



SCCE™
Society of Corporate
Compliance and Ethics

UTILITIES & ENERGY
COMPLIANCE & ETHICS CONFERENCE
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Why Good People Do Bad Things

February 11, 2019

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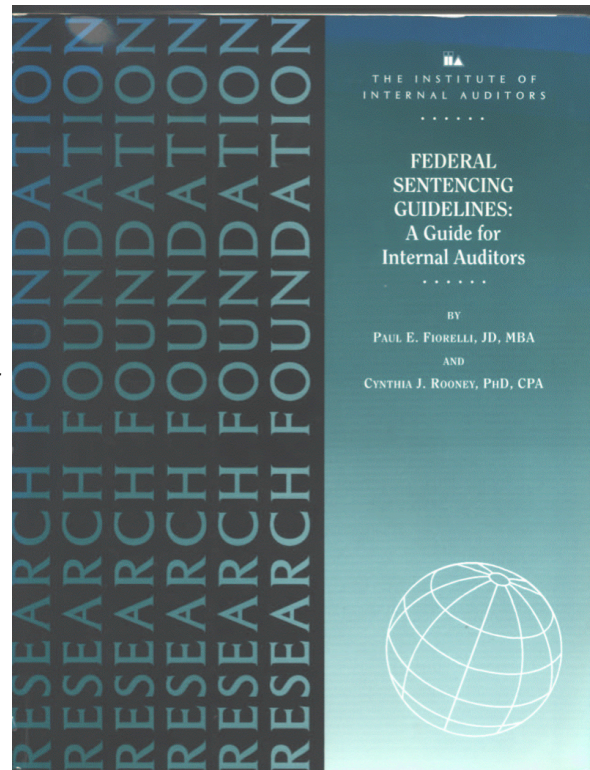
SUPREME COURT FELLOWS PROGRAM

*Director, Cintas Institute for Business Ethics,
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*Certified Compliance and Ethics Professional
(CCEP)*

*Ad Hoc Advisory Group to the US Sentencing
Commission (2002-2004)*

*Written articles and consulted on Ethics &
Compliance*



Definition of *stewardship* in English:

STEWARDSHIP

NOUN

[mass noun]

The job of supervising or taking care of something, such as an organization or property.

STEWARDSHIP



MILITARY

GOD, COUNTRY, CORPS
DUTY & HONOR
LONG TERM
HOW DO I SERVE OTHERS



MERCENARIES

SELL SERVICES TO THE
HIGHEST BIDDER
SHORT TERM VIEW
WHAT'S IN IT FOR ME?

leg·a·cy
(ləg'ə-sē)
n. pl. leg·a·cies
1. planting seeds in a garden
you never get to see



laith

Definition of *integrity* in English:

INTEGRITY

NOUN

[mass noun]

- 1 The quality of being honest and having strong moral principles.

INTEGRITY



Ethics is knowing the difference between what you have a right to do and what is right to do.

(Potter Stewart)

izquotes.com

INTEGRITY



Ethical behavior is doing the right thing when no one else is watching—even when doing the wrong thing is legal.

— Aldo Leopold —

January 11, 1887 – April 21, 1948) was an American author, philosopher, scientist, ecologist, forester, conservationist, and environmentalist.

AZ QUOTES

INTEGRITY

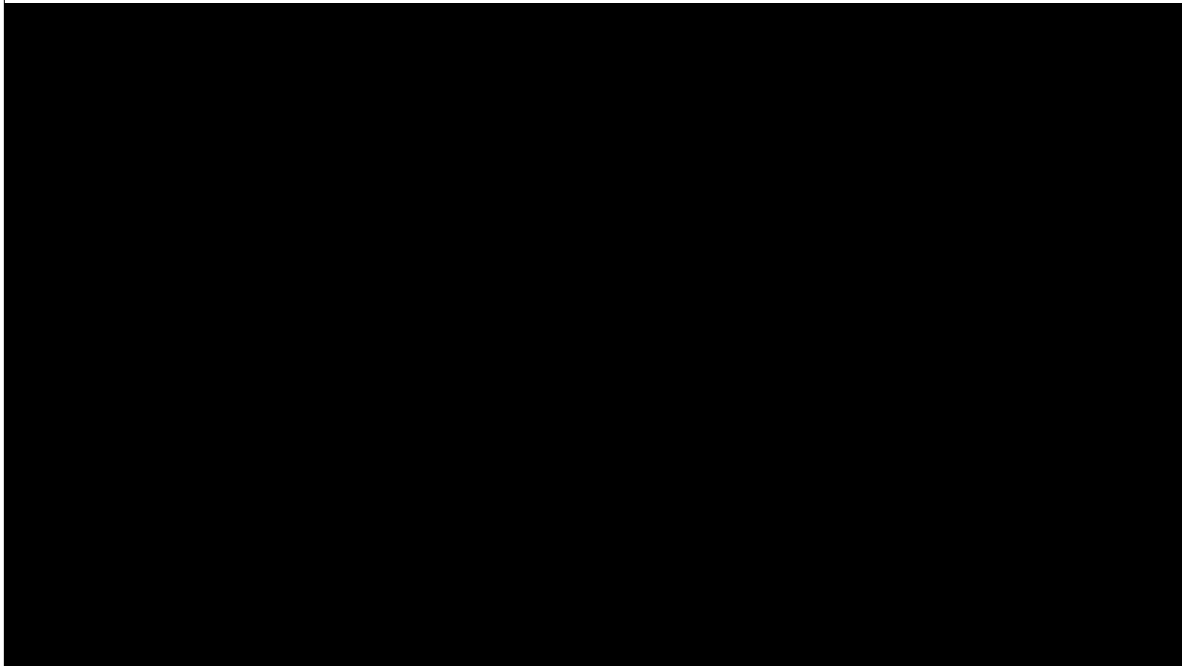
quotespedia.info

The time is always right to
do what is right.

