

CHAPTER 1

The Prevalence (and Ambiguity) of Deviant Behavior at Work

An Overview

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Jake LaFrentz, human resources (HR) manager at Fistra, a company of approximately 100 employees, sought to increase the level of employee involvement in the organization. To do so, LaFrentz and Fistra's president, Barbara Maggio, began a series of town hall meetings with the employees to answer their questions and concerns about company operations. The employees were told to come to the meetings with questions and to say what was on their minds.

Just 15 minutes into the very first meeting, an employee named Joe stood up and started berating the president and complaining that an employee had received a big raise not to leave Fistra, whereas another employee—a friend of Joe's—was not given any more money to stay. LaFrentz attempted to interject that the complaint was inaccurate, but Joe refused to yield the floor.

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“He told me not to interrupt until he was finished,” LaFrentz said. “Joe went on for about 15 minutes saying that management could not be trusted and calling me and the president liars even after we explained his allegations about the pay raises were not true. Basically, after he had finished, the time set aside for the meeting was over.”

LaFrentz’s first reaction was to start proceedings to discipline Joe due to his aggressive attacks and insults directed at the company president and personnel director. “He embarrassed us in front of several employees,” LaFrentz said. “I don’t think it was appropriate for him to bring up pay issues involving specific employees, and I certainly think he was insubordinate for attacking us the way he did. This sort of behavior just doesn’t happen at Fistra.”

But Maggio suggested that it would not be a good idea to take action against Joe for what he said at the meeting even though he had been so insulting and cantankerous. After all, she said, LaFrentz and she had asked the employees to come to the meeting and say what was on their minds—and that is what Joe did.

This incident, related to the authors by the HR manager of an actual organization whose name has been disguised, illustrates a dilemma that often arises when the subject of deviant behavior in the workplace is raised. Joe apparently broke an established organizational norm by questioning company officials in what they perceived to be a belligerent manner. Thus, company officials identified Joe as a deviant. That raised the question: What should the company do about it? Was Joe engaging in insubordination and spiteful behavior as the HR director believed, or was he exercising an invitation to sincerely voice concerns to those in power at the company? His behavior broke a norm, but did it damage the organization? Would the HR manager’s proposed use of discipline have had a more damaging effect?

These types of questions, related workplace behavior, and the theoretical underpinnings of organizational deviance are examined throughout this book. This chapter provides an overview of deviance and its negative impact on the workplace, reviews different types of and approaches to deviance, discusses the potential ambiguity of deviant behavior, and then briefly considers some of the psychological and sociological processes that underlie unethical and deviant workplace behavior. Drawing on organizational conflict research, the chapter concludes by suggesting a general approach that can be used to manage organizational deviance both effectively and ethically.

The Pervasive Nature of Organizational Deviance

Deviance in the workplace has been defined broadly as acts committed by organizational members that have, or are intended to have, the effect of damaging coworkers, managers, or the organization itself (Bennett & Robinson, 2003; Robinson & Bennett, 1995; Robinson & Greenberg, 1998; Vardi & Weitz, 2004). Such behavior at work has received much broadcast play and media ink over the past several years. This notoriety is often due to the sensational negative consequences associated with improper behavior in organizations: financial ruin of many rank-and-file workers due to illegal actions by corporate managers, multiple

murders and other violence committed by employees in the workplace, and expensive sexual harassment verdicts. It would be difficult, if not impossible, to produce a truly accurate estimate of the cost of deviant behavior in the workplace, particularly when one includes its many forms—corporate fraud, employee theft, bullying and harassment, revenge, withholding job effort, drug and alcohol abuse, and violence—and the measures taken to prevent and correct them. Yet total estimates in the billions of dollars are routine (Bennett & Robinson, 2003).

To illustrate the pervasive problem of workplace deviance and its negative consequences, consider the sobering statistics in just one survey of 600 hourly restaurant industry workers in Texas and Florida, as reported by Berta (2003). More than a quarter of survey respondents admitted to touching coworkers in a sexually inappropriate way, and 21% of respondents observed coworkers stealing cash but did not report the incidents to management. In addition, 22% reported calling coworkers insulting names, 37% made fun of coworkers' or customers' accents, and 12% prepared or served intentionally contaminated food to customers. Finally, 24% of respondents admitted taking illegal drugs just before coming to work.

