

Anti-Corruption Metrics & Measurement

FAILURE IS OBVIOUS BUT HOW DO WE MEASURE SUCCESS?



The Circulation of Money, Aachen
Germany, Photo Credit: Jim Linwood

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WHO ARE WE

MARJORIE DOYLE, JD, CCEP-F, CCEP-I

Marjorie Doyle & Associates, LLC
Ethics & Compliance Program Consultant

- Educates Boards and Executives
- Helps CECOs with program design, assessments, coaching
- Instructor all SCCE Academies
- Former HCCA/SCCE Board Member; Dupont's first CECO

PETER GLOVER, MA, CCEP

Center for International Private Enterprise,
Associate Program Officer

- CIPE strengthens democracy around the globe through private enterprise and market-oriented reform
- Develops and manages anti-corruption international development programs
- Focuses on monitoring, evaluation, accountability, and learning for CIPE's anti-corruption programs

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Workshop Plan

- WHY EVALUATE ANTI-CORRUPTION COMPLIANCE PROGRAMS?
- PLANNING FOR EVALUATION
- METRICS OF SUCCESS
- DATA COLLECTION AND SOURCES
- VISUALIZATION AND LEARNING
- SCENARIO

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Why are we interested in evaluating compliance programs?

- MEASURE THE EFFECTIVENESS OF OUR PROGRAMS
 - LEARN AND ADAPT
- BOOST IMPACT, REDUCE CORRUPTION
 - ARGUE FOR MORE FUNDING
- EVIDENCE FOR STAKEHOLDERS

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DOJ April 2019 Guidance:

“ONE HALLMARK OF AN EFFECTIVE COMPLIANCE PROGRAM IS ITS CAPACITY TO IMPROVE AND EVOLVE.”

“PROSECUTORS MAY REWARD EFFORTS TO PROMOTE IMPROVEMENT...[AND] SHOULD CONSIDER REVISIONS TO CORPORATE COMPLIANCE PROGRAMS IN LIGHT OF LESSONS LEARNED.”

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Planning for Evaluation

- PLANNING FOR CONSISTENCY
- UNDERSTANDING THE CHANGE YOU WANT TO ACHIEVE AND HOW YOU EXPECT TO ACHIEVE IT
- DEVELOP "SMART" INDICATORS/METRICS
- PLANNING FOR DATA COLLECTION AND LEARNING

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Understanding Change

THEORIES OF CHANGE SHOW US:

- THE HIGH-LEVEL CHANGE WE WANT TO ACHIEVE
- PATHWAYS OF HOW CHANGE WILL HAPPEN
- INTERCONNECTIONS BETWEEN PATHWAYS
- OUR ASSUMPTIONS ABOUT HOW CHANGE HAPPENS

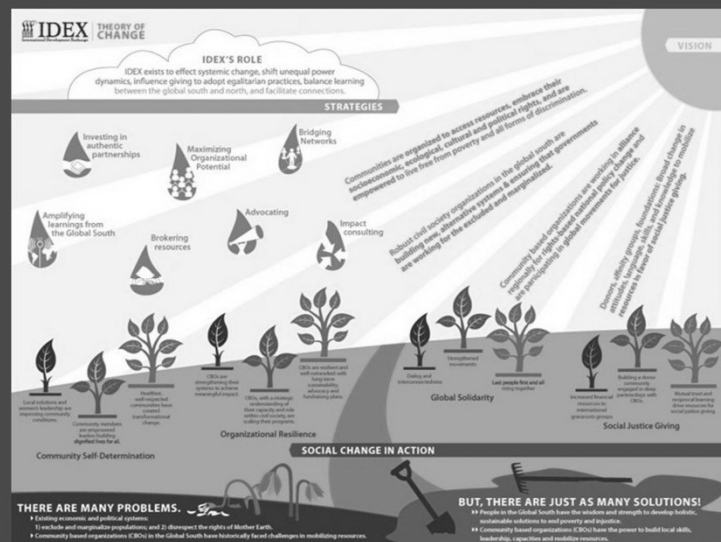
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THEY CAN BE SIMPLE
“IF THEN” STATEMENTS:

- IF WE TRAIN EMPLOYEES ON FCPA COMPLIANCE, THEN...
- IF WE SET UP A HOTLINE THEN...

THEY CAN ALSO BE COMPLEX
AND VISUALLY COMPELLING



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Metrics of Success

- LEVEL OF EMPLOYEE KNOWLEDGE ABOUT CORRUPTION, BRIBERY, AND YOUR COMPLIANCE PROGRAM
- RATE OF PROACTIVE V. REACTIVE QUESTIONS ON THE HOTLINE
- INSTANCES OF POLICY CHANGES AS VALUES AND EXTERNAL STANDARDS CHANGE
- INSTANCES OF EMPLOYEES USING LANGUAGE FROM TRAINING
- INSTANCES OF PEOPLE REPORTING BEING ASKED FOR A BRIBE

OTHERS?

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Data Collection

WRITTEN
DEFINITIONS OF
INDICATORS

SET INTERVALS
FOR DATA
COLLECTION

PLAN FOR USING
DATA

ASSIGNED ROLES
FOR DATA
COLLECTION

AGREED UPON
TOOLS FOR DATA
ANALYSIS

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Benchmarking and Data Sources

- CHANGES IN FINES LEVIED
- BENCHMARKING
- STAFF SURVEYS
- BEFORE AND AFTER TRAINING TESTS
- RUNNING TESTS OF THE SYSTEM
- HOTLINE CALLS
- OTHERS?