Martin Luther King Jr



INTEGRITY



BRIAN DAVIS, 2010 HERITAGE RUNNER-UP

PENALTY COST HIM \$400,000 - UP TO \$2,000,000 IN ENDORSEMENTS

https://www.youtube.com/watch?v=-ZUs-_Vakp0

INTEGRITY

“Somebody once said that in looking for people to hire, you look for three qualities: integrity, intelligence, and energy. And if you don’t have the first, the other two will kill you. You think about it; it’s true. If you hire somebody without [integrity], you really want them to be dumb and lazy.”



Definition of *value* in English:

VALUES

(values) Principles or standards of behaviour; one's judgement of what is important in life.

© Fiorelli, 2019

THE VALUE OF VALUES

DO THEY HIRE FOR MISSION?

PROMOTE FOR MISSION?

DISCIPLINE FOR MISSION
VIOLATIONS?

CAN THEY SPELL THE WORD
M-I-S-S-I-O-N?

IF THE CEO TAPPED AN
EMPLOYEE ON THE
SHOULDER, COULD THEY
EXPLAIN THE MISSION?



© Fiorelli, 2019

THE VALUE OF VALUES



REPUTATION

NOUN

- 1 The beliefs or opinions that are generally held about someone or something.

REPUTATION



If you lose money for the firm
I will be understanding. If you lose a shred of reputation
for the firm, I will be ruthless.

<https://www.c-span.org/video/?c4627438/buffett-salomon-brothers-hearing>



GE 2000 Annual Report

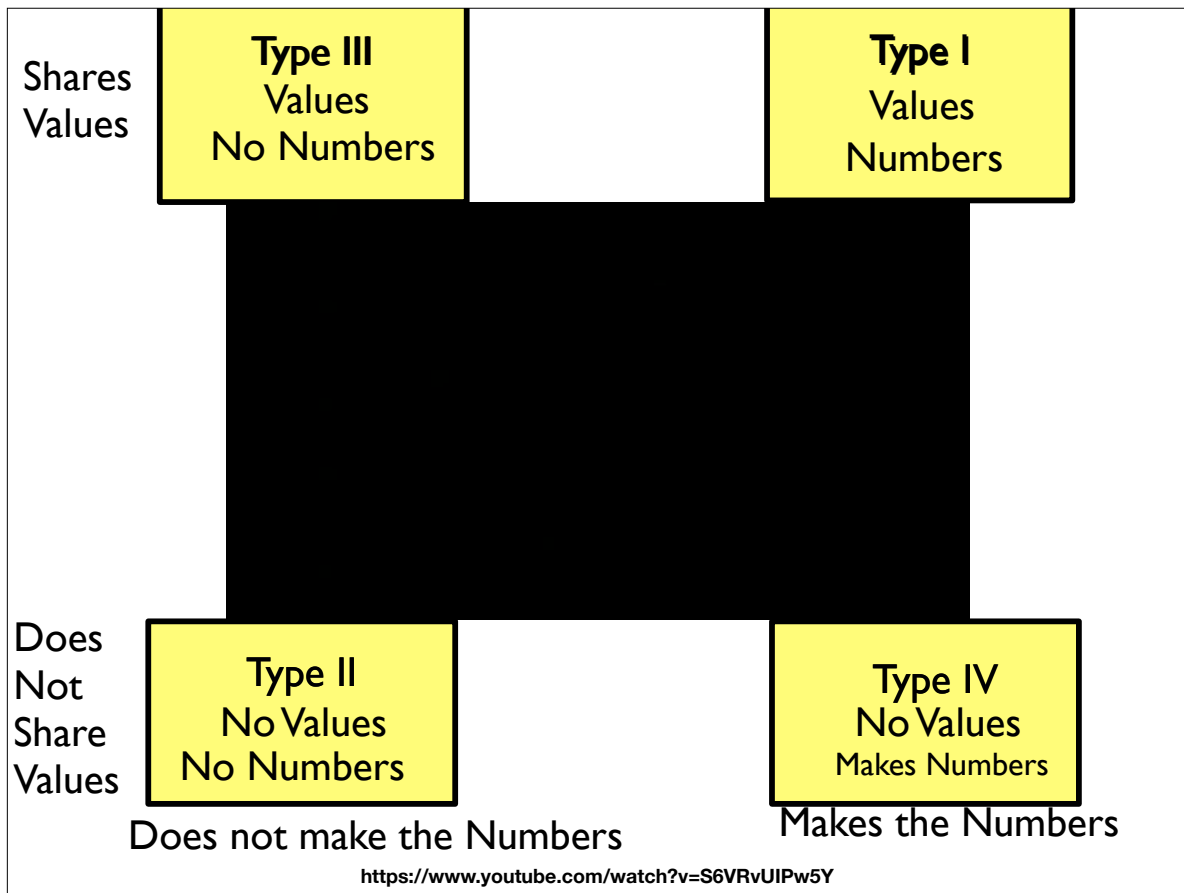


Photograph © Getty Images

Leadership

And it's about the four "types" that represent the way we evaluate and deal with our existing leaders. Type I: shares our values; makes the numbers—sky's the limit! Type II: doesn't share the values; doesn't make the numbers—gone. Type III: shares the values; misses the numbers—typically, another chance, or two.

None of these three are tough calls, but Type IV is the toughest call of all: the manager who doesn't share the values, but delivers the numbers; the "go-to" manager, the hammer, who delivers the bacon but does it on the backs of people, often "kissing up and kicking down" during the process. This type is the toughest to part with because organizations always want to deliver—it's in the blood—and to let someone go who gets the job done is yet another unnatural act. But we have to remove these Type IVs because they have the power, by themselves, to destroy the open, informal, trust-based culture we need to win today and tomorrow.