During recent years, employees have developed clever and creative means to engage in negative activity. Some of these include using the Internet to play online games and download pornography, transmit harassing and/or threatening e-mail messages, and set up rogue websites to trash their companies to the world (Ackroyd & Thompson, 1999; Armour, 1999; Bennett & Robinson, 2003; Leonard, 1999). And the more traditional and deadly manifestations of workplace deviance continue. In August 2003, after a gunman killed six workers at an auto parts warehouse in Chicago, a wire service provided a record of major workplace shootings in the United States since the mid-1980s. The report listed 23 cases of multiple murders that resulted in the deaths of more than 130 people, not including the perpetrators who killed themselves or were killed by police ("A Record of Workplace Shootings," 2003).

Specific cases of deviant behavior are not hard to find in major newspapers, on television, or in Internet accounts. Optimists can only hope that the reason these incidents receive so much publicity is that the journalism community considers them rare, following the adage that news occurs only when a man bites a dog rather than vice versa. Consider the following examples.

Elyse Glickman got along well with her new boss at first, but that changed very suddenly. He began to insult her on the job, and then he regularly undermined her performance and started comparing her to a coworker who had recently been terminated from the public relations firm where they worked. Glickman was anxious to keep her job, so she put up with the bullying harassing boss until she was fired. It was not the first time Glickman had been bullied at work (Maher, 2003).

Such bullying is not restricted to North America. In Australia, Constantine Aroney, a leading cardiologist, said that he was tormented by a health bureaucrat after it was publicly revealed that he had written a letter to the Queensland premier complaining about proposed cutbacks at a public hospital and that several patients had died due to delays in surgery. In a meeting with the general manager of Queensland Health, the public agency overseeing the hospital system, Aroney said

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that he had been told, “You come after us with your cheap shots and we will come after you” (O’Malley, 2004).

The *New York Times*’ top editors believed that young reporter Jayson Blair had the potential to become a journalistic superstar. Blair rose to a coveted national reporting position in less than 5 years, writing about the Washington, D.C., sniper shootings of 2002, the U.S.–Iraq war, and other prominent stories. But a complaint from a Texas newspaper about a Blair story led to revelations that the young reporter had lied in print, plagiarized other reporters, and pretended to be at the scenes of breaking stories when in fact he had never left New York City (Barry, Barstow, Glater, Liptak, & Steinberg, 2003). The discoveries rocked the reputation of what is considered by many to be the most prominent U.S. newspaper. Within weeks, the paper’s two highest ranking editors resigned.

The same day that it devoted four pages to expound on the activities of its own miscreant Blair, the *New York Times* published a scorecard of corporate financial scandals in the United States, highlighting five companies and their executives, including Adelphia Communications Chairman John Rigas, who had been indicted for various manifestations of fraud (see Case 12). The “user’s guide” described malfeasance at Enron, HealthSouth, WorldCom, Adelphia, and Tyco International along with the numbers of company officials indicted and those who had pleaded guilty (“Corporate Scandals,” 2003).

Less than a week after George O’Leary was hired for his dream job as head football coach at the University of Notre Dame, he was forced to resign when word broke that he had inaccurately enhanced his résumé years earlier. As he progressed through his career as a high school coach, a college assistant, and then a head coach, O’Leary falsely claimed to be a 3-year football letter winner at the University of New Hampshire and to have completed his master’s degree. The false information was added to his biographical record at various jobs he had held over two decades, and he never bothered to correct it (Haugh, 2001; Smith, 2002; see also Case 7.1).

These instances of deviant behavior raise serious ethical questions about the causes of deviance, the potential for deviant behavior to create serious harm to organizations and society, and management’s role in effectively handling deviance. First, it is important to discuss what academics and managers mean when they refer to deviant behavior and then to examine the difficulty in interpreting some types of “deviant” behavior as clearly negative, unethical, and/or destructive.

Deviant Behavior: Definitions and Terms

The fourth edition of the *American Heritage Dictionary* (American Heritage, 2000) defined deviate (verb) as “to depart, as from a norm, purpose, or subject,” whereas a deviant (noun) is “one that differs from a norm, especially a person whose behavior and attitudes differ from accepted social standards” (p. 496). More than 30 years earlier, an edition of the same dictionary identified a “deviate” as a person whose behavior and attitudes differed from moral as well as social standards. Perhaps shedding light on the continuing negative connotations of deviant behavior, the 1969 secondary definition of deviate was that of a “sexual pervert.”

