatively affected their reputations and relationships.

- **Credibility.** When BP tried to deflect and provided underestimations of the amount of spillage despite official conflicting reports, it damaged its credibility with stakeholders, worsening the crisis and making it harder to recover (Bergin, 2011, pp. 162-163).
- **Reputation.** Just as PSU's reputation was negatively impacted when it did not consider the long-term effects of concealing Sandusky's abuse, BP's reputation was negatively impacted when it did not take responsibility for the spill and instead tried to deflect.
- **Crisis History.** The Deepwater Horizon explosion was not BP's first crisis: In 2005, there was an explosion at its Texas City refinery that killed 15 workers and injured 170 (Swann, 2014, p. 202). BP was also responsible for that explosion and paid millions in fines for safety violations (Swann, 2014, p. 202). Because BP had experienced a similar crisis before, it did not have the excuse of experiencing a situation for the first time and, thus, was unsuccessful in using deflection.
- **Accountability.** Stakeholders hold organizations and individuals to expectations – one in particular is being accountable. By using deflection, BP failed to meet that expectation, which damaged its credibility, reputation, and stakeholder relationships.
- **Remorse.** BP often lacked the remorse stakeholders might expect when a serious crisis occurs, especially one involving the deaths of innocent victims. Instead of issuing statements such as BP CEO Tony Hayward's "I'd like my life back" and attempting deflection, apologizing with regret (Kellerman, 2006) could have helped BP avoid some

negative perceptions, mitigate the crisis faster, and cause less pain to the victims' families.

This lesson also applies to the legal aspects of the case. Although it is not possible to know what would have occurred if BP had accepted responsibility instead of trying to deflect, it is likely that there would have been more positive outcomes associated with the investigations and litigation. This suggests that in some instances it might be best not only from a communications standpoint, but also legally, to accept responsibility, which is similar to the findings in the PSU and Woods cases. There are several factors that contribute to this, which include:

- **Money.** Just as PSU experienced when it was involved in extensive investigations and lawsuits, BP faced lengthy and costly litigation when it tried to deflect and not take responsibility. Although it is not known how the crisis would have progressed if BP did so, it is likely that it could have at least saved thousands in legal fees.
- **Media Attention.** If BP had taken responsibility for its role in the crisis and reduced the time of the litigation, it could have reduced the amount of media attention it received during this situation. This is similar to how PSU failed to shorten the time it spent as headline news by not thinking long-term about the effects of hiding Sandusky's abuse.
- **Degree of Responsibility.** The amount of responsibility BP had for the crisis also plays a role in the legal implications. If there was a serious question of whether BP had a significant role, it would make more sense to hesitate issuing an apology acknowledging fault. However, because there was little doubt that BP had at least some amount of responsibility for the spill and was ultimately found to be the party mostly at fault, it might not have worsened its legal outcome if it made a full apology.

Overall, it seems that when an organization is at least mostly responsible for a serious crisis, it might be best from both a communications and legal standpoint to accept responsibility and start rebuilding trust earlier, rather than spending time and resources fighting a losing battle while continuing to worsen relationships and receive negative media attention. With this in mind, this study considered questions about when organizations should attempt to shift blame or apologize fully by considering the implications it could have on reputation, finances, and relationships.

### **Current Study**

In summary, research suggests that admitting responsibility and apologizing in a crisis when there is a high attribution of responsibility can be beneficial, as it could help repair relationships with stakeholders and convey transparency and a commitment to improve. However, organizations and individuals sometimes hesitate to give a full apology due to concerns of liability. Therefore, the goal of this study was to examine how the theoretical principles, apology research, and legal considerations applied to a recent crisis that involved potential liability. This provided insights for industry professionals about what they should consider when facing a crisis, as well as theoretical implications for crisis communication scholars.

### *Research Questions*

1. How do these theoretical principles and guidelines apply to this case when considering how potentially liable organizations and individuals may be able to mitigate crises?
2. What tangible recommendations can one learn from this case when applying these theoretical principles to potentially liable organizations and individuals?
3. By examining this case, what other factors should potentially liable organizations and individuals consider when determining how to best mitigate a crisis?



## **Methods**

To answer these research questions, this study used a case study approach to examine a recent, ongoing crisis. This section will begin by discussing the use of case studies and the justification for and description of the case selected. Then, it will describe how the study used a qualitative content analysis to analyze the case.

### **Use of Case Studies**

Although some researchers have used experiments “to assess systematically how people perceive crisis response strategies,” most post-crisis communication research relies on case studies (Coombs & Holladay, 2008). Case studies provide more in-depth, context-dependent knowledge than other research methods (Flyvbjerg, 2006). Using case studies and examining the context in which situations occur allows researchers to understand the viewpoints and behaviors of those being studied; they provide a close examination of real-life situations and “test views directly in relation to phenomena” (Flyvbjerg, 2006). They can be used to identify the existence of “black swans,” which allow researchers to falsify claims and thus contribute to theory development and future research (Flyvbjerg, 2006). Case studies provide rich, large amounts of detail that can help explain why situations occur (Flyvbjerg, 2006). Depending on the problem and cases selected, Flyvbjerg argues that it is also possible to generalize from case studies (2006).

Using case studies enabled this study to better answer its research questions because the very nature and scope of public relations crises are largely based on context, which, as Flyvbjerg argues, can be effectively examined through a case study approach (2006). Additionally, Avery,

Lariscy, Kim, and Hocke (2010) identified a need for more diverse methods, such as qualitative approaches, in the crisis communication field. In line with this finding, researchers have identified the need to “advance the theoretical framework of SMCC within real case studies” (Cheng & Cameron, 2017). With all this in mind, using a case study allowed this research to understand the phenomenon that occurs when organizations are involved in a crisis for which they are potentially liable.

### **Case Selection: The Weinstein Company and Harvey Weinstein**

This study analyzed an ongoing crisis that involved broader societal concerns and potential liability: The Weinstein Company and Harvey Weinstein’s management of the recent allegations of sexual assault and harassment against Weinstein, the former co-owner and studio head. The crisis began on October 5, 2017, when a *New York Times* investigation described “previously undisclosed allegations against Mr. Weinstein stretching over nearly three decades” (Kantor & Twohey, 2017). Soon, many other female celebrities came forward accusing Weinstein of sexual assault or harassment. This article sparked conversation in traditional and social media, bringing the issue of sexual assault and harassment to the forefront. For example, the trending hashtag “#MeToo” offered those who had experienced assault or harassment a way to unite and share their stories via social media.

The aftermath of this piece is evident in many aspects of Weinstein’s life. He was fired from the company, which he co-owned with his brother; spent time in therapy; was expelled from the Academy of Motion Picture Arts and Sciences; and was left by his wife (Italiano, 2017). There are rumors that the Weinstein Company, which is privately owned, will either be bought out or forced to declare bankruptcy. The company is also being investigated by the New

York attorney general for civil rights violations and has been issued a subpoena for records relating to sexual harassment and discrimination complaints (Levin, 2017). Additionally, Weinstein filed a lawsuit against the Weinstein Company to gain access to his files and is intending to sue the company for wrongful termination and distributing confidential information (Barnes, 2017d). Finally, a civil lawsuit was filed in federal court against Harvey Weinstein alleging that he violated a federal sex trafficking law when he was abroad in 2014 (“British actress sues,” 2017).

Analyzing this case helped to answer the research questions of this study. First, although it is an ongoing crisis and it is not yet clear what the long-term effects of it will be, analyzing the Weinstein case allowed the study to consider the short-term effects of handling a crisis involving potential liability at both an organizational and individual level. It provided an opportunity to consider potential long-term outcomes and provide recommendations for both the Weinstein Company and other organizations that may experience a similar crisis in the future. This case was also beneficial to examine because it involved a large, prominent societal issue and, thus, multiple third parties and secondary stakeholders. Additionally, analyzing this complex case allowed the study to consider how theoretical guidelines and current apology and legal research applied to the case, as well as to identify new themes or patterns relating to crisis communication theory in situations involving potential liability. Finally, this case also allowed the study to examine the role context plays in these situations and to identify additional factors that organizations should consider when managing crises for which they are legally responsible.

## **Qualitative Content Analysis**

To analyze the case, this study used a qualitative content analysis. As Cassell and Symon (1994) describe, a qualitative analysis has “a focus on interpretation rather than quantification; an emphasis on subjectivity rather than objectivity; flexibility in the process of conducting research; an orientation towards process rather than outcome; [and] a concern with context” (p. 7). Rather than a quantitative approach, which involves coding data into “explicit categories” and using statistics, a qualitative analysis is “the systematic classification process of coding and identifying themes or patterns” (Hsieh & Shannon, 2005, p. 1278).

More specifically, this study utilized a *directed* qualitative content analysis, which is commonly used to examine and modify theory (Hsieh & Shannon, 2005). Unlike a conventional content analysis, in which codes are derived solely from the data, a directed content analysis begins with an initial coding scheme derived from existing theory or variables (Hsieh & Shannon, 2005). However, a directed content analysis also allows for new categories – “patterns or themes” – to be identified as the research progresses (Hsieh & Shannon, 2005, pp. 1285-1286). Thus, a directed qualitative content analysis combines aspects of deductive and inductive analysis, which allowed this study to identify new themes regarding the management of crises that involve potential liability, as well as to evaluate how existing theoretical principles (i.e., SCCT and SMCC), apology research, and legal concerns apply to the Weinstein case.

## **Media Sample**

The pre-selected sample of content this study evaluated included:

**Mainstream News Articles.** The study began by examining news articles from *The New York Times*. This outlet was selected because it is a paper of national significance and is a

frequently used source in communications research. Additionally, Danielian and Reese (1989) found that *The New York Times* has historically played a key role in intermedia agenda setting, which means that it influences other media outlets' coverage.

Articles from *The New York Times* from October 5, 2017 to November 8, 2017 that included "Harvey Weinstein" were collected from the *LexisNexis* database. This date range allowed for a longitudinal analysis of the first month of Weinstein's story, as the first article exposing Weinstein's assaults was published on October 5, 2017 by *The New York Times*. The study used November 8, 2017 as the end of the date range because that allowed for an analysis of the first month of media coverage while also including several major developments that happened between November 5, 2017 and November 8, 2017. Examining *The New York Times* was also helpful for this study because it was the outlet that originally published the investigative piece on Weinstein that led to the public relations crisis.

In total, 213 articles were pulled. However, seven articles were duplicates and thus excluded, leaving a sample of 206 *New York Times* articles.

These articles were used to gain an understanding of the context, crisis, timeline, publics involved, and organizations' responses in order to answer the study's RQs. Additionally, because the Weinstein Company is not publicly traded, the study looked for mentions of the financial implications in the articles.

**Industry and Niche Outlet Articles.** To ascertain a better understanding of the role the Weinstein allegations played in the film industry, articles from *Deadline* that mentioned "Harvey Weinstein" within the same time period (October 5, 2017 to November 8, 2017) were also included in the sample. These articles were pulled from the *LexisNexis* database. With 13 million unique visitors (Penske Media Corporation, 2017), *Deadline* is a major entertainment industry

outlet. Including articles from *Deadline* in the sample allowed the study to compare national mainstream coverage with that of a niche outlet, as well as to gain a broader understanding of the context and impact of the crisis. It is also possible that there was important news about the crisis for the film industry that *The New York Times* did not cover. Additionally, articles from *Deadline* frequently cite and discuss social media, so examining the outlet allowed the study to also consider those elements. However, audio, photos or video material in an embedded social media post or in an article was not included in the sample because it was not present when the articles were pulled from the database.