PERCEPTION

noun

1. the act or faculty of **perceiving**, or apprehending by means of the senses or of the mind; cognition; understanding.

PERCEPTION

SEE IT.

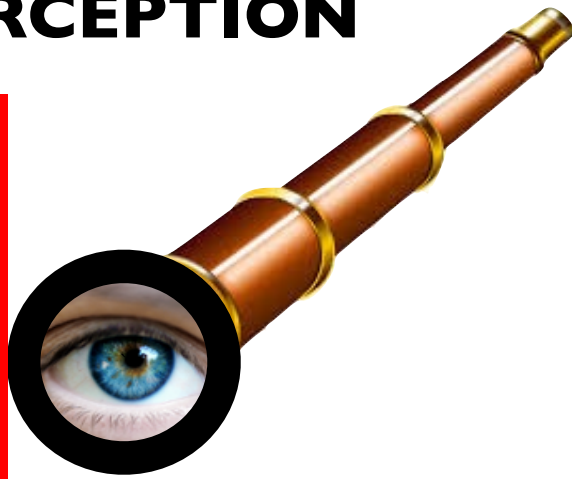
Trust your instincts if something doesn't look right.

SAY IT.

Notify Staff or the Police.

SORTED.

We'll take you seriously. And we'll sort it.



©Fiorelli, 2019

PERCEPTION

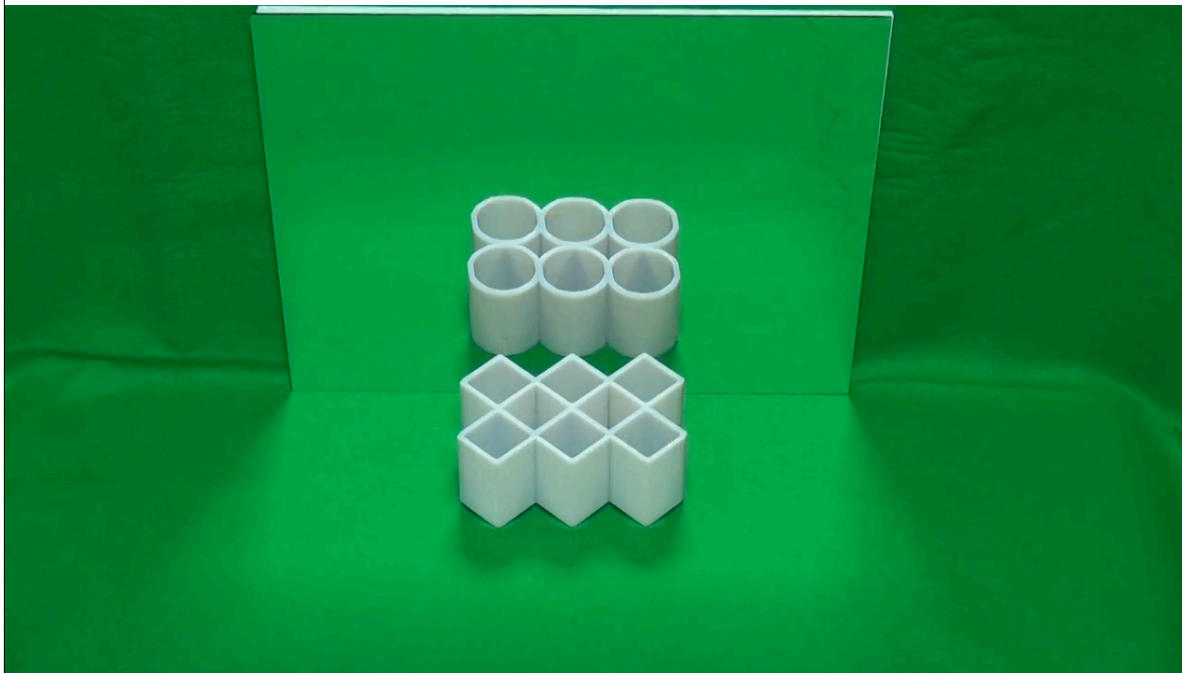


PERCEPTION

CAN TWO PEOPLE
LOOK AT THE SAME THING,
COME TO DIFFERENT
CONCLUSIONS,
AND BOTH BE RIGHT?

©Fiorelli, 2019

PERCEPTION



Ambiguous Cylinder Illusion - Rectangles and Circles - Kokichi Sugihara

Music - "Point of View" by Hed Kandi

<https://www.youtube.com/watch?v=oWfFco7K9v8>

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Definition of *grey area* in English:

GREY AREAS

NOUN

An ill-defined situation or area of activity not readily conforming to a category or set of rules.

GREY \neq O.K.

WHY GOOD PEOPLE DO BAD THINGS

QUESTIONS WE ASK WHEN SOMETHING GOES WRONG

- WHO DID THIS?
- WHAT WERE YOU THINKING?
- WHERE WILL THIS LEAD US?
- WHEN WILL IT EVER STOP?
- WHY DIDN'T I FIND OUT SOONER?



BETTER QUESTIONS

- WHO'S IN TROUBLE?
- WHAT CAN I DO TO HELP?
- WHERE DO YOU NEED ME?
- WHEN WILL WE HAVE THE TOOLS TO WIN WHILE FOLLOWING THE RULES
- WHY DIDN'T YOU TRUST ME?



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BREAKING THE RULES

- STRICT CONSTRUCTIONIST
- ALTRUISTS
- PRISONER OF CIRCUMSTANCES
- SLIPPERY SLOPE
- PRESSURE/INCENTIVES
- GROUPTHINK/AUTHORITY
- RATIONALIZERS/JUSTICE
- GREED

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Definition of *strict construction* in English:

STRICT CONSTRUCTIONIST

Syllabification: strict con·struc·tion

NOUN *Law*

a literal interpretation of a statute or document by a court.