Academic researchers originally defined workplace deviance as employee behaviors that break important organizational norms and threaten to damage the organization and/or members of the organization (Robinson & Bennett, 1995), but more recent work in the area has led to a lack of consensus on an appropriate single definition (Bennett & Robinson, 2003). Definitional agreement is particularly complex when anywhere from 8 (Robinson & Greenberg, 1998), to 12 (Bennett & Robinson, 2003), to 19 (Vardi & Weitz, 2004, Appendix 3) terms, definitions, and/or manifestations have been used to refer to the same general realm that represents the “dark side” of organizational behaviors (Griffin & O’Leary-Kelly, 2004).

The amount of research into deviance and discussion of the topic has grown substantially during the past 10 years. Among the most prominent areas of study that relate to deviant behavior are antisocial behavior, counterproductive behavior, dysfunctional behavior, and organizational misbehavior. Table 1.1 provides definitions and examples of these types of undesirable behavior as they relate to the workplace.

Deviant behavior is said to consist of voluntary acts that break major organizational norms and threaten the welfare of the organization and/or its members. Robinson and Bennett (1995) identified the following types of deviant behavior: production (damaging quantity and quality of work), property (abusing or stealing company property), political (badmouthing others or spreading rumors), and personal aggression (being hostile or violent toward others).

Antisocial behavior brings harm or is intended to bring harm to an organization, its employees, or organizational stakeholders. It includes aggression, discrimination, theft, interpersonal violence, sabotage, harassment, lying, revenge, and whistleblowing. Antisocial behavior focuses more on personal, political, and property interactions and less so on production, with the exception of sabotage (Giacalone & Greenberg, 1997).

Counterproductive behavior is defined as “any intentional behavior on the part of an organization member viewed by the organization as contrary to its legitimate interests” (Sackett, 2002, p. 5). Counterproductive behavior is seen as an element of job performance and includes phenomena such as theft, property destruction, misuse of information, unsafe behavior, poor attendance, and poor quality work.

Dysfunctional behavior occurs when employees commit acts that have negative consequences for an individual within an organization, a group of individuals, and/or the organization itself. There are two general types: violent and deviant (e.g., aggression, physical and verbal assault, terrorism) and nonviolent dysfunctional (e.g., alcohol and drug use, revenge, absence, theft) (Griffin, O’Leary-Kelly, & Collins, 1998).

Organizational misbehavior is a deliberate act by organizational members that violates basic organizational and/or societal norms. Such misbehavior can intend to benefit an individual or the organization and generally includes an objective to inflict damage (Vardi & Weitz, 2004; Vardi & Wiener, 1996). Some writers consider misbehavior in a broad sense (e.g., time wasting, absence, turnover, crime, sexual harassment) and view it as an inevitable result of class tension and conflict between managers and workers (Ackroyd & Thompson, 1999).

Attempting to provide conceptual clarity regarding deviance and its close cousins, Robinson and Greenberg (1998) identified five primary steps in the workplace

Table 1.1 Terms and Definitions Used When Discussing Undesirable Workplace Behavior

	<i>Deviant Behavior</i>	<i>Antisocial Behavior</i>	<i>Counterproductive Behavior</i>	<i>Dysfunctional Behavior</i>	<i>Organizational Misbehavior</i>
Definition	Voluntary behaviors that break significant organizational norms and threaten the well-being of the organization and/or its members	Actions that bring harm, or are intended to bring harm, to an organization, its employees, and/or the organization's stakeholders	Any intentional behavior on the part of an organization member that is viewed by the organization as contrary to its legitimate interests	Actions by employees or groups of employees that have negative consequences for an individual, a group, and/or the organization itself	Acts that violate core organizational and/or societal norms; intentional workplace acts that violate rules pertaining to such behaviors
Examples and/or types	Production deviance (damaging quantity and quality of work), property deviance (abusing or stealing company property), political deviance (bad-mouthing others, spreading rumors), and personal aggression (being hostile or violent toward others)	Aggression, theft, discrimination, interpersonal violence, sabotage, harassment, lying, revenge, and whistle-blowing; focused mainly on personal and property interactions	Refers to elements of job performance such as theft, destruction of property, misuse of information, unsafe behavior, poor attendance, and poor-quality work	Violent and deviant (aggression, physical, verbal assault, terrorism) and nonviolent and dysfunctional (alcohol and drug use, revenge, absence, theft)	Intending to benefit the self and the organization and intending to inflict damage, wasting time, absenteeism, turnover, crime, and sexual harassment
Source	Robinson & Bennett (1995)	Giacalone & Greenberg (1997)	Sackett (2002)	Griffin, O'Leary-Kelly, & Collins (1998)	Vardi & Weitz (2004) and Vardi & Wiener (1996)