In total, 295 articles were gathered. However, 68 of these articles were duplicates or did not actually discuss the Weinstein case. Rather, some mentioned “Harvey Weinstein” in the headline of a story that was only listed as a “Related Link.” So, these articles were excluded, leaving 227 *Deadline* articles in the sample.

### **Coding and Analysis Process**

After collecting all materials in the sample, the directed qualitative content analysis (Hsieh & Shannon, 2005) began. The first round of coding was mostly deductive, as specific content attributes that related to aspects of SCCT, SMCC, apologies, legal implications, and the identified variables from the case examples section of the literature review were documented. For example, elements that applied to topics such as Harvey Weinstein’s reputation, associations, legal action, or credibility were noted. This helped to answer the study’s research questions regarding how existing theoretical principles, apology research, and legal considerations apply to crises involving potential liability. Each piece of content was separated by outlet and examined chronologically to allow for a longitudinal analysis of the developing story. Additionally, a

constant comparison approach (Glaser & Strauss, 1967) was used in this round of coding. This technique involves comparing each data point with previously coded ones and noting developing themes as the researcher progresses through the sample (Glaser & Strauss, 1967, pp. 104-106).

After the first round of coding was complete, a second round occurred. The process started by compiling all of the content onto a single chronological timeline – no longer separated by outlet – to analyze how the case evolved across outlets over time. This approach also allowed the study to examine each individual development in the Weinstein case.

In the second round of coding, the study used axial coding to analyze the content. Axial coding uses the ideals of a grounded theory approach, which “uses a systematic set of procedures to develop an inductively derived grounded theory about a phenomenon” (Strauss & Corbin, 1990, p. 24). Additionally, axial coding allows the researcher to compare the content and formulate categories in order to develop insights about the context, concepts, and patterns in the data (Strauss & Corbin, 1990, pp. 97, 101, 130). In other words, this approach allowed the study to build theory related to crisis communication, apology, and potential liability by directly analyzing the data both inductively and deductively (Strauss & Corbin, 1990, pp. 23, 114).

## Findings

### **Narratives can quickly become conflated during a crisis that features multiple tiers of bad acts; the legal nuances are often lost and effectively rendered irrelevant to the public**

Weinstein was accused of multiple bad acts, including sexual harassment, unwanted physical contact, sexual assault, and rape. From a legal perspective, these words have specific meanings. For example, sexual harassment is not a criminal offense; sexual assault refers to the intent to harm; and sexual battery refers to unwanted physical sexual contact. However, the public and the media did not clearly differentiate between these terms in Weinstein's case. Weinstein's vague public relations response also contributed to this conflation. This helps to answer the first and second research questions of the study, as it is important to consider the media's role in framing narratives, how statements are phrased, and how that may affect public responses. It also helps to answer the third question because it illustrates how people might interpret legal distinctions. Ultimately, a conflated, confusing narrative in which many interchanged the words developed. This further damaged Weinstein's reputation.

The first report of Weinstein's accusations, published by *The New York Times* on October 5, 2017, used the term "sexual harassment" in the headline and referred to the claims as "sexual harassment and unwanted physical contact" (Kantor & Twohey, 2017). On the same day, a *Deadline* article referred to "abuse allegations" in the headline (Pederson, 2017a) and included several embedded tweets from celebrities reacting to the crisis, some of which referred to "harassment" (Dunham, 2017), "sexual harassment/assault" (Detrow, 2017), and "abuse" (Derrickson, 2017) without explaining the reasons for the word choices. However, some of these terms did not seem to be entirely accurate. For example, one article in *Deadline* described Fox News reporter Lauren Sivan being "trapped by Weinstein's bulky body" and how he tried to kiss her (Haring, 2017a). Then, after being "thwarted," Weinstein "allegedly then exposed himself



and began to masturbate, finally ejaculating into a potted plant” (Haring, 2017a). The article described this as abuse and harassment, but the attempt to kiss her could also be considered sexual assault. This pattern of mislabeling claims and conflation continued, particularly in *Deadline*’s articles and in e/WOM, while articles in *The New York Times* mostly kept its original terminology.

*The New Yorker* released a second report on October 10, 2017 with more claims against Weinstein (Farrow, 2017a). After this, *Deadline*, *The New York Times*, and the public started to more regularly conflate the different words, lumping the accusations together under umbrella terms while failing to explain the legal and technical distinctions. For instance, *Deadline* noted that the “accusations against Weinstein escalated to sexual assault with a second devastating expose” (Andreeva, 2017a). This interpretation, however, was not consistent with the situation or with other reports. For example, some of the earlier claims could potentially qualify as sexual assault, such as the potted plant incident described previously (Haring, 2017a). Also, other *Deadline* articles used the term “assault” to describe the allegations previously reported in *The New York Times*. *Deadline* even said that the second report “like the New York Times’ report last week, alleges decades of sexual harassment and assaults” (Patten & Hipes, 2017), which contradicted its other statement.

This resulted in confusion because it was unclear when the allegations escalated from harassment to assault and what the differences were. For example, many celebrities used a wide variety of terms when discussing the Weinstein accusations: Actress and singer Bette Midler referred to the problem as “male sexual predation and assault” (Midler, 2017), director Paul Feig discussed “sexual harassment and abuse” (Feig, 2017), while director Oliver Stone called it “sexual abuse or rape” (Stone, 2017). Even organizations like the Writers Guild seemed to

conflate the terms: “The recent accusations of sexual assault against Harvey Weinstein have opened up important discussions ... about sexual harassment” (Evans, 2017c). Additionally, someone in a letter to the editor seemed to conflate harassment and assault:

I cannot imagine how any of this will create real change until President Trump is held accountable to the women who have alleged that he sexually harassed them. Until he is brought into court by his accusers, there will no real change in the culture that approves (and encourages) workplace assaults. (Nevin, 2017)

This increased conflation signaled to readers, most of whom likely did not have an advanced legal understanding of the definitions, that Weinstein was committing many criminal offenses. For example, one *Deadline* article described “a litany of nightmarish stories about forced sexual encounters with dozens of actresses and women who worked for the company” (Fleming, 2017f). But in fact, by the end of the time span of this study, no criminal charges had been filed and Weinstein was only under investigation for a handful of accusations in New York, Los Angeles, Beverly Hills, and the United Kingdom (Patten, 2017c), suggesting that some of the claims may not have been illegal.

This misperception clouded the public’s judgement about the extent of Weinstein’s criminal activity, damaging his reputation and escalating it from being bad behavior with some possibly illegal activities to a myriad of sexual assault and battery criminal offenses. For example, Jeffrey Katzenberg, a former Disney executive, said “You yourself, in your quotes, have acknowledged that you have behaved inappropriately...[sic]so it seems to me we are now down to degrees of horrible. You have done terrible things to a number of women over a period of years” (Pedersen, 2017b). This confusion could have also made it easier for people to denounce Weinstein.

However, it also seemed that some did not even care to identify the nuances between Weinstein’s offenses. In a *New York Times* piece, a reporter acknowledged that different tiers of offenses existed but said, “distinguishing levels of harassment, or abuse, or rape is not the point

of any of this. The point is to stop this – all of this” (Macur, 2017). This statement sent the strong message that the nuances between the allegations were irrelevant to some members of the public. Whether this was due to the media’s unclear framing or whether it was a reason for its framing is not clear, but regardless, it illustrated the conflation that occurred and how strongly some felt about the allegations and the broader issue of sexual misconduct.

Additionally, the last *New York Times* article examined in this study was one in which the editors explained why they used specific words when discussing assault and harassment. Some took offense to their use of “non-consensual sex” instead of “rape,” so *The New York Times* clarified its reasoning by explaining it was concerned about protecting itself from liability and being accurate (Hiltner, 2017). Although the article briefly described how the paper used “rape,” “sexual assault,” and “non-consensual sex,” it did not clearly delineate the differences between harassment, assault, rape, and battery – so, it was still unclear (Hiltner, 2017). The piece did, however, acknowledge that the term “rape” would have been applicable to use in some circumstances:

We were trying to be very precise in describing other allegations against Mr. Weinstein reported by the *New Yorker*, to give readers as much information as possible. We were not trying to minimize the gravity of the allegations. But in retrospect, it would have been better to use the term ‘rape’ at least once, since it certainly applies to that particular set of allegations. (Hiltner, 2017).

An additional element to this phenomenon is the fact that many third parties spoke about Weinstein’s alleged behavior as if he was already convicted; the legal principle of “innocent before proven guilty” did not seem to apply to the court of public opinion. For example, Michael Eisner, the former CEO of The Walt Disney Company, tweeted that he “had no idea [Weinstein] was capable of these horrible actions” (Eisner, 2017), as if it was already confirmed that Weinstein was guilty. Even David Glasser, president and COO of The Weinstein Company (TWC), said, “I hate what he did and it makes me sick to my stomach” (Fleming, 2017e). This

did not help Weinstein or TWC's reputation and is something that potentially liable organizations and individuals should consider when mitigating a crisis, which helps answer the third research question of this study. Whether the entity in crisis is actually proven guilty – or even charged – might not matter to the public, especially when dealing with such a topical issue. It also helps to answer the second research question of this study, as it signals that it might not help an organization or individual in a crisis with multiple offenses to split hairs about exact, technical language. The public might not care and could even find it annoying or offensive, which could cause more harm to reputations.

At the same time, however, being too vague in one's public relations responses might not help mitigate a crisis. In his first statement, Weinstein apologized for his "bad behavior" and Lisa Bloom, his attorney at the time, referred to it as "behavior" (Kantor & Twohey, 2017). These responses were vague and did not clearly describe the allegations, which allowed third parties to control and conflate the narrative. However, there might have been other strategic reasons for not clearly classifying the allegations that are not known to the public, perhaps from a legal perspective.

### **A common, emotionally-charged issue that context makes even more salient can have strong agenda setting effects**

The relatability, poignancy, and salience of sexual misconduct led to a large amount of media and public attention to the Weinstein case. This harmed his reputation and mitigation efforts. Thus, in answering the first and third research questions of this study, potentially liable organizations and individuals should consider how social and traditional media interact to influence narratives and how the relatability and topicality of the issue may affect the optimal crisis response. In this case, sexual misconduct was a problem with which many felt emotionally

and personally involved, which encouraged more people to comment on Weinstein's crisis. Additionally, the prevalence of sexual misconduct claims among high-profile celebrities such as television host Bill O'Reilly, former Fox News CEO Roger Ailes, and President Donald Trump contributed to increased attention to the Weinstein claims. This led people to perceive the beginning of the #MeToo movement. The ultimate development of the movement, however, was actually a self-fulfilling prophecy. First, people felt connected to and inspired by the stories. They wanted to contribute to the movement, so they started sharing their experiences. But, this caused the salience of sexual misconduct and of #MeToo to increase, which then prompted more people to participate.

#### *Relatability drives conversation*

People used social and traditional media to engage more with the Weinstein allegations because of the relatability of sexual misconduct. It encouraged them to express empathy for the victims because they could understand how the accusers might be feeling. But, the relatability also inspired some to speak about the broader societal issue of sexual harassment. This led to the rise of the #MeToo movement and contributed to the widespread denunciation of Weinstein and TWC. These findings help to answer the third research question of this study because they illustrate that if a crisis has personal relevance and is not a problem that is unique to one organization, it might receive more attention and morph into a larger public discussion about a major societal concern centered around the individual involved in the crisis.