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STRICT CONSTRUCTIONIST

COMPLIANCE **ACTION**

VIOLATION

STRICT CONSTRUCTIONIST

The Titanic was designed and built to carry 64 wooden lifeboats.
It was equipped by its operator with only 16, plus four small collapsible boats.

There should have been 4 boats provided for each of its 16 davits instead of just one.
The lack of lifeboats was not a design failure, but the operator's decision or intention!



wikipedia - RMS Titanic departing Southampton on April 10, 1912

©Fiorelli, 2019

<https://www.youtube.com/watch?v=o7TUhfpXGT8>

STRICT CONSTRUCTIONIST

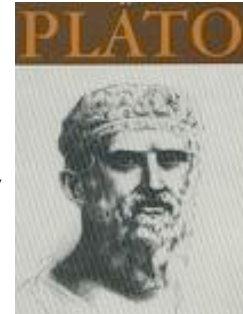


RICHARD BREEDEN,
former Chair of the SEC

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STRICT CONSTRUCTIONIST

"Good people do not need laws to tell them to act responsibly, while bad people will find a way around the laws."



**Rod Hills
Former Chair
SEC**

"It's an old adage of a FASB (Financial Accounting Standards Board) rule. It takes four years to write. It takes four minutes for an astute investment banker to get around it."

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STRICT CONSTRUCTIONIST

- JUST SKIMMING THE SURFACE OF LEGAL COMPLIANCE DOESN'T LEAVE ROOM FOR ERROR
- IF LAWS ARE WHAT WE MUST DO, THEN ETHICS ARE WHAT WE OUGHT TO DO

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Definition of *altruism* in English:

ALTRUISTS

Syllabification: al·tru·ism
Pronunciation: /ˈaltroʊˌɪzəm ɹ/

NOUN

the belief in or practice of disinterested and selfless concern for the well-being of others:
Some may choose to work with vulnerable elderly people out of altruism.

MORE EXAMPLE SENTENCES

1.1 **Zoology** behavior of an animal that benefits another at its own expense.

MORE EXAMPLE SENTENCES

Derivatives

altruist
NOUN

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ALTRUISTS

- HOW DO WE TREAT EMPLOYEES THAT ACT IMPROPERLY, BUT IT APPEARS TO BENEFIT THE COMPANY?
 - GOOD SOLDIER
 - STEALS FOR THE ORGANIZATION - NOT FROM IT
- LOYALTY
 - MISGUIDED



©Fiorelli, 2019

ALTRUISTS



PROMETHEUS' PUNISHMENT

©Fiorelli, 2019

https://www.youtube.com/watch?v=U_u91SjrEOE

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Definition of *prisoner* in English:

PRISONER OF CIRCUMSTANCES

Syllabification: pris-on-er
Pronunciation: /ˈprɪz(ə)nər ɹ/

NOUN

1 a person legally held in prison as a punishment for crimes they have committed or while awaiting trial.

MORE EXAMPLE SENTENCES

SYNONYMS

1.1 a person captured and kept confined by an enemy, opponent, or criminal:
*'the heroine was being **held prisoner** in a cave'*
*'200 rebels were **taken prisoner**'*

MORE EXAMPLE SENTENCES

SYNONYMS

1.2 a person who is or feels confined or trapped by a situation or set of circumstances:
*'he's become a **prisoner of the publicity he's generated**'*

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PRISONER OF CIRCUMSTANCES MINDING MY BUSINESS

- FORCED TO DEAL WITH PROBLEMS CAUSES BY OTHERS
- IT HAPPENED UNDER MY WATCH

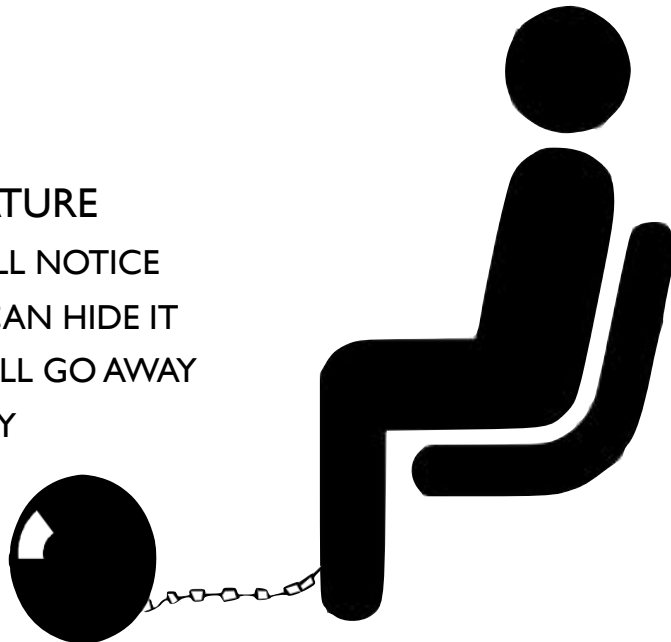
SOMETHING
BAD



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PRISONER OF CIRCUMSTANCES YOUR PROBLEM IS MY BUSINESS

- HUMAN NATURE
 - NO ONE WILL NOTICE
 - MAYBE I CAN HIDE IT
 - PROBLEM WILL GO AWAY
 - I'LL GO AWAY



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PRISONER OF CIRCUMSTANCES



ENCOURAGE OPEN
COMMUNICATION &
TRANSPARENCY



8/24/89

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<https://www.youtube.com/watch?v=LnaEUCSFk38>

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Definition of *slippery slope* in English:

SLIPPERY SLOPE

An idea or course of action which will lead to something unacceptable, wrong, or disastrous

'he is on the slippery slope toward a life of crime'

MORE EXAMPLE SENTENCES

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SLIPPERY SLOPE

George Lefcoe, USC Law Professor, Commissioner LA County
Regional Planning Commission



My first Christmas as a commissioner - when I received the ham - I tried to return it ... I did not, since no one at Forest Lawn seemed authorized to accept the ham... My guess is that not one of the many public servants who received the ham ever tried to return it.