SEC Enforcement Actions: FCPA Cases

Enforcement of the **Foreign Corrupt Practices Act (FCPA)** continues to be a high priority area for the SEC. In 2010, the SEC's Enforcement Division created a specialized unit to further enhance its enforcement of the FCPA, which prohibits companies issuing stock in the U.S. from bribing foreign officials for government contracts and other business.

The following is a list of the SEC's FCPA enforcement actions listed by calendar year:

2019

- Telefônica Brasil S.A. – SEC charged telecommunications company Telefônica Brasil with violating the accounting provisions of the FCPA when it sponsored the attendance of government officials at the World Cup and Confederations Cup. Telefônica Brasil agreed to pay a \$4,125,000 penalty to settle the case. (5/9/19)
- Fresenius Medical Care AG & Co. – the German based provider of products and services for individuals with chronic kidney failure has agreed to pay \$231 million to the SEC and Department of Justice in a global settlement to resolve violations of the FCPA in multiple countries over the course of nearly a decade. (3/29/19)
- Mobile TeleSystems PJSC – the Russian-based telecommunications provider agreed to pay \$850 million in a global settlement to resolve violations of the FCPA to win business in Uzbekistan. (3/6/19)
- Cognizant – The New Jersey-based technology company agreed to pay \$25 million to settle

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« ARE 'NEWS DESERTS' THE LATEST RISK FACTOR FOR CORRUPTION? | MAIN | SFO ISSUES GUIDANCE FOR CORPORATE COOPERATION »

What compliance officers can learn from the Notre-Dame fire

By Jonathan J. Rusch | Thursday, August 8, 2019 at 8:48AM



On July 16, the *New York Times* published a special minute-by-minute analysis of events during the April 15 fire in Notre-Dame Cathedral in Paris. That analysis, which includes interactive 3D diagrams of Notre-Dame and the response by firefighters, is worth reading because it indicates

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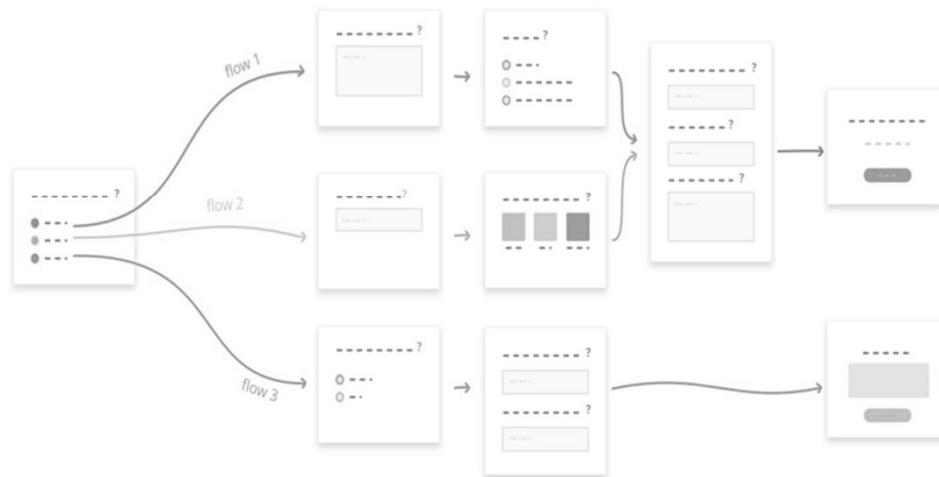
Data Sources

Please select the most appropriate answer to the following statements.

		Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
1.	I understand the reasons for establishing a Compliance Program at .	1	2	3	4	5
2.	The Employee Compliance Guidebook is clear and easy to understand.	1	2	3	4	5
3.	I feel that my management team supports the goals and objectives of the Compliance Program and the Employee Compliance Guidebook.	1	2	3	4	5
4.	I am aware of the policies and procedures that govern my job.	1	2	3	4	5
5.	In the event that a compliance concern comes to my attention, I feel confident that I would report it to a manager/director or the Compliance Program, or other appropriate area.	1	2	3	4	5
6.	The implementation of the Compliance Program has affected the way I perform my day-to-day responsibilities.	1	2	3	4	5
7.	I believe is an ethical organization and is committed to complying with the laws, rules and regulations that govern its operations.	1	2	3	4	5

8.	I am aware of the Compliance Program.	Yes	No
9.	I have consulted or referred to the Employee Compliance Guidebook.	Yes	No
10.	I know where to locate policies & procedures.	Yes	No
11.	I know the name of the Compliance Officer.	Yes	No

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Visualization and Learning

- HOW AND WHY TO VISUALIZE DATA
 - EXAMPLES OF FORMATS
 - FOCUS ON COMMUNICATING
- BUILDING A LEARNING CULTURE:
 - INCENTIVIZE LEARNING
 - EMBED LEARNING AND REFLECTION INTO PROCESSES
 - USE LESSONS TO ADAPT
 - ASK "WHAT DO WE WANT TO LEARN?" AND DEVELOP LEARNING QUESTIONS

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Scenario

TWO SCENARIOS:

- LARGE US COMPANY
- SMALL KENYAN COMPANY

DETAILS ON:

- COMPANY AND COUNTRY
- THE COMPLIANCE PROGRAM
- CONSTRAINTS

YOUR MISSION

- CREATE A SHORT EVALUATION PLAN TO MATCH NEEDS AND CONSTRAINTS
- PRESENT BACK