Audiences instantly started relating the Weinstein affair to their own lives. As shown in one of the articles on *Deadline* that was published on the same day as the exposé by *The New York Times* on October 5, 2017, writer Anne T. Donahue asked her Twitter followers, "When did

you meet YOUR Harvey Weinstein?” (Donahue, 2017). This trend continued to grow, as an article in *The New Yorker* said: “it all seem[s] so sickeningly predictable. You were young and he was powerful; the story writes itself” (Tolentino, 2017). Additionally, another person said:

I have been thinking a lot about all the women I know who have been assaulted and harassed, and I’ve thought about my own experiences ... he was just another man trying to wield power over a woman. It wasn’t traumatic – it was *ordinary*. (Dargis, 2017)

These quotes underscore how relatable, prevalent and normalized sexual misconduct was to some members of the public. Many also perceived that sexual misconduct was a widespread issue. In an opinion piece, one person said: “I don’t know any woman who is surprised by these stories, or by the sheer, vast numbers of them. But men are” (Renkl, 2017). Additionally, political commentator Sarah Lerner asserted that “For every Harvey Weinstein who eventually gets exposed, there are droves more who continue to leverage their power to harass & abuse women” (Lerner, 2017), while actress Charlize Theron commented on Instagram that “This culture has always existed, not just in Hollywood but across the world” (Theron, 2017). These illustrate how embedded in society some perceived sexual misconduct to be, which made the Weinstein allegations more relatable. Additionally, the variety of terms used to describe the allegations, as previously discussed, made the crisis relevant to a wider audience.

Because sexual misconduct was relatable and perceived to be prevalent, many started to use the allegations as a springboard for activism through the #MeToo movement. This is illustrated in an article in *The New York Times*: “by participating in #MeToo, by fighting back against harassment, by telling your story, you are standing up for the idea that women are autonomous human beings who are preyed upon and subordinated by men” (West, 2017). This rallying cry depended upon the relatability of the Weinstein claims to the public’s personal experiences with sexual misconduct by encouraging victims to use their voices and join the fight to combat harassment and assault. This brought the Weinstein claims to the forefront of public

conversation, but it also prolonged conversation about the broader societal problem of sexual misconduct in both social and traditional media.

This became a problem for Weinstein because his name started to be strongly associated with the larger issue of sexual misconduct. For example, fashion designer Donna Karan, in efforts to defend him, stated that “[Weinstein is] being looked at right now as a symbol, not necessarily as him” (Desborough & Wilkinson, 2017). This trend, when coupled with the volume of coverage in *Deadline* and *The New York Times*, was not ideal for Weinstein’s mitigation efforts. These findings illustrate that if an issue is strongly relatable and points to a larger societal concern, organizations and individuals must be aware that their crises will have more potential to grow.

#### *Context matters*

The prevalence of sexual misconduct among prominent societal figures influenced how publics reacted to the Weinstein allegations, which helps to answer the third research question. It made people angrier about his alleged behavior and inspired victims to come forward with their own claims. More specifically, the recent sexual harassment allegations against O’Reilly and Ailes, as well as Trump’s controversial campaign and election, increased the newsworthiness of sexual misconduct. These contextual elements played a key role in the widespread denunciation of Weinstein and of sexual misconduct more broadly. Overall, this section will show that the prevalence of sexual misconduct in society played a significant role in influencing people’s reactions to the accusations and their resulting sharing behavior, which contributed to the rise of the #MeToo movement.

People started to compare Weinstein's accusations to those of other prominent figures within a day of the first report by *The New York Times*. For example, columnist Rebecca Traister asserted:

Recent years have seen scores of women, finding strength and some kind of power in numbers, come forward and tell their stories about Bill Cosby, Roger Ailes, Bill O'Reilly, Donald Trump. In all of those cases, as it is in this case, the history of the allegations has been an almost wholly open secret, sometimes even having been reported in major outlets, and yet somehow ignored, allowed to pass, unconsidered. (Traister, 2017)

As the crisis progressed, other prominent figures and media outlets started relating Weinstein to Ailes, O'Reilly, and Trump. For example, actress and author Molly Ringwald wrote a piece entitled "All the Other Harvey Weinstains" and, in referencing sexual misconduct offenders, said, "if they're lucky, they might get elected President" (Ringwald, 2017). On *Saturday Night Live*, actor Alec Baldwin said, "What an idiot ... He could have gotten away with all of it if only he'd gotten himself elected president" (Evans, 2017e). Additionally, author Jaclyn Friedman explained that "There is no doubt that having an accused sexual predator in the White House is hanging over this" (Bennett, 2017). She went on to say that "People feel like they can't do anything about that right now, but at least they can do something about this" (Bennett, 2017).

The same *New York Times* article also described this phenomenon:

Several experts likened it to a dam breaking, the cumulative effect of harassment claims over decades and especially the last few years. Some see it as the other shoe dropping after Donald J. Trump's taped boasting about offensive behavior did not block his path to the presidency: He may have gotten away with it, but women were no longer going to let that boss, that mentor, that colleague get away with it, too. (Bennett, 2017)

These quotes illustrate that the prevalence of harassment claims, as well as Trump's election, influenced public reactions to the Weinstein accusations. This prolonged conversation in both social and traditional media, keeping Weinstein in the public eye and associated with other major figures who have been accused of sexual misconduct.



Finally, the fact that many celebrities commented on how his behavior was well-known within the industry supports the idea that the context and timing of the accusations contributed to how much attention they received. For example, director and actress Sarah Polley wrote an opinion piece in *The New York Times* and said, “The only thing that shocked most people in the film industry about the Harvey Weinstein story was that suddenly, for some reason, people seemed to care” (Polley, 2017). Additionally, a tweet from journalist and anchor Jake Tapper quoted a producer saying, “Shocked it’s taken so long for a Harvey Weinstein behavior expose. One of the most open secrets in Hollywood” (Tapper, 2017). Finally, an article in *Deadline* described how actor Seth MacFarlane and actress and producer Tina Fey both joked publicly about Weinstein’s mistreatment of women years before this report; it also said that those jokes “have become viral in the past few days as Weinstein’s decades-old ‘open’ secret was finally brought to life” (Andreeva, 2017b). Overall, it is clear that having prominent figures accused of sexual misconduct in positions of power contributed to the public’s reactions to the Weinstein allegations. Thus, it is important for potentially liable individuals to consider the timing of and environment in which a crisis occurs, as that could influence stakeholders’ responses.

#### *Perceptions of a movement as a self-fulfilling prophecy*

As more of Weinstein’s accusers came forward, people – many of whom were celebrities – praised victims for sharing their experiences and called for an end to sexual misconduct. This led to the perception of a movement, which potentially led to the movement itself. These findings help to answer the first and third research questions of this study, as they show that it is important to consider the possibility that an organization’s name could become synonymous with a strong activist movement and that its stakeholders might encourage each other to share stories

that could harm its reputation. It is also important to consider the role the media has in framing a crisis and in prolonging conversation by building and setting agendas.

Many started to immediately discuss the Weinstein claims, as previously mentioned. This quickly led to the perception of a movement. This is illustrated in a *Deadline* article: “The accusations come in the wake of the Harvey Weinstein scandal, as well as that at Fox News; they have served as catalysts for many women in the industry to come forward with their stories of sexual harassment” (Ramos & de Moraes, 2017).

As this occurred, people were inspired to join the growing movement by sharing their stories, which made it stronger and inspired even more people to join. Another article also described the situation: “Women are posting messages on social media to show how commonplace sexual assault and harassment are, using the hashtag #MeToo to express that they, too, have been victims of such misconduct” (Codrea-Rado, 2017). *The New York Times* described an example of this: “reading the accounts of women outing their sexual aggressors in the #MeToo campaign on social media after the Harvey Weinstein scandal, [Henda Ayari] joined in and identified the man she says raped her five years ago” (Gall, 2017). So, as people were inspired by the perception of a movement, they added to it by sharing their stories, which actually helped that same movement grow.

This cyclic, self-fulfilling prophecy of #MeToo became a problem for Weinstein because, as previously mentioned, he became a symbol for rampant sexual misconduct. “Once one of the most powerful men in Hollywood, Weinstein's name has become synonymous with the sexual exploitation of actresses” (Robb, 2017a). This was also reflected in the media: Even if a story was not about him, many outlets used Weinstein to reference the start of the movement. For example, a *Deadline* article about actor Anthony Rapp’s accusations about actor Kevin Spacey’s

alleged misconduct said, “Rapp’s accusations come after the floodgates of sexual harassment and abuse have opened following the Harvey Weinstein scandal” (Ramos, 2017d). Though it will also be mentioned later in the study, Weinstein becoming a symbol of general sexual misconduct made it difficult for people to support him because it would then seem like they were praising all offenders or chastising all victims. These findings illustrate that it is important to consider how a crisis can evolve and spark large activist movements, as well as the role that the media and e/WOM have in shaping public discussion and opinion.

### **The pressure to make an example out of the bad actor**

As the media’s agenda setting effects continued and as Weinstein continued to grow as a representative symbol of the #MeToo movement, institutions and celebrities in the industry felt pressured to denounce him. Though his prominence will also be discussed in a later section, Weinstein’s position as a prominent leader in the film industry gave him the potential to paint the entire industry in a negative light. This increased the pressure to denounce him, negative media attention, and e/WOM, all of which harmed his reputation. It also helps to answer the first and third research questions of this study because it shows the importance of considering how stakeholders influence others’ reactions.

Evidence of this pressure is that the initial wave of conversation was arguably more limited. An early *New York Times* article described “the relatively minimal public conversation in Hollywood” about the issue (Twohey & Chokshi, 2017). Another described that while there was WOM within the industry about Weinstein, “bold condemnation of Mr. Weinstein remained sparse on Sunday, especially by celebrities, many of whom seized on social media to harshly criticize President Trump for the ‘Access Hollywood’ tape” (Barnes, 2017a). Rose McGowan

also criticized the slow response on Twitter: “Ladies of Hollywood, your silence is deafening” (McGowan, 2017).

However, there were several key moments that seemed to create this pressure. More specifically, the criticism, the increasing number of allegations, and the initial wave of condemnation started to put pressure on celebrities to speak out. Actor and writer James Gunn, one of the first to comment, tweeted: “If even 1/10th of the stories about Harvey Weinstein are true (and I believe they are), then good f\*\*\*\*\* riddance. That shit’s gotta stop” (Gunn, 2017a). He also posted on Facebook about the broader issue of sexual harassment, entitling it: “On Sexual Predators in Hollywood (and the World)” (Gunn, 2017b). Additionally, “Meryl Streep led an increasingly vocal Hollywood chorus condemning the reported sexual misconduct,” which “seemed to have opened the floodgates, with Glenn Close, Kate Winslet and Judi Dench, among others, soon voicing their own dismay and disgust about Mr. Weinstein” (Buckley, 2017).