(Righteous Indignation)

When I received another ham the next Christmas, I gave it to a worthy charity.

(Small Justification)

The next year, some worthy friends were having a party so I gave it to them.

(Defensible Explanation)

The next year, I had a party and we enjoyed the ham.

(Full Rationalization)

In the fifth year, about the 10th of December, I began wondering, where is my ham?

(Outright Entitlement)

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Definition of *pressure* in English:

PRESSURE/INCENTIVES

■ 100% 100% 100% 100% 100% 100%

Syllabification: pres-sure
Pronunciation: /ˈpreʃər/ ⓘ /

NOUN

1 the continuous physical force exerted on or against an object by something in contact with it:
'the slight extra pressure he applied to her hand'

MORE EXAMPLE SENTENCES ⓘ

1.1 the force exerted per unit area:
'gas can be fed to the turbines at a pressure of around 250 psi'

MORE EXAMPLE SENTENCES ⓘ

SYNONYMS ⓘ

2 the use of persuasion, influence, or intimidation to make someone do something:
'the proposals put pressure on Britain to drop its demand'
'the many pressures on girls to worry about their looks'

MORE EXAMPLE SENTENCES ⓘ

SYNONYMS ⓘ

2.1 the influence or effect of someone or something:
'oil prices came under some downward pressure'

MORE EXAMPLE SENTENCES ⓘ

2.2 the feeling of stressful urgency caused by the necessity of doing or achieving something, especially with limited time:
'you need to be able to work under pressure and not get flustered'
'some offenders might find prison a refuge against the pressures of the outside world'

MORE EXAMPLE SENTENCES ⓘ

SYNONYMS ⓘ

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PRESSURE/INCENTIVES

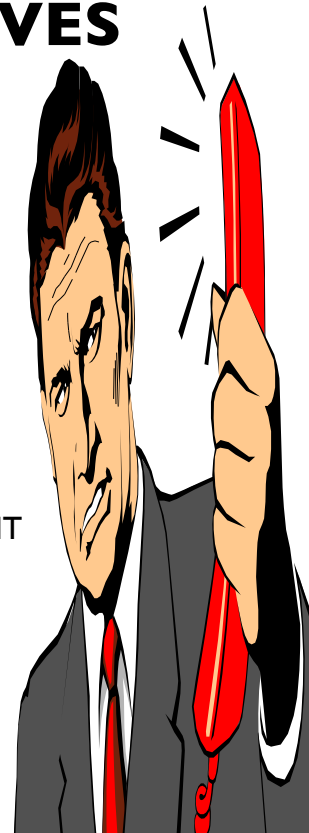


<https://www.bnk.wiki/yahoo/WOOFBDcnPGs.html>
<https://www.youtube.com/watch?v=1rrivHxCeeY>

©Fiorelli, 2019

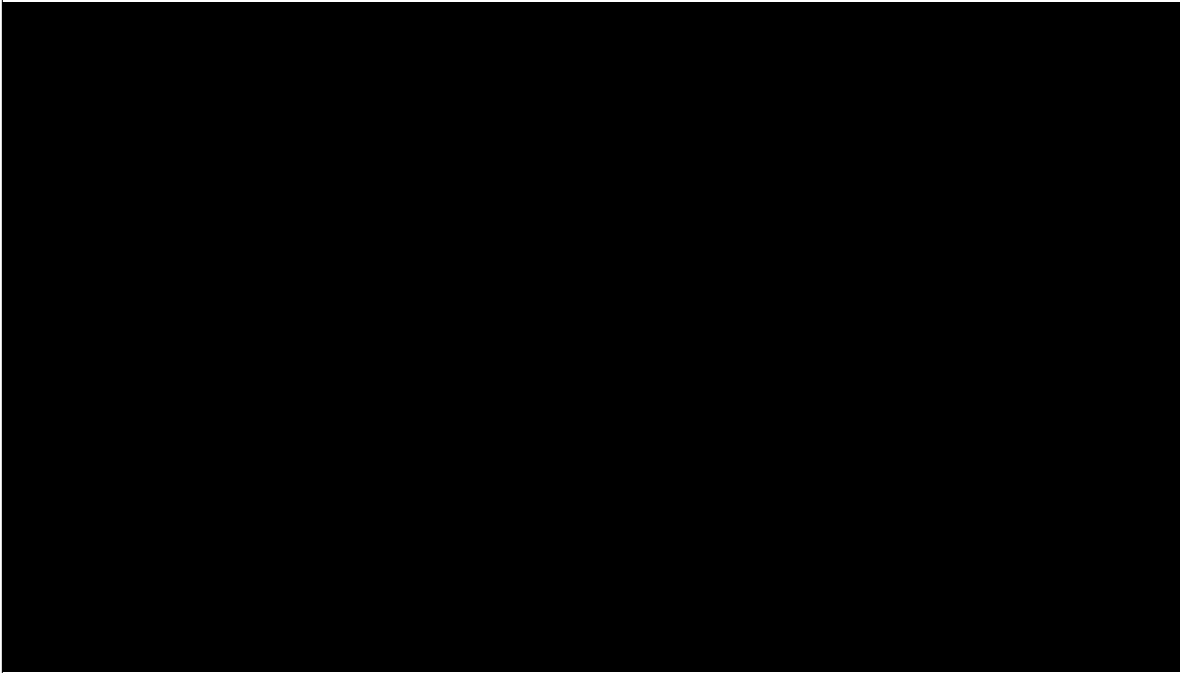
PRESSURE/INCENTIVES

- DOES NOT LIVE UP TO BOSSES EXPECTATIONS
 - ARE THE EXPECTATIONS REALISTIC?
- CAN SET AGGRESSIVE GOALS
 - MUST BE ABLE TO ACCOMPLISH WITH REASONABLE - ETHICAL EFFORTS, CONSISTENT WITH THE MISSION OF THE COMPANY