deviance process and major dimensions that are associated with each step. The process starts with a perpetrator who can be from inside or outside the organization; most related concepts focus on an inside perpetrator. The second step involves whether the act is intentional or unintentional; most manifestations involve intentional behavior. Robinson and Greenberg's third step considers whether the target of the act is an insider or an outsider; an inside target is generally the focus in each approach. The fourth step focuses on the type of action that has occurred (e.g., indirect-direct, active-passive, verbal-physical), and the final step considers the act's consequences. Some approaches view the act in terms of a violation of norms, whereas others focus on the behavior's outcomes. Finally, most approaches consider only the harmful results of the act, whereas a few regard its potentially beneficial consequences.

Considering this outline of the deviance process, related terms, and definitions, deviance can be exemplified by behaviors such as employee theft, withholding job effort, violence, insubordination, sabotage, lying and deceit, whistle-blowing, poor attendance, misuse of information, addictive behaviors (e.g., drug/alcohol use and abuse, gambling, workaholism), and various types of bullying and harassment.

From the standpoint of managers, as well as that of most researchers, such behavior is considered negative and unethical without a great deal of debate. Indeed, those who engage in deviant activities at work seem to demonstrate a lack of moral strength and character and clearly violate ethical standards (Seabright & Schminke, 2002). Some might be "organizational charlatans" who can manipulate their surroundings through impression management and who receive high subjective evaluations even though their objective performance is not desirable (Parnell & Singer, 2001). Thus, a clear assumption in much deviance research and its practical application has been that deviant individuals, by violating established norms and creating negative consequences, engage in wrongful and unethical activity.

As noted earlier, the frequency and severity of deviant behavior have had a significant impact on the workplace, with the costs of deviant acts such as employee theft, violence, and other forms of aggression, drug/alcohol use and abuse, and even time lost to Web surfing and other forms of withholding job effort totaling in the billions of dollars. Based on its pervasive and costly nature, deviant behavior is clearly categorized by many as a workplace evil that must be stamped out through effective supervision and organizational systems, electronic surveillance, discipline, and (in some instances) use of employee assistance programs. Attempts to establish conformity to rules, regulations, policies, and procedures appear to be well justified when acts such as violence, harassment, fraud, and theft are considered. These types of behavior can clearly lead to destructive outcomes.

Another View: The Ethical Ambiguity of Deviance

Despite long-standing convention that deviance per se is a negative and destructive force in organizations, it is clear that the nature of deviance and its ethical evaluation depends on the characteristics of the behavior, the conditions in which it takes place, and the norms that are employed to define behavior as deviant. As Locke

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(2003) noted, “Deviance can be good or bad, beneficial or harmful, depending on the nature of the norms and the nature of the deviance” (p. 426). Thus, in certain circumstances, deviant behavior takes on a level of ambiguity, that is, doubt or uncertainty as to how it should be interpreted. The same behavior can be open to different ethical interpretations based on point of view and motivations of the stakeholders who are involved, the intended and actual results of the behavior, and the level of norms (e.g., group, organizational, societal) that is being considered.

There are alternative ways in which to consider deviant actions based on a more traditional definition of the term *deviance* as a violation of reference group norms and the proposition that some deviant actions can be beneficial, or at least neutral, to the organization (e.g., Bies & Tripp, 1998; Kidwell & Kochanowski, in press; Vardi & Wiener, 1996; Warren, 2003). Such consideration raises several questions. Are there gray areas of ethical behavior where employees deviate from the norm in the pursuit of uniqueness and the rejection of conformity to accepted standards? Are there instances where the deviant acts of employees could lead to positive results for the organization? Can managers create conditions where deviant behavior can be channeled into an ingredient for organizational success? Do organizational leaders and processes contribute to conditions in which destructive deviant and unethical behavior is encouraged? Academic research and the practical experience of managers indicate that the answer to all of these questions is a qualified *yes*.