Celebrities’ statements added to the pressure institutions felt to protect their industry from negative perceptions. Director and actress Sarah Polley described in a *New York Times* opinion piece that “Harvey Weinstein may be the central-casting version of a Hollywood predator, but he was just one festering pustule in a diseased industry” (Polley, 2017). Additionally, actress Glenn Close said that she was “angry ... that the ‘casting couch’ phenomenon ... is still a reality in our business and in the word,” and that she

feel[s] the time is long and tragically overdue for all of us in the industry, women *and* men, to unite – calmly and dispassionately – and create a new culture of respect, equality and empowerment, where bullies and their enablers are no longer allowed to prosper. (Buckley, 2017)

Non-celebrities and even media outlets also threatened the industry’s reputation. An opinion piece in *The New York Times* said, “Perhaps it should come as no surprise that an industry built around pretended characters and scenarios could have pretended for so long that nothing was amiss” (Stephens, 2017). Outlets like *Deadline* also pressured the industry to act:

These scandals have made Hollywood seem like a completely immoral place, worse with each disgusting allegation. Decent people shouldn't let the bad ones define this business and there is an opportunity here to turn this into a catalyst for meaningful change, as opposed to simply making statements out of outrage that are all beginning to sound the same. (Fleming, 2017g)

Advocacy organizations also blamed the industry and called for TWC to take action. Nita Chaudhary, the co-founder of a women's advocacy group, issued a statement that said the crisis was "a textbook example of rape culture in Hollywood" and that "The board of The Weinstein Company must prove that it stands by its company's sexual harassment policy ... by firing Harvey Weinstein immediately" (Pederson, 2017a). Additionally, a *Deadline* article described how "it has become priority for TWC's survival to distance itself from a man whose name is as close to a brand as any producer/studio chief. That brand is now toxic" (Andreeva & Fleming, 2017).

Eventually, organizations started to give in to this pressure. The British Academy of Film and Television Arts suspended Weinstein about a week after the allegations were first reported, and The Academy said it "finds the conduct described in the allegations against Harvey Weinstein to be repugnant, abhorrent, and antithetical to the high standards of the Academy and the creative community it represents" (Hammond, 2017). *Deadline* said that this statement by the Academy "is strong indeed and would suggest they may feel pressure to take some sort of action beyond that" (Hammond, 2017). This was proven true, as later the Academy unprecedentedly expelled Weinstein:

We do so not simply to separate ourselves from someone who does not merit the respect of his colleagues but also to send a message that the era of willful ignorance and shameful complicity in sexually predatory behavior and workplace harassment in our industry is over. (Evans, 2017b)

Additionally, organizations such as the Writer's Guild condemned him and cited its role in reshaping the industry. This signaled that it, like the Academy, felt pressured to protect their own and their industry's reputations:

We ... [have] a role to play in moving our industry in the right direction. ... The culture of silence will be difficult to change ... In the long run it will be imperative to address the industry's lack of diversity – the profound imbalance of power in the business of creating and distributing stories. (Evans, 2017a)

Organizations associated with TWC in business matters also felt pressure to distance themselves from the Weinstein name. A+E removed TWC's production card from all of its series (Andreeva, 2017c), Amazon ended its relationship with TWC (Andreeva, 2017d), Channing Tatum "dissolv[ed] his relationship with The Weinstein Company" (N'Duka, 2017), Harvard rescinded Weinstein's award (Saul, 2017), and USC rejected Weinstein's monetary pledge after student protests (Hipes, 2017). Additionally, an article in *The New York Times* said, "Work has been underway in Hollywood to end partnerships with the studio" and described that many agents and stars did not want to be involved with the Weinsteins (Barnes & Creswell, 2017). Even the media felt pressure to discuss the Weinstein accusations, as *Saturday Night Live* was criticized for not covering it soon enough (Itzkoff, 2017).

As previously mentioned, these findings provide some answers to the first and third research questions of this study. For instance, it is important to consider how stakeholders' reactions might influence each other. In this case, organizations felt increasing amounts of pressure to distance themselves from and condemn Weinstein because people started to bring attention to problems within the film industry as a whole. Additionally, the widespread reports that made it seem like everyone wanted to disassociate with him added to the pressure for celebrities and institutions to step forward, denounce Weinstein, and voice their support for ending sexual misconduct.

### **Victims have power**

The victims' displays of vulnerability and powerlessness, as well as their prominence and credibility, greatly impacted the conversation about and framing of the allegations. This helps to

answer the research questions of this study because it illustrates how stakeholders' characteristics can influence narratives and public opinion. People were pressured into only speaking supportively about the victims and disparagingly about Weinstein because otherwise they would be seen as victimizing victims who were seen as salient, credible, and brave. This further damaged Weinstein's reputation and made it substantially harder for him to receive any public support or acceptance of his apology because only the loudest voices that condemned him received any mainstream acceptance. This compelled more people to either conform to that view or stay silent about their opposition, further increasing the extent to which the view damaging Weinstein prevailed.

The amount of vulnerability and personal, graphic details conveyed by the victims in and following the first *New York Times* report increased their credibility and made it harder for people to express disbelief or contempt toward them. For example, one victim "locked herself in the bathroom of his hotel room, sobbing" after her encounter with him (Kantor & Twohey, 2017). Additionally, Fox News reporter Lauren Sivan was allegedly "trapped by Weinstein's bulky body," after which "he allegedly then exposed himself and began to masturbate, finally ejaculating into a potted plant" (Haring, 2017a). *The New York Times* described how "eight women described varying behavior by Mr. Weinstein: appearing nearly or fully naked in front of them, requiring them to be present while he bathed or repeatedly asking for a massage or initiating one himself" (Kantor & Twohey, 2017).

There were even more vulnerable and "terrifying" details about rape allegations in and after the second report by *The New Yorker* (Hayes, Busch, & Fleming, 2017). For example, one anonymous rape victim said, "He made me feel like an object," "like nothing with all his power," and that "He grabbed me by the hair and forced me to do something I did not want to do" (Pérez-

Peña, 2017). Another, former actress Heather Kerr, said: “I started to get a sick feeling in my stomach,” “My heart started pounding,” and then “he ... grabbed my hand and pulled me towards him and forced my hand onto his penis and held it there. I was frozen with fear” (Robb, 2017b). Still another, actress Lysette Anthony, described her alleged assault and rape at her home as “pathetic, revolting”: “He pushed me inside and rammed me up against the coat rack in my tiny hall and started fumbling at my gown. He was trying to kiss me and shove inside me” (Metcalf, 2017). Being open to discussing the intimate details of the claims increased the victims’ credibility, which made it easier and created more pressure for people to support them and condemn Weinstein.

Public reactions illustrate that the detailed descriptions and personal accounts influenced their responses to the claims, as many acknowledged the vulnerability they conveyed. Actress Kate Winslet, for example, said, “The way Harvey Weinstein has treated these vulnerable, talented young women is NOT the way women should ever EVER deem to be acceptable or commonplace in ANY workplace” (Setoodeh, 2017). Additionally, an op-ed writer noted that “The women he harassed didn’t have the power to restrain him, but plenty of powerful people did” (Douthat, 2017a). Still another said, “that aroma of perversion ... clings to Hollywood. Now we are inundated with grotesque tales of Harvey Weinstein pulling out his penis to show to appalled and frightened young women” (Dowd, 2017a). These reactions provide some answers to the third research question of the study, as it is important to consider the nature of the stakeholders they offended, how they communicate about the offenses, and how they will be perceived by the public.

The “systematic silencing of women” and barriers to coming forward (Rutenberg, 2017) also made the victims appear vulnerable but courageous for speaking out. They made it seem like



the victims deserved public support at Weinstein's expense because they faced many obstacles to sharing their experiences with sexual misconduct. Some, like dancer Ashley Matthau, faced threats about coming forward: She described how Weinstein's attorneys said, "We'll drag you through the mud by your hair" (Gabler, Twohey, & Kantor, 2017). Other articles described barriers such as non-disclosure agreements (NDAs) and contracts, which Weinstein reportedly used, as well as a "code of silence" in TWC (Kantor & Twohey, 2017).

In addition to these tangible limitations, articles also described the emotional barriers to victims coming forward. For example, actress Charlize Theron said, "We cannot blame the victims here. A lot of these women are young ... and have absolutely no way to stand up to a man with [so] much influence, greater than theirs" (Theron, 2017). While actress Molly Ringwald said, "Women are shamed, told they are uptight, nasty, bitter, can't take a joke, are too sensitive" when they come forward with claims (Ringwald, 2017). These barriers made the victims seem even more powerful and brave for sharing their stories, which did not help Weinstein's reputation. Lupita Nyong'o, for example, illustrated this:

That's why we don't speak up – for fear of suffering twice, and for fear of being labeled and characterized by our moment of powerlessness. Though we may have endured powerlessness at the hands of Harvey Weinstein, by speaking up, speaking out and speaking together, we regain that power. And we hopefully ensure that this kind of rampant predatory behavior as an accepted feature of our industry dies here and now. (Nyong'o, 2017)

The previous section of this study discussed the pressure to condemn Weinstein to protect the reputation of the industry and of the speakers themselves. However, the combination of the detailed accounts of powerlessness and the perceived barriers the victims faced to coming forward also increased the pressure on others to express sympathy and support for the victims. It made the dominant narrative one of praising victims and denouncing Weinstein while also effectively silencing alternative opinions. If people said nothing, they could be viewed as either passively accepting Weinstein's behavior or not caring enough about victims. Or, if they said

anything that did not praise victims and condemn Weinstein, they could be seen as victimizing victims who poignantly and bravely shared their abuse, degradation, fear, and vulnerability. It is clear, however, that this mainstream opinion was not the only one in existence. For example, one letter to the editor in a *New York Times* article suggested that actresses should share some of the blame for not coming forward sooner (Hausam, 2017).

This effect can be seen in several articles. First, as *The New York Times* noted, there was a clear lack of statements that defended Weinstein (Barnes, 2017a) – and those that tried to defend him and go against the mainstream narrative of condemnation faced significant backlash. For example, several celebrities, such as actress Lindsay Lohan (Ramos, 2017c) and director and actor Woody Allen (Chow, 2017a), expressed sympathy for Weinstein but faced criticism and either deleted or clarified their responses later. Lohan’s comments in particular were described as “an unexpected reaction of sympathy as opposed to other actors ... who have passionately spoken out against Weinstein” (Ramos, 2017c). Additionally, “When Oliver Stone and Woody Allen came forward to express sympathy for Mr. Weinstein, everybody rolled their eyes at them, too” (Morris, 2017). Fashion designer Donna Karan also “first defended and then criticized Mr. Weinstein” (Friedman, Bernstein, & Schneier, 2017), receiving backlash from people like journalist Megyn Kelly (Koblin, 2017), while actor Alec Baldwin was criticized for partially blaming the victims for accepting settlements that may have delayed change (Evans, 2017d).

Additionally, the juxtaposition of having prominent, powerful actresses share stories of vulnerability also increased the credibility of the claims and the amount of support they received. For example, one article in the “Critic’s Notebook” section of *The New York Times* said, “It’s greatly encouraging that women like Gwyneth Paltrow have gone public ... Together, their voices are creating a forceful rejoinder to an industry that runs on fear” (Dargis, 2017). Another

article noted that although there have been previous controversies about sexual misconduct surrounding celebrities, “the outcry accompanying Mr. Weinstein’s downfall seems louder and more impassioned – perhaps because Mr. Weinstein’s accusers include stars like Ashley Judd, Angelina Jolie and Gwyneth Paltrow” (Rutenberg, Abrams, & Ryzik, 2017). These quotations show that prominent celebrities coming forward as victims made the claims more significant and garner more support.