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PRESSURE/INCENTIVES



<https://money.cnn.com/video/investing/2016/11/11/warren-buffett-wells-fargo.cnnmoney/index.html>

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Definition of *groupthink* in English:

GROUPTHINK/AUTHORITY

Syllabification: group·think

Pronunciation: /ˈɡroʊp, ˈθɪŋk/

NOUN chiefly *North American*

the practice of thinking or making decisions as a group in a way that discourages creativity or individual responsibility:

'there's always a danger of groupthink when two leaders are involved'

MORE EXAMPLE SENTENCES

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GROUPTHINK/AUTHORITY



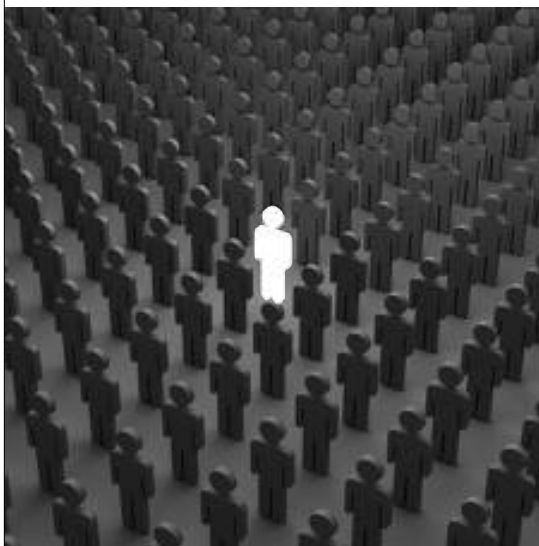
©Fiorelli, 2019

<https://www.youtube.com/watch?v=qA-gbpt7Ts8>

GROUPTHINK/AUTHORITY



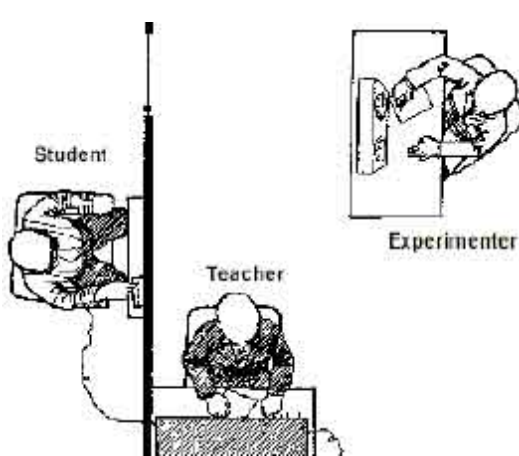
GROUPTHINK/AUTHORITY



- BE WILLING TO STAND OUT IN A CROWD
- DON'T JUST GO WITH THE GROUP ANSWER
- YOUR TEAM MAY BE STRONGER BY HAVING DIVERSE PERSPECTIVES

<http://theconversation.com/revisiting-milgrams-shocking-obedience-experiments-24787>

MILGRAM EXPERIMENT



The diagram illustrates the Milgram experiment setup. It shows three individuals: a Student, a Teacher, and an Experimenter. The Student is seated in a chair, connected to a shock generator. The Teacher is seated at a control panel, responsible for administering the shocks. The Experimenter is standing behind the Teacher, providing instructions and encouragement. The Teacher is shown holding a switch that controls the shock generator.

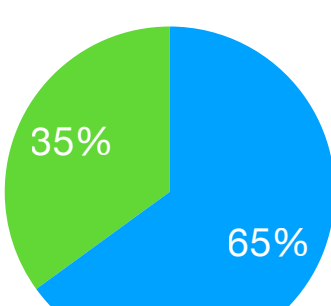
Prod 1: Please continue.

Prod 2: The experiment requires you to continue.

Prod 3: It is absolutely essential that you continue.

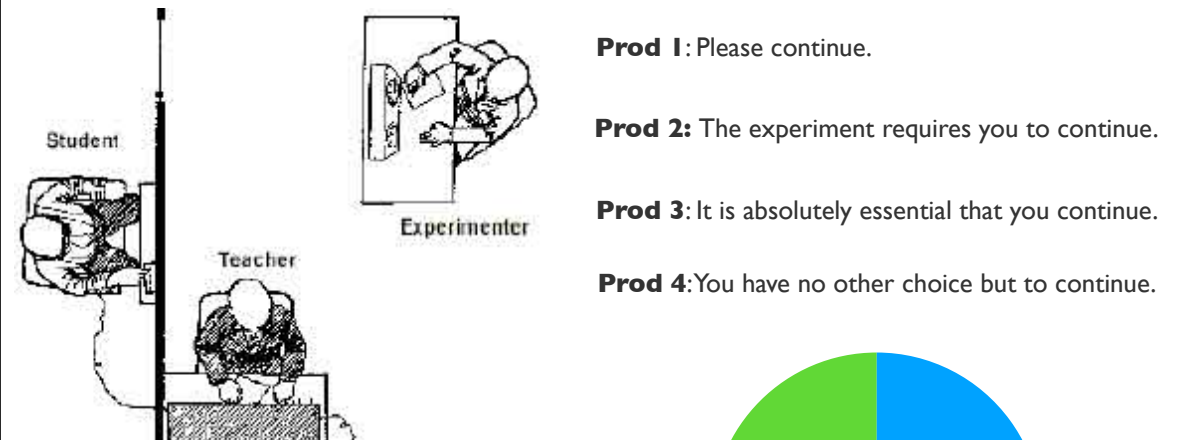
Prod 4: You have no other choice but to continue.

65% willing to shock up to 450 volts



A pie chart with two segments. The larger segment, colored blue, represents 65%. The smaller segment, colored green, represents 35%.

