

LOOK OVER HERE: THE ILLUSION OF RISK REDUCTION

by Jonathan Aronie



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Magicians understand a fundamental truth about human attention: The secret to a successful illusion is not convincing the audience to look away; it is convincing them to look at the wrong thing. As the illusionist explains in the film *Now You See Me*, while everyone is watching one hand, the real work is happening somewhere else. A misdirection. I submit that those of us in the corporate compliance space have fallen victim to a similar illusion over the years.

For decades, organizations have devoted enormous resources directing employees to report violations after they occur — and building an expensive infrastructure to encourage them to do so. Those investments no doubt have made our organizations stronger. Yet, our overwhelming collective attention on “reporting” has resulted in comparatively little attention being paid to “preventing.”

In other words, while the attention of the compliance community has been transfixed by reporting misconduct after it occurs, we have largely overlooked one of the most effective ways to prevent it in the first place: *active bystandership*.

What is active bystandership?

The renowned psychologist Ervin Staub, whose pioneering work laid the foundation for much of today's active bystandership research, defines a *bystander* as someone who witnesses potential or actual harm, recognizes that positive action is needed, and is in a position to take that action.¹ *Active bystandership*, then, occurs when that individual takes action to intervene to prevent (or mitigate) the forthcoming harm.

It is worth pausing here to address a misconception I invariably encounter whenever I preach the gospel of active bystandership from

my compliance soapbox. An active bystandership program is not simply another internal reporting program. Nor is it synonymous with a “speak up” culture, an ethics hotline, or a campaign encouraging employees to raise concerns. Internal reporting systems ask, “Who should I tell?” Active bystandership asks, “What can I do?”

The distinction is more than semantic. Traditional reporting programs are designed to mobilize the organization *after* a concern has been identified. Active bystandership, in contrast, is designed to mobilize individuals before an avoidable action or inaction creates harm.

A corollary to this key difference is this: Whereas traditional speak up efforts remind employees of their ethical and legal obligations, active bystandership teaches employees practical skills and tactics so they can meet those obligations.

Intervening, of course, is hard, even for well-intentioned people. But the power of meaningful active bystandership training lies in a remarkably simple insight: Humans are far more likely to do something difficult when they possess both the skills and the confidence to do it.

That skill and confidence, not surprisingly, comes from meaningful training — and a culture that reinforces that training. This is not idle theory. Staub and others have been researching the issue for decades. According to Staub:

Research, my own and that of many others, has investigated the roots of active bystandership, why people intervene to prevent harm, and why they do not. Most importantly, we

have demonstrated that active bystandership can be learned. When people receive training in the skills of active bystandership, they are more likely to overcome inhibitors and barriers to intervention. When organizations create and maintain a culture in which bystanders are valued and protected, the people who live and work there are more likely to intervene to prevent harm.²

At its core, then, when I refer to active bystandership as a corporate risk reduction tool, I mean this: giving employees the *skill* to notice when an intervention is necessary; the *tactics* to intervene safely, respectfully (when appropriate), and effectively; and the *support* they need when they do so.

There is no magic to any of this. I am not advocating some touchy-feely, new-age manifestation of positive thinking. Active bystandership works because:

- ◆ It is evidence-based.
- ◆ It is simple.
- ◆ It gives actionable tools to those best positioned to stop harm before it occurs.
- ◆ It focuses not on the saints or the sinners, but on the rest of us.
- ◆ It works *with* human nature rather than working *against* it.

How do I know this? Not because I read a few interesting journal articles or stayed at a Holiday Inn Express. I came to believe in active bystandership the old-fashioned way: by watching it transform an organization from the inside. My introduction to active bystandership began in an

unlikely place: the New Orleans Police Department (NOPD).

Behind the curtain

On January 28, 2015, I received an email from a prominent civil rights attorney asking for my help developing a “peer intervention” program for the NOPD.³ The request came not only from a civil rights advocate, but also from police officers and community leaders — a coalition unusual enough to capture my attention immediately. I had been appointed by the U.S. District Court as federal monitor over the NOPD Consent Decree — then, and probably still today, the most far-reaching public-sector consent decree in the country — only 18 months earlier and was still getting my bearings. I didn’t know exactly what a peer intervention program was, but I knew enough to recognize that if people from every corner of the debate believed it was worth pursuing, I wanted to understand why.

My “happy to help” response prompted the delivery of a banker’s box filled with social psychology

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research papers to my hotel room, followed by introductions to several of the country's leading social scientists. With every article, study, and conversation, one conclusion became increasingly difficult to ignore: When organizations deliberately teach people how to intervene, they reduce mistakes, reduce misconduct, improve performance, and often strengthen the culture itself.