All of this also influenced how people perceived TWC’s response to the allegations. When it first announced that Weinstein would be placed on leave and that it was starting an independent investigation (Patten & Andreeva, 2017), TWC did not convey a strong stance in support of victims. Instead, it issued a mild statement that said, “We strongly endorse Harvey Weinstein’s already-announced decision to take an indefinite leave of absence from the Company, commencing today,” that it is “essential to our Company’s culture that all women who work for it or have any dealings with it or any of our executives are treated with respect and have no experience of harassment or discrimination,” and:

As Harvey has said, it is important for him to get professional help for the problems he has acknowledged. Next steps will depend on Harvey’s therapeutic progress, the outcome of the Board’s independent investigation, and Harvey’s own personal decisions. (Patten & Andreeva, 2017)

Even after the board fired Weinstein, it still did not express strong support for victims: “In light of new information about misconduct by Harvey Weinstein ... the directors of The Weinstein Company ... have determined, and informed Harvey Weinstein, that his employment with The Weinstein Company is terminated, effective immediately” (Fleming, 2017a). Some did not think this action was credible: Nita Chaudhary said, “Sure, [T]he Weinstein Company’s board fired Harvey Weinstein, but only after the New York Times investigation sparked enough outrage for people to speak up and say, ‘enough is enough’” (Ramos, 2017a). These vague statements, when viewed alongside celebrities’ and the victims’ strong ones, made it appear as if

the board did not care about the victims and was not taking the situation seriously. This is especially so when considered in conjunction with *Deadline*'s claim that Weinstein had a 2015 employment contract "that reportedly allowed Harvey Weinstein to financially settle these kinds of allegations, but not lose his job" (Fleming, 2017e). By the time the board strongly denounced the allegations, it was after the second report by *The New Yorker* had been released. It said, "These alleged actions are antithetical to human decency" (Barnes, 2017b). Additionally, on November 1, 2017, TWC referred to the allegations as being about "decades of predatory sexual behavior" when responding to Weinstein's request to expedite his lawsuit against the company (Patten, 2017d). But, negative perceptions of TWC had already been formed.

This section helps to answer the second and third research questions of this study because it shows how important it is for organizations and individuals in crisis to consider the characteristics of their stakeholders and how those characteristics will influence other stakeholders' reactions. It is also important to consider that there might be pressure to react in a certain way and that a damaging, dominant narrative might quickly form, which could hinder attempts at reputation management. It also helps to answer the first research question of the study because it is important to consider the salience of victims, the power of e/WOM, and the spread of information in a crisis.

### **Deflections with many extraneous elements seem insincere, dilute apologies, and offend stakeholders**

In answering the research questions of this study, Weinstein's apology illustrated several nuances of using deflection, issuing apologies, and contending with third-party statements. After the allegations were reported, Weinstein issued an apology statement; however, because it included deflection and other elements that detracted from the message, it was not well-received.

In the words of a *New York Times* article, it was described as “swinging wildly between contrition and attack” (Twohey, 2017a). It ultimately seemed insincere and offensive to the public; if it was mentioned at all, it was referenced negatively. For example, one person said it “was both condescending and tiresomely clichéd” (Mohun, 2017). This apology did not seem to help Weinstein’s crisis management – nor did his prior reputation, his actions, or his powerful position in the film industry – because conversation centered around these damaging elements instead of the apologetic statement.

### *Deflection*

The first sentence of Weinstein’s apology was an attempt to deflect: “I came of age in the 60’s and 70’s, when all the rules about behavior and workplaces were different. That was the culture then. I have since learned that it’s not an excuse, in the office – or out of it” (Petski, 2017a). This initial deflection failed to adequately justify his behavior and was looked upon harshly by the public and by many prominent celebrities. In a *Deadline* article, Nita Chaudhary, the co-founder of a women’s advocacy group, said, “Weinstein’s attempts to justify his behavior are flat out insulting to all sexual harassment survivors, including the women who were forced to endure his abusive, creepy and relentless advances” (Pedersen, 2017a). Additionally, a *New York Times* reporter said, “Lots of people rolled their eyes because it’s the sort of rationale that deserves an eye roll. *Great. The ‘Mad Men’ defense*” (Morris, 2017). This implies that people have become tired of hearing this type of excuse, which could make it less effective.

An additional reason the deflection failed was because others could discredit it; the culture in which he grew up was not unique. Calvin Klein illustrated this point:

But what is happening in the culture does not give anyone the right to act in an abusive way. In terms of Harvey, not everyone did what he did in the 1970s and after. That’s not about culture; it’s about character. He used his position to take advantage of women right from the beginning. (Friedman, 2017)

Additionally, even some who acknowledged that Weinstein's culture excuse might have had some merit years ago rejected his deflection. The female staff members on *Seth Meyers* argued that even if the culture was like that before, Weinstein should have evolved and realized that what was once possibly acceptable had not been for a long time (de Moraes, 2017).

### *Apology*

After his initial deflection, Weinstein acknowledged and apologized for his behavior:

I realized some time ago that I need to be a better person and my interactions with the people I work with have changed. I appreciate the way I've behaved with colleagues in the past has caused a lot of pain, and I sincerely apologize for it. Though I'm trying to do better I know I have a long way to go. That is my commitment ... I cannot be more remorseful about the people I hurt and I plan to do right by all of them. (Petski, 2017a)

Although apologizing and admitting responsibility is recommended by leading crisis theory, this part of Weinstein's statement was ineffective. Many comments about the crisis ignored this part of the statement and instead focused on the deflection and extraneous elements. For example, writer Kurt Sutter said, "No matter how many great films he's bullied into production, or his guilt-induced contributions to left-minded ideals, this kind of intimidation and abuse of power is perverse and utterly unforgivable. Period" (Fleming, 2017b). Even the few who did acknowledge his apology – actor George Clooney (Ramos, 2017b), journalist Tamron Hall (Petski, 2017b), and producer Judd Apatow (Apatow, 2017), for example – did so not to praise him, but to further condemn him. For example, Clooney said, "It's indefensible. That's the only word you can start with. Harvey's admitted to it, and it's indefensible" (Ramos, 2017b).

### *Contradictions*

Like his deflection, Weinstein's contradictions between his statements also negatively contributed to how the public received his apology. His initial admission of responsibility was

essentially nullified by his attorney's later statement that said he "denies many of the accusations as patently false" (Twohey, 2017a). Additionally, his spokesperson later said, "with respect to any women who have made allegations on the record, Mr. Weinstein believes that all of these relationships were consensual" (Patten & Hipes, 2017). These contradictions may have decreased any credibility that his apology initially had, which is perhaps an additional reason why many did not seem to acknowledge, let alone accept, his initial statement.

### *Drawing focus away from victims*

As previously mentioned, apologizing and discussing corrective action is generally recommended by crisis communication theory. However, Weinstein's failed attempt actually detracted from his apology. It made it seem like a "self-pitying statement" (Bruni, 2017) and a "weak apology" (Chow, 2017b). Weinstein's tone and message seemed to focus more on him than the victims, which reinforced his power and prominence.

For example, Weinstein discussed his intention to "conquer [his] demons," work with therapists, and "earn" "a second chance in the community" (Petski, 2017a). Then, he included a quote from Jay-Z about wanting to be a better man, which some perceived to be him "liken[ing] his personal flaws to those of the rapper Jay-Z" (Twohey, 2017a). Weinstein ended this paragraph by continuing to focus on himself:

I have goals that are now priorities. Trust me, this isn't an overnight process. I've been trying to do this for 10 years and this is a wake-up call. I cannot be remorseful about the people I hurt and I plan to do right by all of them. (Petski, 2017a)

An additional example of Weinstein's extraneous elements that drew focus away from the victims and made him appear more self-absorbed is his last forward-looking paragraph. He said that he is going to focus on the NRA, mentioned Wayne LaPierre's retirement party, said he was "making a movie about our President," and joked about making it a "joint retirement party"

for LaPierre and Trump (Petski, 2017a). He also talked about his \$5 million pledge to USC for female directors and how “it will be named after [his] mom and [he] won’t disappoint her” (Petski, 2017a). These additional elements diluted his apology even further and made it only a small fraction of his overall statement.

As shown in a *Deadline* article, many did not receive this well: “We have also seen textbook examples of how not to handle PR, like when ... Weinstein answered the first fusillade of sex assault accusations against him by revealing he planned to take on Wayne LaPierre and the NRA” (Fleming, 2017g). Another article also discussed how he “made every possible wrong PR move,” including how he “claimed he would take down the NRA; it rang hollow, like he was trying to change the subject ... it all served the purpose of pouring gas on a raging fire” (Fleming, 2017c). Still more referred to it as “his awful pseudo-apology” with a “fake Jay-Z quote and the promise to go to war with the N.R.A” (Douthat, 2017b).

The last extraneous element of his apology was actually a statement by his attorney Lisa Bloom that was printed alongside his in *Deadline*. In it, she referred to him as an “old dinosaur learning new ways” and said that even though “He denies many of the accusations,” she has spoken with him about how his “words and behaviors can be perceived as inappropriate, even intimidating” (Petski, 2017a). Bloom also said “He is reading books and going to therapy,” “is deeply bothered by some of his emotional responses,” and “has been working on his temper for over ten years” (Petski, 2017a). She also said she “will continue to work with him personally” to help him “grow into a better man” (Petski, 2017a). Although this was not Weinstein’s statement, it still was perceived to be representative of him and was not received well. For example, one person said, “As a 65-year-old father of a 27-year-old professional daughter, I find the ‘dinosaur’



excuse insulting. Some of us ‘dinosaurs’ don’t need to be taught how to respect the women in our lives” (Lynden, 2017).

The deflection and additional elements in Weinstein’s apology overshadowed his attempts to apologize and discuss corrective action, which helps to answer the second and third questions of this study. His apology was not well-received – in fact, it was scarcely mentioned – and offended many stakeholders. This illustrates the dangers of adding many extraneous elements to an apology, which could include self-absorbed and third-party statements.

*Actions and characteristics can undermine mitigation efforts by reinforcing what people say about the bad actor*

Weinstein’s apology was also not well-received because his actions and characteristics undermined his remorseful statement. They reinforced what actor Alec Baldwin described as his “bullying” reputation (Evans, 2017d) and, thus, further negated his apology. These findings help to answer the research questions of this study because they illustrate how actions, characteristics, prior reputation, and third-parties influence crisis management.

*Characteristics*

This study previously discussed how people and organizations felt pressured to denounce Weinstein because his prominence gave him the potential to represent the industry. It also discussed how people and organizations felt pressured to denounce him because otherwise they could be seen as victimizing his alleged victims or even victims of sexual misconduct more generally. However, Weinstein’s reputation as a major, powerful figure in the film industry, viewed alongside the previously discussed vulnerability of his victims, painted a damning picture as well. It reinforced the allegations by also pressuring people to support the victims and

condemn him. As playwright Quiara Alegría Hudes tweeted, “Harvey Weinstein’s sexual predation is despicable enough, but combined with his staggering power it’s insidious, even devilish” (Hudes, 2017). Additionally, an article in *The New York Times* described the juxtaposition:

Together, the accounts provide a widening tally of alleged abuses, and illustrate the toll on women who say they felt ashamed and isolated as they watched the Hollywood producer walk red carpets, pile up Oscars and showcase his ties to prominent figures. (Gabler, Twohey, & Kantor, 2017)

Another article, an opinion piece in *The New York Times*, also illustrated how people perceived Weinstein’s power compared with the victims’:

There is a storybook villain, Mr. Weinstein, whose repulsive face turns out to be the spitting image of his putrescent soul. There are the victims, so many of them, typically up-and-comers in an industry where he had the power to make or wreck their careers, or bully or buy their silence, or, if some allegations are to be believed, rape them. (Stephens, 2017)

Not only did this reflect poorly on Weinstein, but because he was so connected to TWC, it also created negative associations with the studio that damaged its reputation and crisis resolution efforts. For example, TWC faced difficulties when trying to sell because “no one [wa]s interested in salvaging a company which would benefit Harvey,” as Thomas J. Barrack Jr., the leader of the private equity firm Colony Capital, described (Barnes & Abrams, 2017). This provides insight regarding the third research question of this study, as it is important to consider how the characteristics of the organization or individual in crisis interact with the other circumstances of the crisis to influence stakeholder perceptions.

