

# How Corporations Can Promote or Deter Organizational Misconduct



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# Culture and Compliance

- **People social animals. Law & companies can deter by creating norm against legal violations**
  - **Tone from the top**
    - Announcing a strong culture message is enough
    - Speeches from the CEO
  - **Focus on “Effective Compliance *Programs*”**
    - Rules and Processes
    - Training
- **Such steps not suffice to create a lived culture and set of norms that deters misconduct**
- **Most corporate actions impacting employee ethics live outside compliance/C-Suite**

# Roots of Misconduct

## Interaction of Self-interest and Ethics

- **People rely on Intuitive Processes for Most Decisions**
  - Self-interest
  - Want to avoid guilt/shame over being/perceived as unethical
- **Self-interest tends to be dominant motivation**
  - Preferred Choice determined by self-interest
  - Intuitively favor self-interest if can do so without sacrificing view that one is ethical and will be perceived as ethical
- **Motivated Reasoning Enables people to Favor Self-interest without seeing that they are being unethical**
  - Focus on considerations favoring self-interest (including pro-social justifications)
  - Suppress (or alter decision to negate) ethical concerns

# Motivations: Ethics vs Self-interest

- **1) magnitude personal benefit**
- **2) Is legal injunction salient when choice arises**
- **3) nature of harm**
- **4) Time pressure/cognitive load**
- **5) alternative pro-social justification for misconduct**
- **6) Diffusion of responsibility**
  
- **Nature of organizational misconduct not conducive to deterrence through expressive law**

# How Companies Control and Influence Whether Deterred by Social Norm Against Misconduct

- **Source of Employees Knowledge of Law**
  - Managers' messages about whether law is valid or is instead an invalid "socialist"/"progressive" constraint on legitimate business
- **Magnitude of Employees' Benefit from Crime**
  - Compensation, promotion, retention policies
- **Prosocial Justification for Crime**
- **Time Pressure, Targeted Goals and Multi-tasking**
  - Priming and Cognitive load
- **Impact Behavior of Other Employees**
  - Failure to discipline high producers
- **Diffuse Responsibility; Each employee not responsible**
  - Negates guilt and shame

# What Can Companies Do?

# Must Test Whether Culture is Deterring

- **Companies cannot focus on procedures alone. Roots of misconduct sit deep in firm.**
- **Culture best tested by whether it produces good results**
  - Outputs and not just inputs (training)
- **Outputs: Evidence of Detected Misconduct**
  - Effective Internal Reporting
    - Genuine investigation
    - Data analysis to look for red flags (common types of complaints; units with too much or no reporting)
    - Integrate data with customer complaints/HR data
- **Outputs: Employee Psychological Safety Studies**
- **Outputs: Managers approach to discipline, promotion and bonuses**

# Compensation/Promotion

- **Structure compensation to reduce incentives to obtain results through legal violations**
  - Deny bonuses/promotions to those violating ethical norms
  - *Reward* employees who report/identify/stop misconduct
    - Effective internal reporting system
- **Clawbacks for supervisors and units of any results-based bonuses that were the product of misconduct**



# **Individual Discipline/Reporting to Enforcement is Vital to Establishing Culture**

- **Enforcement Signals Social Commitment to Law**
- **Counteracts Self-interested Motivation for Crime**
- **Harm is now Experienced by Wrongdoer**
- **Induce Legal Compliance by other Employees**
  - Their compliance enhances salience/strength norm
- **Expresses social view wrongdoers are responsible for crime and will be blamed**
  - Counter-acts shared/group decision-making
- **Also needed for classical deterrence reasons**