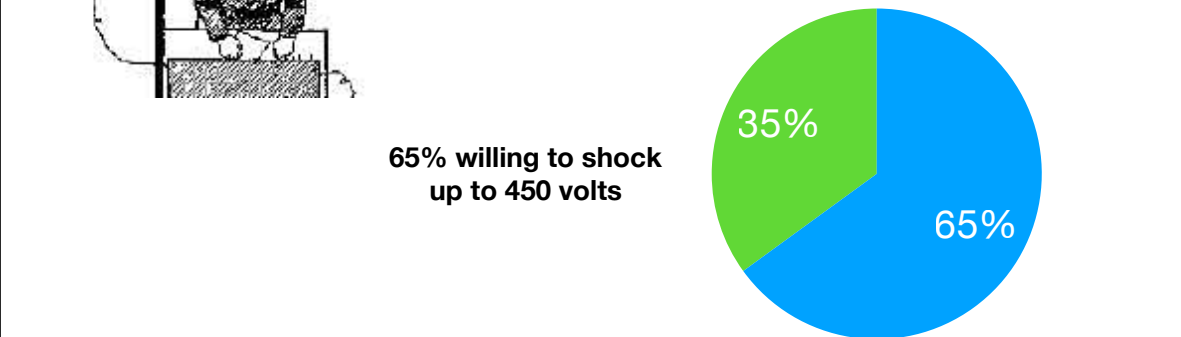
Category	Percentage
Willing to shock up to 450 volts	65%
Not willing to shock up to 450 volts	35%



Teacher _____ Experimenter _____



Frequency	Percentage
Daily	65%
Occasionally	35%



GROUPTHINK/AUTHORITY

- RESPECTFULLY QUESTION AUTHORITY
- ASK FOR AN EXPLANATION
- “THAT’S HOW WE DO IT HERE”, OR “THAT’S HOW WE’VE ALWAYS DONE IT” ISN’T GOOD ENOUGH



**“Unthinking respect
for authority is
the greatest enemy
of truth.”**

Albert Einstein

SHEPARD FAIREY

©Fiorelli, 2019

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- GREED

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Definition of *rationalize* in English:

RATIONALIZERS/JUSTICE

Syllabification: ra·tion·al·ize

Pronunciation: /ˈrɑːʃənəl.aɪz, ˈrɑːʃnə.laɪz ɹ /

VERB

WITH OBJECT

attempt to explain or justify (one's own or another's behavior or attitude) with logical, plausible reasons, even if these are not true or appropriate:

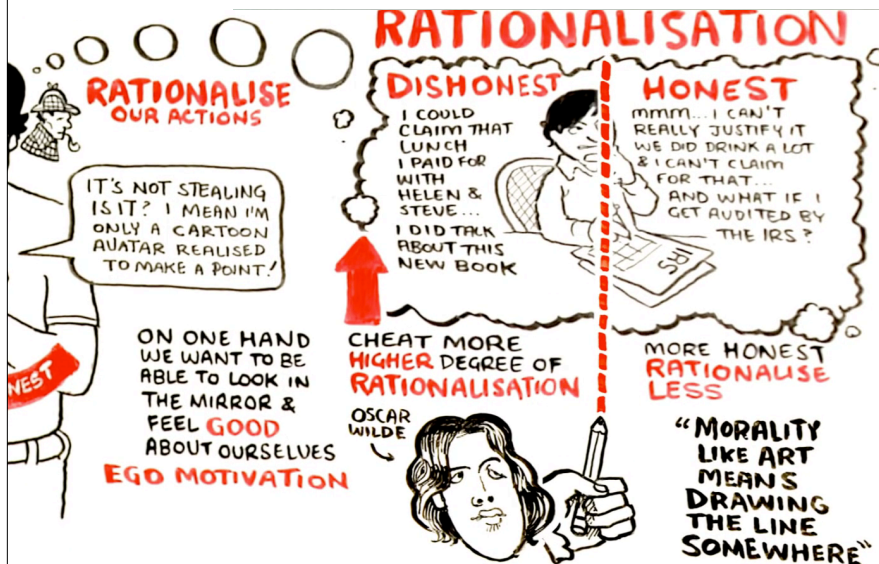
'She couldn't rationalize her urge to return to the cottage'

MORE EXAMPLE SENTENCES

SYNONYMS

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RATIONALIZERS/JUSTICE



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RSA ANIMATE: The Truth About Dishonesty - https://www.youtube.com/watch?v=XBmJay_qdNc

JUSTICE

noun

1.
just behavior or treatment. "a concern for justice, peace, and genuine respect for people"

synonyms:

fairness, justness, fair play, fair-mindedness, equity, evenness, balance, impartiality, objectivity, regularity, disinterestedness, honesty, righteousness, morals, morality "I appealed to his sense of justice"

2.

a judge or magistrate, in particular a judge of the supreme court of a country or state.

synonyms:

judge, magistrate, jurist "an order made by the justices"

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RATIONALIZERS/JUSTICE



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Capucin Monkeys Reject Unequal Pay - <https://www.npr.org/sections/13.7/2014/02/27/283348422/that-s-unfair-you-say-this-monkey-can-relate>

RATIONALIZERS/JUSTICE

- THEY'LL NEVER MISS IT
- THEY'LL NEVER FIND OUT
- EVERYONE IS DOING IT!



©Fiorelli, 2019

RATIONALIZERS/JUSTICE

- CONVINCETHEMYOU:
 - SHAREVALUES
 - SHARE CONCERNS
 - APPRECIATE THEIR WORTH
 - AS MUCH AS POSSIBLE
 - NOT “EVERYONE” IS DOING IT

Right is right even if everyone is against it.
Wrong is wrong, even if everyone is for it.
William Penn



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Definition of *greed* in English:

GREED

Pronunciation: /ɡred ɡred /

NOUN

intense and selfish desire for something, especially wealth, power, or food.

