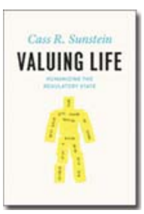
# BOOK REVIEWS

DOI: 10.1377/hlthaff.2015.1315

## Regulators' Math

BY GAIL R. WILENSKY

**VALUING LIFE: HUMANIZING THE REGULATORY STATE**
*By Cass R. Sunstein*
*Chicago (IL): University of Chicago Press, 2014*
*240 pp., $25.00*




In the well-written book *Valuing Life*, Cass Sunstein, currently the Robert Walmsley University Professor at Harvard University, explains the workings of a relatively small and obscure but key agency in the Office of Management and Budget called the Office of Information and Regulatory Affairs (OIRA). Sunstein's insights into the workings of OIRA and the many conceptual and empirical challenges the office faces come from his experience as the administrator of OIRA from 2009 to 2012. While most people—including most of my colleagues in the health policy community—have probably never heard of OIRA, I have been very aware of its activities and responsibilities since my time running Medicare and Medicaid as the administrator of the Health Care Financing Administration (HCFA, now called the Centers for Medicare and Medicaid Services), given the HCFA's role as a regulatory agency.

OIRA reviews the executive branch's proposed and final regulations. Its attention is mostly focused on those that reach a certain level of importance, defined in terms of dollars (an annual effect of $100 million or more on the economy) or impact (such as creating inconsistencies with other agency activities or materially altering entitlements). OIRA has a staff of forty-five people, almost all of whom are career government employees, and it is headed by a political appointee who is chosen by the president and confirmed by the Senate. As Sunstein describes it, OIRA serves an important convening function across the government, getting people who are knowledgeable about the subject matter or the potential impact of a regulation together to discuss its impact, which includes but is not limited to its likely costs and benefits.

To the extent possible—some regulations are required by statute and must be issued irrespective of the net benefits—the benefits associated with a regulation must justify its cost, and, in general, agencies are supposed to maximize net benefits. What these terms means and how OIRA goes about trying to determine relevant costs and benefits, all within the confines of the ninety days that it is given to review regulations and the many vexing issues associated with these concepts, are the subjects of *Valuing Life*.

This focus leads to some very interesting discussions (at least for an economist) about strategies that can be used to quantify the benefits and costs associated with a regulation, and about the kinds of challenges that can arise. Two central themes involve the valuation of a statistical life (most frequently set at $9 million), which Sunstein explains actually involves estimating the cost of reducing mortality risk, instead of attempting to put a value on life per se; and the use of the concept of "willingness to pay," which by definition means that people with higher incomes can express a willingness to pay that might not be possible for people with lower incomes.

In the real world of quantifying the concepts of the value of a statistical life and willingness to pay so that the costs and benefits of a proposed regulation can be calculated, all sorts of measurement challenges present themselves. The information needed for quantification might not be available, it may be possible to quantify a benefit but not monetize it down to a dollar value (as is the case, for example, with the benefit of reducing rape in prison), and so on. Sunstein includes an interesting discussion on the attractiveness of moving toward variable values of a statistical life instead of assuming that life has the same value for all individuals. He recognizes the challenges of complete individuation but believes that some allowance for variations across demographic or economic groups would be useful and important in making the concept more meaningful.

In the final section of the book, Sunstein describes his efforts as attempting to "humanize" the use of cost-benefit analysis—by facilitating more sensible trade-offs, including concepts of behavioral economics, and taking into account concepts that are difficult to quantify.

Although the book is a useful read, I have two criticisms—one minor and one not so minor. Some of the descriptions of the writing (as "highly readable" or "written with clarity and grace") are exaggerated, even for an economist interested both in OIRA and cost-benefit analysis. It's well written—leave it at that.

Of greater concern is the impression the book gives that most or at least many of OIRA's decisions are objective and attempt to calculate solutions where the regulations justify the costs imposed (economic and otherwise) and maximize net benefits. As Sunstein himself writes early on, rules that are judged to be consistent with the president's policies and objectives can override other considerations. Furthermore, decisions about using low discount rates (the interest rates used to calculate the present value of benefits or costs that occur over time) to account for the interests of future generations, or about how and whether to include benefits that can't be quantified or monetized, leave a tremendous amount of discretion to the agency and the office of the president. More discussion about what this means for the integrity of the process would have been useful. ■

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