As others have noted, it is difficult to categorize deviance objectively because norms within organizations are constructed by those who have the authority and/or power to do so (Bennett & Robinson, 2003; Vardi & Wiener, 1996). The breaking of an accepted standard of behavior (i.e., a norm) is generally perceived as a threatening and negative act. This is particularly so to organizational leaders and employees who are heavily involved in setting norms and, thus, are highly invested in seeking compliance to rules, policies, and procedures. Despite the threats implied by deviance, some forms of deviant behavior have the potential for positive, or at least neutral, results for the organization. Conformity to some norms found at various organizational levels does not result in desired performance. Strong group norms that punished rate busters—as well as chiselers and squealers—at the Hawthorne Western Electric plant is a classic example, as is a norm of bullying coworkers that exists in various organizational settings.

Violating organizational rules and standards by disobeying supervisors and other actions can fall under the classification of deviance yet might not have destructive results. Whistle-blowing, innovative thinking related to organizational change, and organizational dissent are among these forms of deviance. These actions may “deviate from the prevailing views or beliefs of an established majority” and thus be considered deviant, but they may also be the source of positive results for the organization (Elmes, 1990, p. 141). Despite their individual and organizational costs, even some forms of “negative” deviance may have positive, or at least ambiguous, consequences for an organization.

The ambiguity of deviance can be illustrated in part by reflecting on an action that violates an organizational norm yet could have varying interpretations based on motive and outcome. Consider an organization, perhaps a public sector

agency or a university, where it is very rare to terminate an individual under any circumstances, even poor performance. A manager within that organization fires a longtime employee for incompetence. A year later, another manager fires an otherwise competent employee for personal, arbitrary, or erratic reasons. Both managers have violated a norm by dismissing an employee and, thus, have behaved in a deviant manner. However, the first instance gains the organization a positive outcome, whereas the second results in a negative outcome for the organization. In each instance, there may be a threatening result for the organization, that is, the potential for a lawsuit. But organizational performance might be improved in the first case but not in the second. And one might deem the manager in the first example as ethical and the manager in the second example as unethical (cf. Griffin et al., 1998, p. xx; Kidwell & Kochanowski, 2004).

It is clear from such scenarios that individual motive and circumstance moderate the potential effects of employee behavior in terms of deviance and appropriateness, as could variables such as organizational structure, culture, politics, and national culture. A problem with putting deviant behavior within ethical frameworks is the issue of who decides which behavior is deviant and in what situation—individual workers, work groups, company managers, other stakeholders, or society at large. Table 1.2 illustrates the ambiguity of deviance by listing a sample behavior, its negative interpretation, and its dysfunctional consequences. This is followed by an alternative interpretation of the same behavior and the potentially functional consequences that may be realized depending on how the behavior is perceived and/or managed.

Similar to the examples reviewed in the previous section and in Table 1.2, Warren (2003) discussed several negative deviant behaviors that have been investigated in workplace research, including aggression, lying, theft, misbehavior, sabotage, political activity, and noncompliance to rules or norms. She balanced that list with some examples of positive, yet deviant, behavior from management research, including tempered radicalism, whistle-blowing, exercising voice, and counter-role behavior. She argued that the two research streams—positive and negative deviance—should be integrated into a typology of deviant behavior examining both globally held beliefs and values (i.e., hypernorms) and reference group norms (e.g., organizational standards) in determining the constructive or destructive nature of behavior in organizations. On the one hand, destructive deviance violates both reference group norms and hypernorms, whereas constructive deviance violates reference group norms but not hypernorms. On the other hand, constructive conformity violates neither set of norms, whereas destructive conformity violates hypernorms but not reference group norms (Warren, 2003).

