

Evidencing a Culture of Compliance

Key Points:

- **DOJ Guidelines stress the importance of evidencing a “Culture of Compliance”**
- **Less than one in five survey respondents can provide independent evidence of a Culture of Compliance**

In its June 2020 [Evaluation of Corporate Compliance Programs](#) guidance, the Department of Justice (DOJ) asks questions relating to an organization’s ability to evidence a “Culture of Compliance.” The DOJ guidance stresses that “beyond compliance structures, policies, and procedures, it is important for an organization to create and foster a *culture of ethics and compliance* with the law at all levels of the company.” Prosecutors are instructed to assess whether there is “a high level of commitment by company leadership to implement a culture of compliance from the middle and the top.”

The challenge for the Compliance Officer is how to be able to provide convincing independent evidence to answer these questions. Since prosecutors would be asking these types of questions of organizations that have been found violating laws, they are not likely to accept attestations or internally generated documents of compliance as being credible. In addition, questions about an organization’s culture relate to outcome, not process outputs. Therefore, just providing training, public statements by executive leadership, and policy documents would not in themselves answer these culture-related questions.

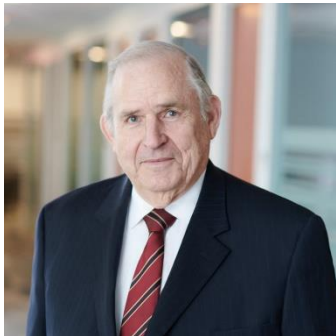
From the results of the [2022 Health Care Compliance Benchmark Survey](#), developed and analyzed by Strategic Management, it became clear that most organizations were not adequately prepared to provide the necessary independent credible evidence. Nearly 60 percent of respondents reported relying solely on internally generated information to evidence their “culture of compliance,” with 14 percent reporting not being able to provide any evidence. Only 17 percent reported being able to have independent evidence from sources outside the control of the

organization. If the DOJ or OIG were investigating an organization, they would give little credence to internally generated information that was not supported by independent outside reviewers.

Click [here](#) for information on the 2022 survey.

A webinar was recently held summarizing the survey responses. Click [here](#) for the questions and answers resulting from the webinar.

For more information on Compliance Culture Surveys, contact Richard Kusserow (rkusserow@strategicm.com).



About the Author

Richard P. Kusserow established Strategic Management Services, LLC, after retiring from being the DHHS Inspector General, and has assisted over 2,000 health care organizations and entities in developing, implementing and assessing compliance programs.