MORE EXAMPLE SENTENCES

SYNONYMS

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GREED

“Every company is just one bad decision or one bad employee away from scandal ... one scandal away from a salacious headline ... and one headline away from a flood of lawsuits.”



Bill Lytton - former EVP and General Counsel, Tyco International

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GREED

Leona Helmsley



“Only
little
people
pay
taxes.”

Ken Lay testimony



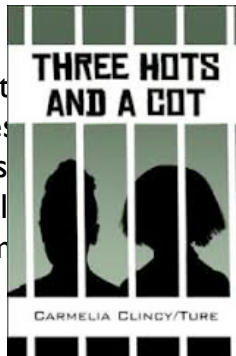
“Rules are important,
but you don’t have to be a
slave to rules either.”

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MARTHA
STEWART

Living

Ma
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com



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IMCLONE

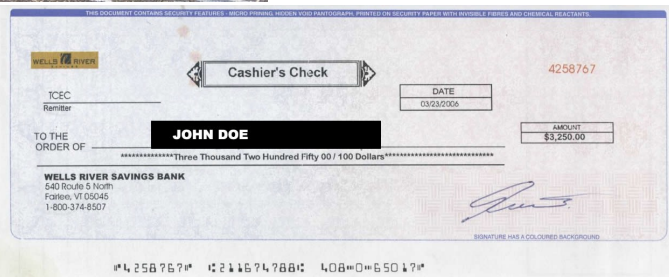
She saved approximately
\$51,000 by selling on
December 27, 2001

What Do White Collar Criminals Cherish?

©Fiorelli, 2019



Offenders serving Home Detention sentences must
wear an electronic ankle bracelet at all times.



©Fiorelli, 2019

Madoff's Jail Time





DUE TO LOSSES CAUSED BY
BERNIE MADOFF
AUCTION

*Original art by Peter Max, Dali, Rockwell, Tarkay and many more. **JEWELRY, ROLEX and other flashy items** DULY Instructed by Millionaire's estate as well as other prominent traders. Seized assets and liquidations will be auctioned off to the highest bidder **REGARDLESS of COST or VALUE** to recover losses from **PONZI SCHEME**.*

MONDAY NOVEMBER 2
AUCTION-11:00 AM, PREVIEW-10:30
INNISBROOK RESORT & GOLF CLUB
INNISBROOK, FL

36750 US Hwy 19 North • Call 727-942-2000 for directions.
License# AB2686, AU2762. For more information please call 770-454-9201.
www.madoffhelpline.com
Items available for auction did not belong to Bernie Madoff but are being offered by victims of the ponzi scheme to recoup losses.



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GREED

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Rajat Gupta's Lust for Zeros

Rajat Gupta's Lust for Zeros



By ANITA RAGHAVAN
 Published: May 17, 2013

"When I look at myself, yeah, I am driven by money," he said. "And when I live in this society, you know, you do get fairly materialistic, so I look at that. I am disappointed. I am probably more materialistic today than I was before, and I think money is very seductive." He continued: "You have to watch out for it, because the more you have it, you get used to comforts, and you get used to, you know, big houses and vacation homes and going and doing whatever you want, and so it is very seductive. However much you say that you will not fall into the trap of it, you do fall into the trap of it."

GREED

- DON'T THINK PHILANTHROPY WILL KEEP YOU OUT OF TROUBLE
 - “Mr Gupta is a good man”, said Judge Rakoff. “But the history of the country and the world is filled with good men who do bad things.” Rajat Gupta, “McKinsey, Goldman, jail”. 10/25/12 Economist.
 - Served time in federal prison from 6/18/14-1/5/16.
- BETTER BOARD OVERSIGHT & GOVERNANCE REGARDING SENIOR EXECUTIVES
- HIRE AND PROMOTE FOR MISSION
 - BETTER BACKGROUND CHECKS
 - BETTER INTERNAL CONTROLS
 - ADDITIONAL REPORTING MECHANISMS
 - PEERS VS. AUDITORS



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SOME PEOPLE ARE JUST BAD



“He is a man of splendid abilities but utterly corrupt. He shines and stinks like rotten mackerel by moonlight.”

Around 1800, John Randolph had this description of Representative Edward Livingston of New York

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TAKE-AWAYS



DON'T

- SQUEAK BY LAWS WITH RAZOR THIN COMPLIANCE
- WISH PROBLEMS AWAY, EVEN IF YOU DIDN'T CAUSE THEM
- JUSTIFY CROSSING A LINE BY RATIONALIZING
 - ONCE YOU START DOWN THE SLIPPERY SLOPE, ITS TOUGH TO REVERSE
- SET UNREALISTIC GOALS, WITHOUT GIVING EMPLOYEES THE RESOURCES TO ACHIEVE THEM
- ACCEPT RESULTS BECAUSE THE COMPANY SEEMS TO BENEFIT FROM IMPROPER BEHAVIOR
- ACCEPT ORDERS FROM A SUPERIOR OR TEAMMATES, BECAUSE THAT'S HOW THEY'VE ALWAYS DONE IT

DO

- ALWAYS GIVE YOURSELF AN ETHICAL BUFFER
- DEAL WITH PROBLEMS YOU'RE AWARE OF ON A TIMELY BASIS
- CONVINCE EMPLOYEES YOU VALUE THEM
 - NOT EVERYONE IS "DOING IT"
- EVALUATE YOUR INCENTIVE STRUCTURE AND TRY TO MINIMIZE THE PRESSURE EMPLOYEES FEEL TO CHEAT
- CONVINCE EMPLOYEES YOU DON'T WANT THEM TO STEAL "FOR" THE COMPANY
- RESPECTFULLY ASK FOR A BETTER EXPLANATION