I had the privilege of serving as a pro bono member of the NOPD working group that developed and launched the country's first department-wide active bystandership program for law enforcement in 2016 — EPIC (Ethical Policing Is Courageous). While it is difficult to quantify the effectiveness of an active bystandership program — because when an intervention works as intended, nothing happens — one would be hard-pressed to find a credible observer of the NOPD who would dispute that the department's disciplined approach to teaching the skills and tactics of active bystandership played a material role in its cultural transformation.

Following the killing of George Floyd in Minneapolis in May 2020 — and the viral video of the three officers who were in a position to stop the harm but took no or inadequate action — police departments, municipalities, and community groups started reaching out to those of us who developed EPIC to ask how they could do the same in their cities.

The outpouring of interest drove several of us involved in the New Orleans effort to develop a national program modeled after NOPD's EPIC. The Active Bystandership for Law Enforcement (ABLE) Project

was launched in 2020 through a partnership between Sheppard Mullin and the Georgetown Law Center, and has already trained more than 3,200 instructors, who have trained more than 175,000 officers in more than 430 agencies across the U.S.⁴ ABLE's mission, like EPIC's, is to teach officers the skills and tactics to intervene in the behavior of another officer *before* harm occurs — something I previously have called the “missing link in risk reduction programs.”

Different professions, same conclusion

My confidence in active bystandership, though, does not come from law enforcement alone. It comes from a decade spent studying the social science behind bystander behavior and watching how organizations across a wide range of high-risk professions have translated that research into practical risk-reduction initiatives.

The earliest research, conducted throughout the 1960s and 1970s, focused primarily on understanding why even good people so often fail to intervene.⁵ The application of those insights to organizational risk management came later — but it now has been successfully adopted across remarkably different professions, each arriving at essentially the same conclusion: If you want to prevent avoidable harm, you must teach people how to intervene before the harm occurs.

- ◆ **Aviation** embraced active bystandership in the late 1970s through Crew Resource Management (CRM), which helped reduce pilot errors.⁶
- ◆ **The National Highway Traffic Safety Administration** launched its award-winning *Friends Don't Let Friends Drive Drunk* campaign

in 1983, enlisting friends as active bystanders to prevent impaired driving.⁷

- ◆ **Healthcare** adopted its own version of CRM in the early 2000s, empowering and educating doctors and nurses to intervene on their peers to prevent avoidable errors.⁸
- ◆ **Colleges and universities** soon followed, training students in active bystandership to help prevent sexual assault and other campus harms.⁹

The same pattern emerged beyond the professions previously discussed.

For example, a few years ago, Steven Hansen, CEO of the Utah State and Local Government Trust, and I wondered whether the principles of active bystandership could reduce risk across municipal government more broadly. We believed they would. To test that hypothesis, we analyzed five years of claims data from the Trust's 227 members, asking a simple question: In how many claims was another employee in a position to intervene before the loss occurred? We identified more than 2,500 claims involving over \$23 million in losses where active bystandership opportunities appeared to exist.¹⁰ While we couldn't know whether those employees *actually* recognized the impending risk, the findings reinforced what every profession that has embraced active bystandership eventually discovers: Opportunities to prevent avoidable harm through timely intervention are far more common than most organizations realize.

If opportunities for active bystandership are this prevalent across aviation, healthcare, higher education, law enforcement, and municipal government, there is

little reason to believe corporate America is somehow different.

Corporate's blind spot

Despite investing billions of dollars annually in ethics and compliance programs, corporate compliance hasn't embraced active bystandership as a preventive discipline.

The purpose of this article is not to diminish the importance of hotlines, speak-up programs, or the like — quite the opposite. Strong reporting systems remain vital to every effective compliance program. But after decades of encouraging employees to report misconduct after it occurs, I believe we have paid comparatively little attention to an equally crucial question: How do we equip employees to prevent that misconduct *before* there is anything to report?

I believe the answer is not to replace our existing compliance programs, but to supplement them.

Traditional compliance training tells employees not to violate the rules. Active bystandership teaches everyone else what to do when someone they care about doesn't listen (or misunderstands). The employee most likely to prevent a compliance failure is often not the person about to make the mistake; it is the colleague standing next to them.

I cannot prove that proposition with empirical evidence. But after more than 30 years conducting internal investigations, I have little doubt about it. As I think back over the hundreds of investigations I have led, I can certainly recall cases involving bad actors who were determined to violate the rules and cover their tracks. But those are not the norm. Far more common are the matters in which a fundamentally decent employee is about to make

a poor decision, and colleagues see it unfolding, but no one intervenes before the damage is done.

Stated more directly: many (if not most) of the compliance matters I have investigated over the years could have been avoided — or at least significantly mitigated — if a colleague had possessed the skills and confidence to intervene before the forthcoming harm occurred.

