

From Bourbon Street To The Board Room: Eight Aids To Sustaining Reform

By: Jonathan Aronie, Partner, Sheppard Mullin Richter & Hampton

**This article originally appeared on Ethisphere.com*



There is no shortage of institutions – public or private – looking to implement reforms these days. A transportation company struggles to rehabilitate its corporate culture after allegations targeted at its leadership team. A financial institution spends massive amounts of time and money reforming its internal practices following a public scandal. An automobile manufacturer rebuilds lost public trust on the heels of reports it falsified safety records. And multiple major city police departments strive mightily to restore their tarnished brand after long histories of unconstitutional policing.

But these are just the tip of the reform iceberg. Countless organizations – from small businesses to multi-national corporations to domestic and foreign governments – engage in systemic efforts to change internal policies, practices, and/or culture all the time. Indeed, it seems “reform” has become the rule, not the exception.

Implementing meaningful, *lasting* reform, however, is not an easy task. The Internet is littered with stories of institutions heading down the road to reform only to have their path blocked by new leadership holding a new map. As a Government Contracts/False Claims Act lawyer often called upon to implement ethics and compliance programs in the corporate sector – and as the judicially-appointed Monitor responsible for overseeing the New Orleans Police Department’s (NOPD’s) compliance with a 492-paragraph

Federal Consent Decree – I constantly am looking for ways not only to implement sensible, practical, and meaningful reforms, but to ensure those reforms are sustained.

While there is no foolproof formula to prevent backsliding in a large organization, there are a number of strategies that can help sustain change over time. Let’s call them our *Eight Aids To Sustaining Reform*. My colleagues and I use them in New Orleans as well as in the corporate sector. They are simple, logical, and practical. They are useful for any organization interested in self-improvement, and they hold promise whether the reform effort is compelled by a directive from an enforcement authority, “suggested” by the results of an internal investigation, or a purely voluntary act of self-improvement.

- **Strategy 1: Establish institutions that are difficult to dismantle.**

As Newton famously observed, objects in motion tend to stay in motion. Our experience in the public and private sector teaches us this law applies in the C-Suite just as in the physics classroom. Like the rest of us, leaders do not like creating extra work for themselves. This trait can be used to help institutionalize cultural and procedural reforms. The recent improvements surrounding the NOPD Police Academy provide an apt illustration of this principle at work.

Following a lengthy 2011 investigation into the policies and practices of the NOPD, the U.S. Department of Justice concluded, among other things, that the NOPD training program was “severely deficient in nearly every respect.” Against this background, the New Orleans Consent Decree demanded a lot from the NOPD in terms of Academy reforms, including new structures, programs, courses, lesson plans, and more.

As the Police Department and the Monitoring Team worked together to implement these reforms, we looked for ways to ensure the new programs put in place would be hard to dismantle by a future administration. Adding new courses to the curriculum and developing compliant lesson plans was part of our reform strategy, of course, but we supplemented the creation of those courses and lesson plans with the creation of a *process* for the ongoing development, review, and promulgation of new programs. That process integrated the efforts of multiple departments beyond the Academy itself, including patrol units, supervisors, district commanders, internal affairs, and more. The highly integrated nature of the resulting reforms will make it harder for future leaders to move in a different direction because the absence of any one element of the new structure will cause a disruption in a number of other areas – thus, creating more work for more people.

There are plenty of corollaries to this approach in the commercial context. A government contractor working to dig out from allegations of pricing non-compliance, for example, might implement an internal pricing review process that brings together multiple teams within the company, requiring them to work together to ensure compliance with the terms and conditions of the company’s federal contracts. A manufacturer in trouble for safety violations might create a multi-departmental safety review process that engages different company functions to work together to identify, reveal, and solve safety problems. A healthcare company alleged to have paid kickbacks to manufacturers might involve sales, marketing, capture management, and internal audit in a holistic solution.

The bottom line is reform programs that integrate the efforts of multiple groups are harder to dismantle than programs that are siloed within a single group.

- **Strategy 2: Establish institutions that the organization’s personnel do not want to dismantle.**

An organization’s personnel, whether police officers, government employees, or corporate executives, have no interest in dismantling reforms that have made their jobs safer, their work easier or their reputation stronger. We put this principle into play throughout our work in New Orleans and in the private sector.

As part of its reform efforts, the New Orleans Police Department was required by its Consent Decree to provide for the health and wellness of its officers. The solution was the creation of a formal Officer Assistance Program (OAP), which provides real-time services and other resources to NOPD’s sworn and civilian employees. Few officers would support dismantling that structure when the Consent Decree comes to an end because they recognize it has made their jobs easier and safer.



The EPIC program teaches officers strategies and tactics for effectively intervening in another officer’s conduct to prevent mistakes and misconduct before they occur.