In addition to his prominence, Weinstein’s prior reputation reinforced what the victims were saying about him. This gave the claims more credibility and made it easier to believe them:

There was resentment against Weinstein in Hollywood, not only for the stories bubbling around about women, but the way he humiliated men who worked with him ... complaints that in business deals he stiffed people ... had a reputation for lying, cheating, taking advantage, acting like a thug. (Dowd, 2017a)

This quote illustrates that he already had a prior reputation of acting like a bully, so the victims’ claims seemed to be consistent and, thus, more believable. For example, another article

claimed that “Mr. Weinstein was a volcanic personality, though, given to fits of rage and personal lashings of male and female employees alike” (Kantor & Twohey, 2017). His reputation was so bad that “Two executives ... had stopped allowing female clients to take private meetings with the mogul” (Gerard, 2017). Similarly, the perception that this was an open film industry secret, as previously discussed, significantly damaged Weinstein’s reputation and mitigation efforts. It gave the victims more credibility and made it seem as if Weinstein deserved the negative attention, like it was only a matter of time before his secret became public.

This effect was compounded when even those who used to be close to Weinstein spoke out against him and his previous behavior. For example, director Quentin Tarantino made all of his movies “through Weinstein’s Miramax or The Weinstein Company” and was described by *Deadline* as being the filmmaker that is most “closely associated” with Weinstein (Pedersen, 2017c). He said, “I knew enough to do more than I did,” that “Anything I say now will sound like a crappy excuse” because “There was more to it than just the normal rumors, the normal gossip. It wasn’t secondhand. I knew he did a couple of these things ... I wish I had taken responsibility for what I heard” (Kantor, 2017). Additionally, producer Kevin Smith tweeted, “He financed the first 14 years of my career - [sic] and now I know while I was profiting, others were in terrible pain. It makes me feel ashamed” (Smith, K., 2017). He also said, “I know it’s not my fault, but I didn’t f\*cking help. I sat out there talking about this man like he was a hero, like he was my father, like he was my friend and some shit like that” (D’Alessandro, 2017).

### *Actions*

Weinstein’s actions after the allegations surfaced also reinforced the victims’ claims and undermined his apologetic statement. For example, one of his first responses was to be defensive: He claimed *The New York Times* had a “vendetta” against him and conducted

“reckless reporting” (Smith, E., 2017). As a tweet by activist Amy Siskind described, he was “showing his true colors within an hour and saying he will sue the NYT” (Siskind, 2017).

Though he said “I bear responsibility for my actions,” Weinstein also issued a harsh comment against the paper that seemed self-absorbed, defensive, and controlling:

They told me lies. They made assumptions. The *Times* had a deal with us that they would tell us about the people they had on the record in the story, so we could respond appropriately, but they didn’t live up to the bargain ... posted ... without checking all they had with me and my team. (Smith, E., 2017)

There were also reports that Weinstein offered Rose McGowan hush money before the articles were released (Dominus, 2017) and that he hired private investigators to research the reporters and accusers in an attempt to stop publication (Farrow, 2017b). These actions gave the claims credibility because they made it seem as if Weinstein knew he had something to hide, but they also made him seem like a bully, just as the victims claimed. He also sent a self-centered email, which was leaked and first broadcast on MSNBC, to several leaders in the film industry pleading for help (Ramos & Pedersen, 2017). In it, he said:

All I’m asking is to let me take a leave of absence ... Allow me to resurrect myself with a second chance. A lot of the allegations are false ... What the board is trying to do is not only wrong but might be illegal and would destroy the company ... I am desperate for your help. Just give me the time to get therapy. Do not let me be fired. (Ramos & Pedersen, 2017).

Finally, a *Deadline* article described how TWC “had to let him go, kicking and screaming and unable to get the industry to save him” (Fleming, 2017c). This made it appear as if Weinstein kept “fight[ing]” for his job (Fleming & Pedersen, 2017) instead of acting on his apology and solely focusing on corrective action. Weinstein also sued TWC for access to records and email accounts in order to pursue a wrongful termination suit (Barnes, 2017d). “He also wants to pursue legal action against the studio” because he believed certain information “could have only come from his personnel file,” according to the filed complaint (Barnes, 2017d). This discord between his apology and his actions damaged his reputation and credibility. It made him

seem controlling, self-absorbed and more concerned about his company than the victims, which reinforced the allegations and his negative prior reputation.

### **Inconsistent messaging and internal discord fuel negative perceptions that undermine crisis mitigation**

In answering the research questions of this study, TWC's inconsistent messaging among opposing third party voices and abysmal internal relations diminished its credibility, invited critical comments, and harmed mitigation efforts. Coupled with concerns potential buyers had with upcoming litigation, this likely contributed to people calling TWC a "toxic asset" (Barnes & Creswell, 2017). TWC was greatly damaged from the crisis and its poor response, as "numerous agents and executives at studios believe it will be next to impossible to detoxify the remnants of a company that hasn't even weathered the litigation that is expected to follow Weinstein's exit" (Hayes, Busch, & Fleming, 2017).

#### *Internal discord and discontent diminish credibility and reinforce allegations*

Perceptions of a negative internal atmosphere and a disunited board sent a strong signal to stakeholders that TWC was in a critical condition and not in control of its employees or its business. This detracted from TWC's credibility, which undermined its crisis management efforts. It also made it more difficult for the public to give TWC the benefit of the doubt about how much it knew of Weinstein's alleged misdeeds.

One of the first mentions of the board in the *Deadline* articles described a "volatile board meeting" with one member already resigning (Fleming & Pedersen, 2017). It said that "Weinstein and the board have been at odds on the extend[sic] of his suspension from the company as he fights for his job" (Fleming & Pedersen, 2017). Similarly, *The New York Times*

described how the “board members and executives jostled for control” and that the “employees of the company have demanded swift action from its leaders” (Twohey & Chokshi, 2017), which made it appear as if TWC was unprepared, struggling, and not managing the crisis as a united front. This effect was amplified when one considers that some “members of the board of directors formerly loyal to Harvey Weinstein quit in disgust” (Fleming, 2017a). In fact, by the end of the study, only three remained (Haring, 2017b). This reflected poorly on Weinstein and TWC. Instead of joining together and voicing their strong opposition to Weinstein’s alleged actions, many of the board members seemed to turn on each other, abandon the company, and prioritize their futures over the future of TWC. This damaged the company’s reputation: If members of the board did not believe it had a future, it would be harder for other stakeholders to believe it did. This had negative effects for TWC’s financial future: As an article in *Deadline* said, “the toxicity of the company means that TWC will likely have to bring their \$350 million asking price down to fire-sale levels” (Patten, 2017b).

Similarly, the internal discontent at TWC also negatively contributed to perceptions and crisis management efforts. First, much of the information in the first reports came from current and former employees (Kantor & Twohey, 2017), which signaled strong discontent and low loyalty. *Deadline* noted that the “Morale at TWC has been rock bottom,” describing how the 190 employees were “demoralized ... wondering if they will have jobs next week” (Fleming, 2017a).

This discontent not only made the company look disorganized and like it lacked control, but it also resulted in an even larger reputational issue for TWC. On October 19, TWC staff wrote their own statement chastising Weinstein, painting a negative picture of the company and expressing their anger and resentment (Hipes & Patten, 2017). They called Weinstein “a monster” and the workplace a “toxic environment” (Hipes & Patten, 2017). They acknowledged

that they were in violation of their NDAs but dismissed any concerns: “But our former boss is in open violation of his contract with us – the employees – to create a safe place for us to work” (Hipes & Patten, 2017). The obvious violation of NDAs added credibility to the statement and, thus, more damage to TWC’s reputation. The employees also chastised the board: “if the board’s job was to keep Harvey in check, financially and otherwise, they failed” (Hipes & Patten, 2017). This reprimand by the company’s own employees undermined the attempts by Bob Weinstein and the other remaining board members to salvage TWC’s diminishing reputation.

As the crisis progressed, the internal disconnect became more apparent. In an interview, Glasser claimed that someone leaked his employment file (Fleming, 2017e), which signaled a distrust of employees and extensive internal issues. Additionally, when asked about Weinstein’s 2015 employment contract “that reportedly allowed Harvey Weinstein to financially settle these kinds of disputes, but not lose his job,” he said that he “never saw that or was given a copy. That was between the board, and Harvey” (Fleming, 2017e). This contract reflects poorly on TWC, and Glasser’s response illustrates a weak internal culture with a lack of transparency. Glasser also described being “the buffer [for] over ten years between Harvey and Bob and the talent, the agents and everybody” (Fleming, 2017e), which conveyed that the culture at TWC was so bad that the employees needed to be protected from its co-founders. Additionally, the *Deadline* interview described a terrible environment at TWC and “a feeling around town right now that Harvey feels he was rolled under the bus by his brother,” which reflected how poorly some media perceived the company and the negative relationship between the brothers:

This adds to the craziness that has been going on at the Weinstein Company ... People in the industry speculate and press has reported that Harvey blames Bob. The scenario sounds almost like a brother trying to burn his brother’s baseball card collection and realizing he might have burned down the whole house. (Fleming, 2017e)

This section helps to answer the second and third research questions of this study, as it illustrates how important internal culture is in a crisis. Employees can strongly influence how a crisis evolves and how an organization is perceived: They are able to speak out when they are displeased and may do so even despite legal agreements that prohibit them. Thus, individuals and organizations must take steps to protect and appease employees, proactively managing internal relations so that employees do not reflect poorly on them during and exacerbate the negative effects of a crisis.

*Mixed messaging in the face of strong third-party voices creates confusion and distrust*

In answering the second research question of this study, TWC engaged in extensive mixed messaging about Weinstein and the extent to which board members knew about the allegations. This created confusion and distrust among stakeholders, damaging TWC's credibility, reputation, and relationships. As a *Deadline* article described, "several major agents today said they had lost faith in the company's mixed messaging" (Hayes, Busch, & Fleming, 2017). It also described that people were more willing to work with TWC "if Weinstein was fired" before the second article was released and before the mixed messaging (Hayes, Busch, & Fleming, 2017).

One of the major points of confusion was how much the board knew about the allegations, and if they did know, when they did. One of the first articles in *The New York Times* claimed that the board knew about some allegations in 2015 from an internal memo, but that it was assured there was no need to investigate (Kantor & Twohey, 2017). This started to establish that the board knew there was a problem but did nothing. However, after the second report by *The New Yorker* was released, the board issued a statement that said, "These allegations come as



an utter surprise to the board. Any suggestion that the Board had knowledge of this conduct is false” (Fleming, 2017d). This statement was not received well by some, as one opinion writer criticized it in a *New York Times* piece: “Corporate board members who declined to investigate allegations of his sexual behavior and now claim the news comes as an ‘utter surprise’” (Stephens, 2017). The statement also fell under scrutiny when Lance Maerov, a board member (Twohey, 2017a), later contradicted it and said he knew about some of the settlements but thought they were for consensual activities (Twohey, 2017b). It is also suspicious because the board did not release a statement claiming it did not know about the issues until after the second report, which was considered by some to have “escalated [the charges] to sexual assault” (Andreeva, 2017a). This mixed messaging, *Deadline* described, “made the town feel they weren’t told the truth and turned them off” (Fleming, 2017e).