Reporting always will have a critical place in corporate compliance. But reporting another employee is psychologically, professionally, and personally difficult. If it were easy, pilots, physicians, police officers, clergy, military personnel, and countless others would have been doing it consistently decades ago. The historical record tells us otherwise.

Active bystandership derives much of its power from recognizing this reality. Rather than waiting until misconduct has occurred and asking, "Who should I tell?" active bystandership asks a different — and much earlier — question: "What can I do?"

That distinction shifts the focus from detecting misconduct after the fact to preventing it in the first place. And I believe that if meaningful active bystandership training became a routine component of corporate compliance programs, organizations would see fewer avoidable mistakes, fewer compliance failures, and ultimately fewer investigations — not because employees will speak up less, but because there simply will be less misconduct to report.

The reveal

The success of every great illusion depends on misdirection. The

audience isn't fooled because it isn't paying attention; it's fooled because its attention has been drawn to the wrong thing.

I believe the same is true — at least to some extent — of corporate compliance.

After decades of encouraging employees to report misconduct after it occurs, I believe we have paid comparatively little attention to an equally crucial question: How do we equip employees to prevent that misconduct before there is anything to report?

The most substantial omission in our compliance programs is not the quality of the training we conduct; it is the gap left by the training we do not conduct. It is the intervention that never occurred — the colleague who never tapped a coworker on the shoulder, the manager who never asked one more question, the employee who could have prevented an avoidable mistake — because the potential intervenors never were taught how to intervene.

We can — and should — continue investing in ever more sophisticated hotlines, AI-enabled monitoring, forensic analytics, and post-incident investigations. Those are valuable tools, and they will remain indispensable. But they all share one major shortcoming: They are designed primarily to detect, investigate, or respond to

misconduct after the chain of events already has begun.

Active bystandership, on the other hand, shifts our attention to an earlier — and often far more preventable — moment. It equips ordinary employees to interrupt a chain of events before an avoidable action becomes misconduct or otherwise causes harm.

Implementing this shift, of course, takes time and effort. One of the many (unsurprising) discoveries from watching the 435 law enforcement agencies implement their ABLE programs is that the way one implements a program designed to transform culture matters. For an organization that wants to maximize the benefits of an active bystandership program — as opposed to handing out a PowerPoint and checking a box — I offer the following approach.

- ◆ Take the time to understand what active bystandership is and how it differs from traditional speak-up and reporting programs. A lot has been written about the principles that make active bystandership so powerful.¹¹
- ◆ Seek leadership buy-in early. Tone at the top matters. When leadership understands and promotes the return on investment of active bystandership, managers and employees are not far behind. (Indeed, I often will give leadership a one-hour tailored executive session of their own before any implementation begins.)
- ◆ Decide who within the organization will “own” the initiative. In New Orleans, we were very intentional in not having Internal Affairs run the program. We did this because active

bystandership is not a reporting program and not a discipline program. Non-law enforcement organizations should be equally thoughtful in who leads the implementation effort.

- ◆ Develop an implementation plan and a reinforcement plan. It will not surprise you to learn that, like most skills, active bystandership skills become rusty over time. Employees and leaders alike are more likely to intervene in a colleague’s behavior if they are confident in their skills.
- ◆ Take advantage of live training when possible. The best active bystandership training I have seen (and conducted) involves significant real-time discussion. A good teacher, who understands the science and has seen the results, can energize most any group.
- ◆ And finally, keep the training fresh and tailored to your organization. While the

underlying science and skills are the same, my active bystandership presentations to law enforcement look and feel a bit different from my presentations to corporations. This is not by happenstance.

These steps, coupled with a commitment to holistic implementation, will go a long way toward recognizing the full benefits of active bystandership.

Like the audience watching a master illusionist, we have spent years looking exactly where our attention was understandably drawn, without realizing that the more important action was unfolding elsewhere. We became exceptionally good at helping employees answer the question, “Who should I tell?” The greater opportunity — the one that has been hiding in plain sight all along — is helping them answer a different question before there is ever anything to report: “What can I do?” 

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Takeaways

- ◆ Active bystandership has worked to reduce mistakes and misconduct in multiple industries, including law enforcement, aviation, and healthcare. Corporate compliance is late to the game.
- ◆ Active bystandership is materially different from traditional reporting programs in that it teaches an actionable skill.
- ◆ Active bystandership does not focus on the few wrongdoers; it focuses on the majority of us who would do the right thing if we knew how.
- ◆ Decades of evidence clearly demonstrate that active bystandership can be taught—and learned.
- ◆ Active bystandership training should be part of a broader holistic effort to teach and reinforce skills. Telling employees to read a PowerPoint alone won't cut it.

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