The NOPD’s development of a trailblazing peer intervention program called EPIC (for Ethical Policing Is Courageous) is another example of a reform officers would not want to dismantle. The EPIC program teaches officers strategies and tactics for effectively intervening in another officer’s conduct to prevent mistakes and misconduct before they occur. The program has received broad support within the Department and the community, and covered by the *New York Times*. Few officers would have any interest in dismantling a program so widely supported and so clearly of benefit to the officers themselves.

Corporations and other organizations can apply this same strategy to increase the sustainability of their reform efforts. Sometimes, of course, this will require educating employees as to the benefits of the reforms. Some infrastructure and process changes within an organization look to the employees charged with implementation as “just more work for us” at first. But with a robust education campaign, candor and transparency, the benefits of long-lasting reform usually can be brought to light. Additionally, combining the reform measures with changes employees see as directly benefitting them can be the spoonful of sugar that helps the reform medicine go down.



Ensuring the right people are on the bus can help an organization institutionalize cultural and procedural reforms.

• **Strategy 3: Change who is on the bus.**

In his book *Good To Great*, Jim Collins explains how great companies invest time and energy getting the “right people on the bus.” The potential beneficiaries of this principle are not limited to corporations, and the benefits are not limited to profitability and corporate longevity. Ensuring the right people are on the bus can help an organization institutionalize cultural and procedural reforms.

As a Federal Monitor, I do not make personnel decisions for the NOPD. Likewise, as an outside counsel, I do not make personnel decisions for my corporate clients. But I do make my views known when, in the course of my reform efforts, I encounter an individual or group of individuals who support reform, just as I point out those acting inconsistent with the ethical ideals being promoted by the organization.

In New Orleans, I routinely bring to the attention of Department leadership officers and supervisors who have bought in to the Department's ongoing cultural transformation. I do the same thing for my corporate clients. On the flip side of this personnel coin, when I come upon individuals or groups that have not received the message that “things are changing,” I am equally quick to bring those folks to the organization's attention.

While new leaders of an organization certainly have the ability to make personnel decisions that are inconsistent with prior reform efforts, the more compliance-minded individuals are in positions of leadership, the more difficult reforms are to dismantle.

• **Strategy 4: Let them see the world.**

It's easy to think your problems are unique and to miss opportunities for innovative solutions when you don't have visibility into how other organizations deal with similar problems. By exposing personnel to the obstacles and innovations of others, an organization makes it harder to revert back to the “old ways” of doing things as time passes.

Prior to its recent reform efforts, New Orleans police officers had surprisingly little visibility into the profession of policing beyond New Orleans. The NOPD is not a wealthy organization and, as a consequence, NOPD officers rarely were afforded the opportunity to attend conferences, visit other departments, or collaborate with national policing experts. Since 2013, however, the Department's efforts to learn from other departments have increased. Officers and leaders now have more opportunities to see how other police agencies have solved the same issues NOPD faces. It's hard to complain that a new program is “not workable in our organization because we are unique” when you have seen it work in other organizations just like yours.

This strategy applies just as effectively in the corporate setting. Subscribing to professional periodicals and journals, joining industry associations, attending conferences, and participating in exchange programs all combine to open both an organization's and individuals' eyes to innovative solutions to common problems, to combat the “it can't be done” mindset, and to create a healthy competitive effort to “do it even better than company X did.”

- **Strategy 5: Set expectations and lock in transparency.**

Over the past few years, the New Orleans Police Department has made an unprecedented volume of data publicly available. Calls for service data and Use of Force data, for example, now are accessible at the click of a mouse. As a result, the New Orleans community has come to expect this sort of openness from its police department. This expectation will make it tough for a future leader to reverse course. What future police chief wants to be the one to tell the community, “I’m going to take away the data you have come to expect from us”?

Establishing an expectation of openness and transparency in the corporate sector is just as powerful to help sustain reforms. In 2011, for example, Goldman Sachs faced global criticism that it put its corporate interests ahead of its clients. The criticism (along with an SEC investigation) prompted Goldman to embark upon an extensive reform agenda, which, among other things, involved greater transparency to its customers.

Similarly, just last year, Twitter faced significant pressure to reform its practices following allegations that Russian-backed groups exploited its ad platform. One element of Twitter’s reform effort involved greater transparency with respect to who funds what ads. As customers come to expect this sort of transparency, both companies will have a difficult time backing away from their public commitments. As with the NOPD, what future corporate leader wants to tell his or her customers and investors, “We have decided to become less transparent”?

- **Strategy 6: Promote reform initiatives and successes publicly.**

It is a challenge to back away from commitments when you share those commitments with others. Last year, a friend of mine was determined to run a half marathon. She never had run one before and embarked upon an impressive training schedule. To help her stay the course, she shared her plans with everyone. Later she confessed she had thought about abandoning her goal several times during the training program, but kept at it to avoid the “public shame” of admitting defeat.