In addition to a potentially neutral act that, although deviant, could be considered ethical or unethical when motive, reference point or national culture is taken into account, let us briefly consider examples of behaviors classified by Warren (2003) and others as deviant yet constructive, perhaps not for norm setters and enforcers but rather for organizations and society. These instances of deviance may actually be appropriate actions for the individual, organization, or society in terms of both outcomes and ethical considerations. Whether deviance is a positive or a

Table 1.2 Examples of the Ambiguity of "Deviant" Behavior

<i>Label</i>	<i>Sample Behavior</i>	<i>Negative Interpretation</i>	<i>Potential Dysfunctional Outcomes</i>	<i>Alternative Interpretation</i>	<i>Potential Functional Outcomes</i>
Risk taking	Chief executive makes bold strategic moves	Recklessness	Threatens financial well-being of organization and employees	Innovation	Achieves organizational growth/success
Expression of voice	Employee complains about management actions	Bad-mouthing	Damage to organization's reputation	Employee participation/appeal, whistle-blowing	Corrects or stops workplace injustice and inefficiency
Noncompliance	Workers refuse to obey manager's directives	Insubordination, rule breaking, loafing	Organizational instability, unmet goals	Counter-role behavior/task revision	Effort diverted from activities that do not meet organizational goals
Withholding information, providing misleading information	Optimism and enthusiasm in the face of failure	Deceit, hubris	Atmosphere of dishonesty, lack of trust, divisive climate in workplace	Commitment to the cause, envisioning uplifting future, "positive leadership"	Keeps morale high, reduces anxiety
Aggressive behavior	Leader berates employee team, verbally abuses and attacks abilities	Harassment, bullying	Unpleasant and dangerous psychological and physical effects	Stern leadership, "aligning the troops"	Desensitizes employees to criticism, motivates toward goal achievement
Conflict	Managers question and dispute chief executive's planned actions	Carping, complaining, selfishness	Damaged relationships	Devil's advocacy, healthy discussion	Improved quality of decisions

negative sometimes lies in the eye of the beholder. In this light, whistle-blowing, innovation, organizational dissent, and resistance to conformity are potentially forms of what can be called positive or constructive deviance.

The positive aspects of whistle-blowing—employees' disclosure of illegitimate or illegal acts by their employers to others who may be able to take corrective action—are frequently recognized (Miceli & Near, 1997). Whistle-blowing may threaten an organization's managers but may be viewed as proper and ethical by other stakeholders and society, who may benefit from the whistle-blower's actions. Workers who have reported their firms for financial or environmental abuses may be attacked by their organizations, but such "deviance" wins high praise for its ethical standards by the media, politicians, customers, and perhaps fellow employees.

It also may be ethical, proper, and ultimately effective for employees to deviate from the norm by taking innovative approaches to problem solving in organizations where such activities are not encouraged. This sort of deviance can be an important element of organizational innovation and the leadership of change. The basic idea is that one way to successfully change an organization is to identify where in the organization norms are being broken in a way that solves problems that the organization is currently facing (Crom & Bertels, 1999). Of course, the success of change leadership and positive deviance appears to require a leader who enables the organization to turn such normative challenges into shared values.

Without such a leader, employees and managers who raise issues that are traditionally not discussed or debated in a particular organization are engaging in deviant conduct that could ultimately benefit the organization. The actions of such radical principled dissenters can lead members of an organization to question underlying assumptions and values and, thus, to be more open to positive change (Elmes, 1990; Graham, 1986). Such disagreement can be compared to employees who exercise voice, deviating from organizational norms by speaking out in pursuit of change. Van Dyne and LePine (1998) defined voice as a means to challenge the status quo and to suggest changes in ways that are intended to improve conditions at work rather than to be critical of standard procedures. Voice can be another form of positive deviance and might be contrasted with badmouthing the organization in the same way that carping has been distinguished from devil's advocacy (Valacich & Schwenk, 1995). Whereas dissenters face the risk of permanently damaging their careers if their actions offend powerful interests within the organization, their behavior would not even be considered deviant in workplaces that encourage lively debate about future actions or establish devil's advocacy as part of the organizational decision-making structure.

Another form of deviance with potentially positive organizational effects is workplace activity in which tempered radicals engage. These people are committed to their organizations but also follow a cause, community, or ideology quite different from, or in opposition to, their organizations' cultures (Meyerson & Scully, 1995). A conservationist who works in an organization that has little concern about the environment may deviate from organizational culture and norms to work for positive changes in the organization's environmental stance, doing so from within the organization. The same might be true of a devout Christian employed by an

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organization that is focused solely on secular pursuits to the aggressive exclusion of spiritual ones.

