

I Would Never Do That!



How Your Brain Circumvents Ethics & Compliance Efforts



A



B



D



C



E

1. Navy Seal
2. Nobel Prize Recipient
3. Street Person
4. Soldier
5. Wanted Murderer



Soldier



Street Person



Nobel Prize Recipient



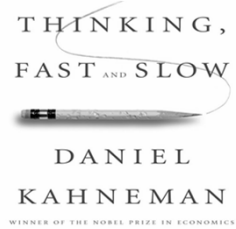
Wanted Murderer



Navy Seal

The Concept of Automaticity

- System 1
- System 2



Which is dangerous?



Where We Come From



Life Experiences



System 1 in Action



What if.....



Rating You and Your Compliance Program

- On a scale of 1 to 10, how effective is your compliance program?
- On a scale of 1 to 10, how ethical are you?
- Comparing yourself to society in general, are you more ethical or less ethical than most?
- Comparing yourself to your peers, are you more ethical or less ethical than most?
- Do you have a code of ethics in your organization?
- How many pages is your code of ethics?
- Recite one sentence from your code of ethics without looking at the document?
- At this moment, do you even know where your code of ethics is?

Framing A Problem



Your Compliance Program

- How many rules does your compliance program have?
- Is your compliance program built to deter aberrant behavior?
- Are human beings rational?
- What messages are being sent by the organization through the compliance program?
- How are these messages perceived?
- Are you rewarding the decision-making process or the decision-making results?

Intel

- An Active Approach in 2001
- Monitoring employee emails
- Random Searches
- Unannounced searches
- Document seizures
- Mock depositions
- Mock trials
- Cross-Examination in front of peers



* Taken from The Criminalization of Compliance by Todd Haugh, Notre Dame Law Review, Volume 92, Issue 3, 1-2017.

How would you feel?

- How do you react when someone calls you a cheater?
- How do you react when someone calls you a liar?
- How do you feel when someone questions your integrity?
- Cognitive Dissonance
- The Golem Effect or Reverse Pygmalion Effect



Results

- In 2009, paid \$1.25 billion to settle anti-trust litigation with competitor, AMD.
- According to FTC, Intel entered into a campaign to cut off rival's access to markets.
- Also had to pay 1.44 billion to European commission for similar behavior.
- The compliance system was found to promote rationalization through psychological reactance.
- Reaction, usually System 1, that occurs when people feel that someone or something is taking away a freedom or choice.
- How can I do my job properly if you are constantly trying to determine whether or not I am a cheater, liar, and law-breaker?



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How You Frame Things Matters

- You are a doctor and your patient has an exotic disease with no cure and has a life expectancy of 5 years. There is an experimental medication you can prescribe and every 2 out of 10 patients who have taken it have died within a year and a half of starting the medication protocol. Would you recommend the patient to take this medication?
- You are a doctor and your patient has an exotic disease with no cure and has a life expectancy of 5 years. There is an experimental medication you can prescribe and every 8 out of 10 patients who have taken it have lived at least 10 years after starting the medication protocol. Would you recommend the patient to take this medication?

Which of these 3 prongs can you influence?

The Fraud Triangle



Your Organization

- What is the organizational culture?
- What is the perception of your organizational culture?
- Does the program have the perception of legitimacy?
- In other words, is the compliance program designed to protect the people or the top executives?
- How quick is blame shifted?
- What examples are being set by top executives?
- Are goals and incentives in conflict with compliance initiatives?

Wells Fargo, the Social Comparison Theory, & the Power of Groups

- We determine our own social and personal worth based on how we rate ourselves against others who we see to be peers or doing better or worse than us.
- My neighbor buys a new car.
- My work colleague gets a bonus.
- “Creating fake accounts was like jaywalking. Everybody is doing it!”
- Maslow says my job depends on this.
- The executives have to know.
- How can cognitive dissonance erode my ethical profile?

The Power of Groups and In-Group Values

- A soda machine that gives out free drinks.
- The VW culture
- If you can’t figure out a solution to the problem, then maybe we will need to find another engineer.
- Bonuses for all employees tied to performance.
- Would you be willing to come forward and report a compliance issue if it meant that all employees would lose bonuses?
- “Want” self vs. “Should” self.

- Your business has identified a safety issue in a product. You earn millions on this product each year. If you recall the product, it will cost your company approximately 8 years of earnings. Thousands of your employees will lose their jobs if you recall the product. In the past 2 years, only 24 people have died because of this problem even though over 10 million units have been sold. It is anticipated that similar numbers will occur over the next two years if the product is not recalled. What would you do?

Bounded Ethicality

- Systematic and predictable ways in which people engage in unethical acts without their own awareness that they are doing anything wrong.

Overcoming and Leveraging System 1

- Values based system
- Compliance is everyone's duty (Increasing engagement)
- Celebrate the successes
- Visual Cues
- Nudges
- Remind people of their morality
- What is the greater purpose?
- What is cash?



Coming Back to Home

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