Other members of TWC also engaged in mixed messaging that added to confusion and damaged the board’s credibility. For example, Glasser deflected when questioned about whether the board knew about the allegations, but he said that he knew of several situations, including: a complaint made by Emily Nestor, the incident involving Ambra Gutierrez, and Lauren O’Connor’s claim (Fleming, 2017e). This is suspicious because it is difficult to believe that the president of a company would know about claims that the board did not.

The media and other third parties also added to the confusion by pointing out that were contradictions regarding TWC’s statements. For instance, Bob Weinstein said his brother was “sick and depraved” and that he thought all the activities were consensual (Belloni & Kilday, 2017), but a *New York Times* article reported that a former assistant said she confronted him about Weinstein before (Barnes, Abrams, & Kantor, 2017). Additionally, an article in *The New York Times* said that Bob Weinstein and Glasser told employees “they were shocked by the

allegations and unaware of payments” and it mentioned TWC’s statement about the “new allegations” being an “utter surprise” (Twohey, 2017b). But then, the article asserted that “interviews and internal company records show that the company has been grappling with Mr. Weinstein’s behavior for at least two years” and mentioned an email from Weinstein that said the board knew about the payoffs (Twohey, 2017b). Finally, attorney David Boies claimed that the board and the company knew about “as many as four payouts to women” (Twohey, 2017c), which contradicted what the board said to employees about not knowing of payments (Twohey, 2017b). Other third-party voices also undermined the board’s assertions by insinuating that people knew about Weinstein’s alleged behavior:

Before all this, we heard the story, ‘Oh, he was in his hotel room, he was with an actress. He touched her on the leg or did something he shouldn’t have done. He’s a bully. She left. She threatened to sue him and rather than go through litigation, he gave her 100,000 bucks.’ And the settlements were described as ‘People are taking advantage of me because I’m rich.’ (Dowd, 2017b)

Not only did the inconsistent messaging negatively affect perceptions of TWC, but its previous actions also made it seem like TWC had at least some suspicions about Weinstein before the recent exposés. This contradicts the board’s claim that the allegations were an “utter surprise” (Twohey, 2017b), damaging its credibility even further. For example, the board reportedly tried to review Weinstein’s employment file after Gutierrez came forward with her misconduct claims in 2015, but Maerov said that Weinstein did not allow it (Twohey, 2017b). Instead, an outside attorney reviewed it, “who assured the board in a September 2015 letter that it was legally safe to retain Mr. Weinstein” (Twohey, 2017b). But, one person said the attorney had “came across a single sexual harassment allegation, from 2014, involving a former temporary employee, Emily Nestor” (Twohey, 2017b). The *New York Times* said that “It is unclear whether the board was told of her allegation,” but Maerov did comment about it later: “Her name came up in 2015, but I don’t remember who brought it up” (Twohey, 2017b). *The New York Times* also

described how “Mr. Maerov said that he had been prepared to investigate” another claim brought forward by Lauren O’Connor, “but that Mr. Weinstein’s lawyers told him she had withdrawn her complaint as part of a settlement” (Twohey, 2017b).

This inconsistent messaging did not help TWC avoid litigation. As the lack of clarity persisted, Dominique Huett, an actress who claims the board knew about Weinstein’s misconduct, filed a lawsuit against TWC for “negligence” and “unspecified compensatory and punitive damages” (Pettersson, 2017). Although it is impossible to know whether this claim would have been pursued had TWC further clarified its role in the allegations, the lawsuit clearly reflected poorly upon the company and served as another competing third-party voice about when TWC knew about the allegations.

A second area of mixed messaging that diminished TWC’s credibility was about the company’s future. Bob Weinstein gave an “obvious optimistic understatement” when he said “Business is continuing as usual as the company moves ahead . . . Our banks, partners and shareholders are fully supportive of our company and it is untrue that the company or board is exploring a sale or shutdown of the company” (Patten, 2017a). However, in that same article *Deadline* said, “creatives and outlets are galloping away from TWC” (Patten, 2017a). As an article in *The New York Times* described, “As talk of a sale or shutdown swirled around the embattled Weinstein Company on Friday, the studio’s co-founder Bob Weinstein tried to paint a picture of stability” (Barnes, 2017c). His statement seemed even less transparent when compared to Glasser’s later one when he said that, in his opinion, TWC “is done,” that “in its current form, the name, the brand has been completely torpedoed and destroyed,” and that selling assets or TWC is a “more real conversation” (Fleming, 2017e). Bob Weinstein’s statement seemed more ridiculous after a deal with Colony Capital, an investment firm that planned to offer a “financial

lifeline” to TWC, fell through because it “found more disorder than it had expected – and less value – once it started examining the studio’s assets” and “saw bankruptcy as the most likely near-term option” (Barnes & Abrams, 2017). This inconsistency and lack of transparency reflected poorly on TWC and damaged its credibility.

Glasser also issued a questionable statement during his interview: “I can’t speak for the regime at Miramax, where the majority of these things happened” (Fleming, 2017e). This could be seen as him splitting hairs because TWC was formerly Miramax. Additionally, some of the accusations occurred after the company became TWC, so it would not excuse all inaction.

Overall, these mixed messages had tangible consequences for TWC. For example, it started to be seen as a company that did not care about sexual misconduct claims:

a recurring theme stands out: the willingness of companies’ supposed overseers to ignore credible allegations in order to retain a perceived star. Whether it was Bill O’Reilly ... or Harvey Weinstein, who paid out at least eight settlements to women who had accused him of harassment and unwanted contact, employers and board members appear to have gone to great lengths to avoid jeopardizing the careers of luminaries accused of misbehavior. (Scheiber, 2017)

These mixed messages caused confusion for the media and stakeholders. Especially when considered with contradictory third-party voices, it damaged TWC’s credibility and undermined mitigation efforts. It harmed TWC’s financial future because it did nothing to reassure potential buyers that TWC was viable. This helps to answer the first and second research questions, as it underscores the importance of framing a narrative with transparency and consistency. But, that can also endanger a potentially liable company because it could lead to self-incrimination.

## Discussion

This section will begin by describing how the findings of this study answer its research questions and shed light on the interplay of crisis communication theory, apologies, and potential liability. The second part will describe several takeaways gleaned from the case.

### Research Questions

*RQ1: How do these theoretical principles and guidelines apply to this case when considering how potentially liable organizations and individuals may be able to mitigate crises?*

Weinstein's crisis shows how traditional and social media, contextual factors, and stakeholders' characteristics can interact with potentially liable organizations' and individuals' responses to influence narratives and public opinion. Although SCCT accounts for some aspects of this case, it also fails to address several important nuances. For example, it does not consider how stakeholders may influence each other or how information can quickly spread across media. Because these were critical factors in the Weinstein case, SMCC appears to be a more appropriate theory to understand cases that, like Weinstein's, heavily involve social media and e/WOM.

**SCCT.** SCCT claims that attributions of responsibility will influence reactions (Coombs, 2007). In cases with strong attributions, it generally calls for apologies (Coombs, 2017, p. 33). This study's findings support this, as TWC did not apologize and was viewed negatively. However, though SCCT acknowledges there may be constraints prohibiting full apologies (Coombs, 2007), its guidelines do not address how to weigh the possible legal effects of apologizing.

While SCCT's claim that deflection can be used when there are fewer attributions of responsibility and that it may "add little to reputational protection" (Coombs, 2017, p. 25) seems to be supported by the negative reactions to Weinstein's deflection, SCCT does not entirely address how Weinstein's apology was viewed. Instead, it seems to oversimplify apologizing. Though it was revised to include some channel selection guidelines (Coombs, 2017, p. 34) and recommends apologies that admit responsibility if possible (Coombs, 2007), it does not discuss how a message's quality and characteristics – e.g., contextual elements and tone – may play a role. As a theory focused on verbal responses, it also does not address how conflicting statements and behaviors may be a factor, as Weinstein's apology was undermined by his actions.

SCCT also does not account for how Weinstein became a symbol of the #MeToo movement and faced upset stakeholders who projected their own experiences with sexual misconduct onto him. In other words, SCCT does not address how entities should respond when they become representative of social movements and when stakeholders' attributions of responsibility extend beyond the behaviors that sparked the crisis. However, it does address prior reputation, crisis history (Coombs, 2015a, pp. 150-151), and "maintain[ing] consistency in crisis response strategies" (Coombs, 2007), which were important variables in the Weinstein case.

Perhaps most relevant to this case, SCCT does not sufficiently account for the game-changing role of social media in a crisis. It was revised to include paracrises and "an explicit statement of social media selection" (Coombs, 2017, pp. 34-35). However, it does not account for how stakeholders interact on social and traditional media to influence reactions – a gap that SMCC attempts to fill (Austin et al., 2017, p. 437). SCCT also does not "address how information form (traditional media, social media, or WOM) impacts publics' crisis communication behaviors" (Austin, Liu, and Jin, 2012). This is important because those

elements were crucial to how the Weinstein case developed into the #MeToo movement. Finally, SCCT does not provide guidelines for how to contend with the differences among stakeholders, which is similar to Heath's (2010, p.7) point that they will react to the same statements differently and supports his call for research that considers third parties, instead of focusing on the entity in crisis.

**SMCC.** SMCC seems to be a better model to explain crises that involve many stakeholders, mediums, and social media; it provides a more “comprehensive” way to evaluate crises “in a multisource, multimedia environment” (Austin et al., 2017, p. 437). This is especially important when entities in crisis are facing potential liability, as Weinstein's case illustrated the large impact of social media and WOM. SMCC emphasizes the need to consider the spread of information among social media followers, social media creators, social media inactives, traditional media, and the organization in crisis, as well as how offline WOM may play a role (Liu et al., 2012). It also emphasizes how organizations must consider the crisis origin, the crisis type, the organizational infrastructure, the message strategy, and the message form (Liu et al., 2012), all of which were important in the Weinstein case.

*RQ2: What tangible recommendations can one learn from this case when applying these theoretical principles to potentially liable organizations and individuals?*

**Multiple Offenses.** When a crisis involves multiple tiers of offenses, potentially liable entities might want to avoid splitting hairs about the differences among them. Using technical or legal language to explain why media coverage or conversation is not accurate could backfire because, at least in the Weinstein case, some people actually did not care to fully understand the differences. In this way, the optimal legal strategy to say little may align with the optimal

communication response. However, this strategy can result in the worst of the offenses dominating conversation, serving as an umbrella term to include all equal and lesser allegations.

**Messaging.** Being vague and not transparent might allow third-parties to take control of the narrative. In Weinstein's case, this led to a conflated narrative that made him a symbol of societal sexual misconduct. However, potentially liable entities must consider that increased specificity and transparency could be harmful if their messages are used as evidence. Regardless, it is important to find a balance between vagueness and specificity, develop a strong and uniform message in a timely manner, and stick to it. Inconsistent and contradictory messages can damage credibility, especially if they compromise stakeholders' abilities to understand the message.

**Apologies and Deflection.** This crisis illustrates that deflection is not the optimal strategy in many cases, even coupled with an apology. Deflections can undermine the positive benefits of an apology, offend stakeholders, and worsen one's reputation and credibility, as they did in Weinstein's case. While it is impossible to know how Weinstein's apology would have been perceived without his deflection, many were upset by and focused on it instead of on his actual remorseful statements. However, this case also showed that apologies may be beneficial for organizations involved in a crisis spurred by others' actions, as TWC failed to issue one and then struggled with saving its reputation – though, liability is still a factor.

**Actions.** Relatedly, potentially liable entities should consider whether their actions align with their statements. If they do not, those actions could undermine credibility. When Weinstein apologized while threatening to sue *The New York Times* and TWC, he reinforced what others were saying about him and contradicted his apology by not having consistency.