Resistance to organizational norms and job requirements may also be viewed as task revision, a form of counter-role behavior that involves actions taken to correct flawed procedures, inaccurate job descriptions, or job role expectations that would potentially result in negative effects on the organization (Staw & Boettger, 1990). When expectations of employee behavior have been incorrectly specified by the organization, an employee engaging in task revision is considered to be an innovator who is behaving in a way that results in excellent performance despite taking actions that are outside approved organizational norms.

Thus, it might be ethical and effective for an individual to fail to carry out established procedures, declining to engage in activities that, although required by the organization, do not really get the job done. Examples include failure to engage in prescribed sales or operational techniques within an organization that, in the judgment of the salesperson, do not result in higher sales volume or potentially have the effect of irritating customers or intruding on their privacy. A few years ago, a prominent national retail chain required employees to collect addresses and phone numbers from customers. Employees who declined to ask for these details were engaging in deviant behavior, weighing the organization's goal of obtaining marketing information against some customers' perceptions that their privacy was being invaded. Customers' problems with this chain's practice became evident when the organization stopped attempting to collect this information and advertised prominently that it no longer did so.

Following on the idea that deviance sometimes can be interpreted differently depending on perspective, consider an organization whose members traditionally do not welcome change. A new management system is introduced, but several workers fail to accept it. On the one hand, the workers who refuse to accept the change and continue to work in the old way may perceive themselves as simply living up to their contracts (and established norms of their organization). On the other hand, the new management system heralds the adoption of a new set of norms by the organization or at least by management. The recalcitrant workers' behavior may be considered unproductive by organizational managers and even deviant when compared with the behavior of their fellow employees. However, the recalcitrant workers receive the same level of wages and are expending no less task-related effort than when they were not considered deviants.

A second factor that is relevant to understanding the so-called deviant behavior in this example is the perception of group norms regarding its acceptability. The norms of one's reference group in the work setting provide guidance as to whether to pursue a particular behavior (Mikulay, Neuman, & Finkelstein, 2001). The norms of the older group of employees suggest staying with the status quo, whereas the norms of the employees who accept the changes reflect positive adjustment, again from the effectiveness and efficiency orientation of management. (For an additional illustration, see Case 5.)

Furthermore, the culture of an organization and its climate can be favorable or unfavorable toward deviant behavior, be it positive or negative (Kamp & Brooks, 1991). Thus, in some organizations, a certain amount of shrinkage, on-the-job drug

use, personal surfing of the Internet, bullying, and/or workaholism may be tolerated as norms of organizational life. But “deviants” who break norms by not practicing these sorts of activities may be viewed as performing quite reasonably from an external perspective.

Bob Newburgh: Strong Leader or Workplace Bully?

Bob Newburgh took over the top job at East Sleepy State College after the tenure of a president who retired after 20 years in that post. During discussions with some faculty and staff members in the interview process, Newburgh came to believe that the university needed a significant shake-up in several of its colleges and divisions. Within days of arriving on campus, Newburgh put an organizational change plan into action.

Unfortunately for the administrators and other staff members at Sleepy State, Newburgh brought an aggressive and, some would say, intemperate management style into the mix. Others saw the new president as a micromanager who wanted to be involved in aspects of key departmental operations to an extent that was unknown in the previous administration.

East Sleepy State’s former president, A. T. “Happy” Duval, delegated most of the administrative work to vice presidents, deans, and department heads. The university faculty members retained a fair amount of power to block new initiatives and maintain the status quo. The university effectively delivered its teaching and other services to the East Sleepy State area, but it had little regional or national reputation, had few new programs, and was considered to be a low priority when it came to state funding.

Newburgh’s road map for change brought the college to a higher level of quality with new regional, national, and even global initiatives; an increase in state and private sector funding; and administrative shake-ups in several key areas. Younger faculty members applauded the plan, and new scholars were attracted to the school due to the programs that began during the Newburgh regime.