The same sense of pride (or fear of failure) that drove my friend to complete her training and run her half marathon can help an organization carry through with its reform commitments. When an organization starts along the path of implementing change, it should be as open about its plans as possible. Such openness not only gives the organization well-deserved credit for its goals, it makes it harder to back away from those goals as time goes on. Here again, what CEO wants to admit he or she is abandoning a reform initiative to which the company already has committed publicly?

The New Orleans Police Department has taken advantage of this strategy with great success. It shares its reform initiatives with its personnel and with the community, provides frequent public updates, and publicizes its successes (and challenges). The NOPD, of course, is under a federal Consent Decree and, consequently, has certain legal obligations to publicize its efforts. Obviously, there are times when an organization may not want to share (or cannot share) its reform plans with the world, or even with its own employees. This is understandable. But if an entity’s goal is to achieve meaningful and sustained reform, being public about the effort, in appropriate cases, can pay big dividends.

- **Strategy 7: Formalize reform initiatives into policy.**

Whether an organization is implementing reforms due to an enforcement proceeding, as the result of pressure from the public, or voluntarily, at the end of the day, reform initiatives are only as good as the reform-minded leaders in place to enforce them. A change in leadership can bring about a change in organizational direction.

The Pittsburgh Police Department found this out the hard way following years of impressive reforms spawned by a federal Consent Decree. Four years after the Pittsburgh Consent Decree came to a successful end in 2002, a new mayor dismissed the police chief who had championed the reform process and rolled back many of the changes he had put in place. “Over time,” according to the *New York Times*, “various aspects of the consent decree fell out of use.” Indeed, it appears “fell out of use” may have been an understatement as one of the later police chiefs went to prison during a post-Consent Decree corruption scandal.

One step the City of New Orleans took to help lock in its police department’s reforms was to incorporate the core components of its Consent Decree into a formal City regulation. While a regulation can be undone by a future City Council, it cannot be undone in secret by a new police chief. Consequently, the community would be made aware of any backsliding and would have the opportunity to weigh in on the legislative process to fight for the continuation of the reforms.

While corporations don’t have regulations or ordinances per se to help lock in corporate reforms, reform initiatives still can be formalized through written policies, incorporated into the company’s Code of Conduct, or even promulgated as a Board resolution. Such formalization does not guarantee the reforms will be sustained over time, but it will make it less likely they fall prey to the ever-shifting political and corporate imperatives of new management.

• **Strategy 8: Implement meaningful measurement techniques, including audits and evaluations.**

Peter Drucker, the famed business management consultant, said, “if you can’t measure it, you can’t manage it.” The concept is a critical one for sustaining organizational reforms over time. A corporate business ethics and compliance program, for example, is far more likely to have legs if the company’s internal audit function regularly measures its effectiveness. A city’s reform efforts will have a better chance of longevity when an inspector general periodically kicks its tires.

We use this strategy continuously in New Orleans. We measure everything, from uses of force to pedestrian stops to citizen complaints. We do this not only to evaluate the current state of NOPD compliance with its Consent Decree, but also

to evaluate how likely those reforms are to be sustained over time. Indeed, to help sustain the Department’s reforms, the New Orleans City Council has committed to maintain a “compliance bureau” within the police department charged with evaluating on an ongoing basis the full range of NOPD programs, including all Consent Decree-driven reform initiatives.

Experience teaches us it is far too easy for a leader to lose interest in a reform program if he or she doesn’t have to see the results of his or her inaction in black and white. Having to look at the data reveals successes or failures, and makes it harder to ignore the failures. To put a slight spin on Professor Drucker’s management adage, if you want to manage something, measure it.



Corporations, service organizations, and public entities all make mistakes – some understandable; some inexplicable. As long as humans remain fallible, there will be organizations in need of reform. And as long as there are organizations in need of reform, there will be a need to sustain those reforms. The strategies discussed above offer a roadmap to sustainment. While this roadmap will not guarantee an organization will arrive at its intended destination, it should help minimize dangerous and costly detours along the way.

Author Bio



Jonathan Aronie is a partner in the Washington, DC office of [Sheppard Mullin](#), and the co-leader of the firm’s Government Contracts and Internal Investigations Practice Group. In 2013, Jonathan was appointed by the U.S. District Court for the Eastern District of Louisiana to serve as the Federal Monitor over the NOPD Consent

Decree, the most comprehensive Consent Decree in the country. While not promoting constitutional policing in New Orleans, Jonathan represents corporations in classified and unclassified Government Contracts and False Claims Act matters. He is the author of more than 85 articles and the co-author of three legal books. Jonathan lives in Bethesda, Maryland with his wife, two teenage daughters, and their very large, furry dog. He can be reached at jaronie@sheppardmullin.com.