**Internal Relations.** It is also important for companies to proactively manage internal relations. Rumors about negative internal environments can undermine messages and reinforce



third-party claims, as they did for TWC. Relatedly, it is important to consider the issuance of NDAs that forbid speech because, in TWC's case, the fact that employees defied NDAs to pen a letter of denouncement made them appear more credible and inflict more reputational damage.

*RQ3: By examining this case, what other factors should potentially liable organizations and individuals consider when determining how to best mitigate a crisis?*

**Issue Salience.** If an issue is salient, strongly relatable, draws emotional reactions, or points to a larger societal issue, organizations must consider that people may react not only to the events that sparked the crisis but also to the greater issue. This is what occurred in the Weinstein case, as he became a symbol of many sexual offenders while his alleged victims became symbols of many sexual misconduct victims. In other words, people projected their own experiences with sexual misconduct onto Weinstein and his alleged victims, which spurred the #MeToo movement. Once activism to this degree begins, it appears to be difficult to stop. So, it would be beneficial to consider context and issue salience and to adjust messaging accordingly, perhaps by taking control of the narrative and saying they are aware that it is part of a larger problem.

**Associations.** It is also important to consider how, if the entity in crisis is large enough to represent an industry, associations might feel pressure to distance themselves from and denounce the individual or organization to protect themselves and their industry's reputation. This can lead to a dominating narrative that undermines mitigation efforts, as there was pressure in the Weinstein case to either condemn him or stay silent. Thus, stakeholders can influence each other's reactions. Additionally, associations that an individual or organization previously relied on for support may not come through if the crisis threatens their own reputations.

**Third Parties.** Crises do not occur in vacuums. Thus, it is important to consider how third parties are influencing narratives. In the Weinstein case, the interaction of traditional and

social media kept the momentum of the conversation going and influenced how the narrative was framed while also distracting from Weinstein's apologetic statements. This was especially so when one considers how media outlets and celebrities were pressured to condemn Weinstein and cover his story. It is also important to consider the mediums in which third parties are sharing their opinions. In this case, the detailed and vulnerable narratives presented by alleged victims exacerbated the effects of the allegations. If there were simply reports that claims had been filed without these details, it is possible that the effects of the crisis could have been more contained and that the #MeToo movement would not have manifested so strongly with Weinstein at its center.

**Reinforcing Characteristics.** An additional factor to consider is how the characteristics of an entity in crisis interact with those of its stakeholders. In Weinstein's case, his prestige and power in the film industry made him look worse and reinforced the allegations against him when compared with the vulnerability and powerlessness of the victims. This was especially so because the victims were, in many cases, successful celebrities, so this juxtaposition exacerbated negative perceptions of Weinstein. Relatedly, entities must also consider how their characteristics may reinforce what others are saying and establish a plan to combat that reinforcement.

**Guilt.** This case illustrates that whether an entity is found guilty may be irrelevant to perceptions. Once conversation and pressure to conform to the mainstream narrative of condemnation developed, Weinstein was perceived to be guilty of sexual harassment, sexual assault, and rape. So, from a public relations perspective, it is important for companies and individuals to rethink making decisions to try to preserve innocence in the public eye because attempts to appear innocent may be futile. This is especially so when stakeholders project their

own experiences with an issue onto the entity in crisis, as they did with Weinstein. However, because they might be held liable, entities still must think twice before making statements that suggest culpability, so they may need to find a balance between admission and silence.

## **Takeaways**

### *Don't make your brand dependent on one person*

The negative effects TWC experienced as a result of Weinstein's alleged misconduct illustrate that it may be best to avoid developing a brand around a single person. As an article in *Deadline* described, "That primary asset is now their primary liability" (Hayes, Busch, & Fleming, 2017). If TWC was not so strongly tied to Weinstein, businesses may have afforded the company more leeway and may not have ran from the company after the news. Instead, people's desire to distance themselves from Weinstein inherently meant distancing themselves from the studio itself, which was now seen as a "toxic asset" (Barnes & Creswell, 2017). This also made it difficult for TWC to sell, as "no one [wa]s interested in salvaging a company which would benefit Harvey" (Barnes & Abrams, 2017).

TWC's challenges build on other cases of companies suffering reputational damage from relying on one person too heavily. For example, Nike faced a crisis when Tiger Woods had his sexual infidelity scandal in 2009 because it had "invested heavily in Woods and built its entire range of golf sportswear and equipment around him" (Weaver, 2009). As a result, Nike was effectively forced to defend and continue to sponsor him because "it ha[d] too much to lose to do otherwise" (Weaver, 2009). A second example can be seen in Lance Armstrong's case. This time, Nike was able to back out of an endorsement deal when Armstrong was accused of doping (Pearson, 2012). But, Armstrong's charity still suffered. Although he stepped down as chairman

of Livestrong (Pearson, 2012), it had “three consecutive years of annual revenue declines,” lost many employees, experienced falls in its iconic wristband distribution (Schrotenboer, 2016), and even had people demand that it return donations (“Some Livestrong Donors,” 2012). With these previous cases and TWC’s crisis in mind, it seems that brands should rethink centering around one person.

*If you can't control the narrative, consider joining it*

Even with perfect messaging, it may not have been possible for TWC and Weinstein to control the narrative: If a crisis involves a salient, emotional issue that is bigger than the entity involved, people may project their experiences onto it and create an activist movement like they did with #MeToo. This can cause the crisis to become a problem that transcends typical crisis responses, as no matter what Weinstein said, he could not fix the societal problem of sexual misconduct. Also, many can share opinions, influence narratives, and create noise with social media that drowns out mitigation. Media fragmentation and confirmation bias make this more likely because as people self-select outlets, they increasingly only attend to messages that affirm their beliefs. Legal issues may also hinder abilities to control narratives. So, organizations like TWC should consider acknowledging and becoming a leader of the activist movement instead of hiding from it. Although not directly involved in the crisis, for example, the Academy and British Academy of Film and Television Arts both denounced and distanced themselves from Weinstein, taking a stand that supported the #MeToo movement (Hammond, 2017). But, when no response may ever suffice, the optimal one is not clear.

### *The power of activism*

This case illustrates activists' power to rally support and build agendas. This activism can come to life on social media and become a dominating narrative that is difficult to openly contradict, which can undermine mitigation. The Weinstein case illustrates that this is especially likely when the crisis involves an emotionally-charged and relatable issue. The nature of the crisis can create pressure to conform to the mainstream view that reinforces the activism, as it was difficult for people to speak against the #MeToo movement and in support of Weinstein because that would mean disparaging vulnerable victims.

This effect can also be seen in the 2015 #OscarsSoWhite campaign, which began when opinion leader April Reign used the hashtag to criticize the lack of diversity among Academy Award nominees (Anderson, 2018). This “became a trending topic” and “has since become a rallying cry in Hollywood and abroad for greater inclusion of marginalized voices and perspectives on screen, behind the camera and in executive offices” (Anderson, 2018). It made such a large impact that the Academy made a “commitment” “to double the number of women and people of color in its membership by 2020” (Anderson, 2018). Additionally, #BlackLivesMatter grew into a major activist movement after it was first used in a Facebook post in 2013 (Anderson & Hitlin, 2016). Although some have used #AllLivesMatter to combat this movement, #BlackLivesMatter was used eight times as often (Anderson & Hitlin, 2016), suggesting that it was difficult for alternative voices to gain as much attention as the activism. Like the #MeToo movement, the #OscarsSoWhite and #BlackLivesMatter hashtags started with a single post and, with the aid of social media and personally involved stakeholders, grew into activist movements about important societal concerns. These cases illustrate how activism can take root in this digital age and create dominant agendas that may harm entities in crisis.

### *Stakeholders' concerns may not align with those of bad actors*

The concerns that organizations consider when crafting their responses may not align with those of their stakeholders, which can create problems for mitigation efforts. For example, though potentially liable organizations and individuals must prioritize how their responses will appear in court, many stakeholders may not think or care about those limitations. Few if any of the articles mentioned how TWC and Weinstein are restricted from speaking due to liability concerns; people mostly saw and cared about their poor messaging and the victims' stories. This is also supported by the finding that people did not seem to differentiate between the tiers of accusations even though that was of paramount concern to Weinstein. This poses a problem for organizations when developing their response strategies, as their legal concerns might not serve as acceptable excuses to stakeholders. Additionally, while TWC may have been factoring in how their responses would be perceived by potential buyers, the public did not seem to care at all about the financial concerns of TWC. These conflicting priorities can cause problems for organizations and suggest that they must choose which publics to prioritize.

### **Limitations**

There were several limitations of this study. First, it focused on one case, so it may have limited generalizability to other cases. However, as previously discussed, case studies allow researchers to gain large amounts of detail, to consider the role of context surrounding a given phenomenon, and to contribute to theory development (Flyvbjerg, 2006), all of which were goals of this study. It is also possible to generalize from cases (Flyvbjerg, 2006). Additionally, the study did not directly examine social media posts; any that were included were mentioned in the articles. However, this approach enabled the posts that reporters found to be most reflective of

the news and that the public may have been more likely to see to be included, which is arguably more applicable to this study's goals of understanding context than pulling a random selection. Finally, the study only examined two outlets, so there may have been more developments that were not included. However, *The New York Times* and *Deadline* were chosen strategically to gain a comprehensive and accurate understanding of the case. *The New York Times* was selected because it, as previously discussed, played a critical role in agenda setting (Danielian and Reese, 1989). *Deadline* was selected because of its role as a major niche industry outlet.

### **Future Research**

Although this study provides support for using SMCC over SCCT for crises such as the Weinstein case, it also illustrates a need for more research. Like SCCT, SMCC does not address how attributions of responsibility could extend beyond the acts committed by the entity in crisis, how the quality and characteristics of apologies should be considered, how the interaction of actions and words could impact reactions, or how an organization should weigh public relations and legal ramifications. So, more research and theoretical development about crisis communication, potential liability, and social media is needed. More case studies examining the interplay of law and communication and how that may have changed with new media would be beneficial. Additionally, studying if and how "fake news" impacts this may be beneficial, as well as examining other cases that sparked activism. Finally, understanding more about how the public views the legal concerns and restrictions of an entity in crisis could be helpful.

## Conclusion

This study began as a way to explore the interplay of crisis communication and potential liability. It fulfilled this goal, as it illustrated important nuances and factors in understanding how crisis communication may be influenced by legal concerns. Though there is no single answer to how potentially liable organizations and individuals should respond, this study took an important step in exploring the public relations and legal considerations. Findings suggested that newer crisis communication models like SMCC may be better equipped to serve as frameworks from which to understand crises that involve legal concerns, many stakeholders and narratives, and interacting social and traditional media. However, this study still illuminated the need for more theory development and research about crisis communication and potential liability.

In addition to the initial goal, examining how Weinstein's story evolved from the initial *New York Times* exposé to the strong #MeToo movement that is currently taking Hollywood and other industries by storm allowed this study to also consider how activism forms. It illustrates how activism can be spurred by a crisis and how, if many situational and contextual factors align, campaigns for societal change can take root, disrupting the norm and even effectively silencing most opposing voices. It shows how social media and the resulting activist movements can give power to those who for too long did not have it. It also shows that organizations facing crises must consider this possibility and look beyond their own reputations and concerns to consider how their situations fit in society, even if they are facing potential liability. Future research in the crisis communication field should not only consider the interplay of crisis communication and legal concerns, but also the role that social media and activism plays in shaping narratives and public reactions to a crisis, as this case illustrates how one company's crisis can quickly evolve into a global activist movement for long-overdue change in unprecedented ways.



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