As these positive developments took place, Newburgh dismissed a couple of key administrators and alienated some others to the point where they sought positions at other universities. He cut back on traditional sources of faculty input by going around the Faculty Council and Senate of Department Chairs when they interfered with his plans. The Faculty Council, long a center of power within the university under Happy Duval, was rendered rather ineffective, at least from the standpoint of formerly powerful faculty members. Adding insult to injury, Newburgh personally badmouthed some longtime faculty members, questioning their usefulness to a successful university.

As the new initiatives took place, Newburgh began to micromanage their formulation and implementation. Faculty members and administrators indicated that Newburgh had a strong strategic vision for the school but was very poor at planning and interpersonal skills. In meetings, he was known to yell at administrators and humiliate staff members when problems occurred, reports were not complete, or solutions were not to his satisfaction. Many older faculty members were

alienated by Newburgh's initiatives and management style, and early retirements began to occur with increased regularity.

After several years at the helm, Newburgh had a falling out with the Board of Trustees over the direction of his programs and university funding levels. These factors and some internal sabotage from enemies who still remained with the university led to his eventual departure to another school, where he became its president. East Sleepy State, however, thrived under his replacement, who carried out a variety of Newburgh's programs during the first years of her administration and advanced new programs under administrators and faculty members who were eager to change with the times.

Antecedents of Deviant Behavior at Work

To most individuals, verbal attacks, yelling, use of profanity, threats of retaliation, and the "silent treatment" would seem to be prime examples of negative forms of organizational deviance. Surprisingly, in many organizations, employees and management often view top-producing, successful bosses as bullies who exhibit one or more of these behaviors (Dumaine, 1993). We witnessed one manager publicly berating an employee in the workplace. He later apologized—to us. Yet he defended his actions, stating that he had to "put the fear of God into some of these people or they'd walk all over [him]. . . . I've got to get their attention."

This manager's acts, and those of Bob Newburgh to some degree, were effective in getting results (i.e., a constructive consequence of deviance). However, there are serious risks involved in condoning such behavior, including turnover of valuable employees, absenteeism, potential for legal exposure, and (in Newburgh's case) eventual sabotage of one's change efforts. Furthermore, in this case and others we have witnessed, when the bottom-line results turn negative, behavior such as Newburgh's might no longer be tolerated by the organization. And obviously, there are effective and more ethical management styles that can gain favorable results and, at the same time, maintain the dignity of people.

One can also raise the issue that Newburgh's actions are a prime example of what can lead to deviant and unethical behavior among employees within an organization. Previous research has examined a variety of psychological and sociological processes related to the individual, the job, the work group, and the organization that are considered to be among the general antecedents of deviant behavior (Bennett & Robinson, 2003; Vardi & Weitz, 2004).

Factors examined as precursors to deviant behavior include reactions to frustration, perceived threats and perceived injustice, personality traits (e.g., dispositional aggressiveness), and cues suggested by the social context (Bennett & Robinson, 2003; Robinson & Greenberg, 1998). Job and work group factors may include design and conditions of particular tasks and various types of pressures that come from a work group's current and past circumstances. Organizational factors may include work experiences that are perceived as unfair, pressure to pursue established goals, an organization's control and reward systems, organizational culture,

and the actions (or inactions) of leaders. Subsequent chapters in this volume expand on such psychological and sociological processes in detail and summarize theoretical approaches and empirical findings related to various types of deviance and the contexts in which deviant behavior occurs.

In brief, acts of deviant behavior by employees, including aggression, violence, theft, and revenge, have been linked with variables such as high stress levels, feelings of powerlessness, arbitrary and unjust actions by the organization and its managers, and antagonistic labor relations (Bennett, 1998; Bies & Tripp, 1998; Greenberg & Alge, 1998; Mack, Shannon, Quick, & Quick, 1998). For example, a stressful work environment can trigger a process that eventually leads to aggression and violence (Martinko, Douglas, Harvey, & Joseph, this volume) or to occasions of employee alcohol use and possibly abuse (Matano, Futa, Wanat, Mussman, & Leung, 2000). An employee reacting to a perceived management injustice might also consider revenge (Bies & Tripp, 1998) or theft (Greenberg, 1997).

The influences of leadership, organizational structure, and organizational culture on the presence of negative deviance and the benefits of establishing an ethical culture are clear (e.g., Boye & Jones, 1997; Schein, 1985; Sims & Brinkmann, 2002), and their theoretical and empirical relationships to employee behavior are discussed extensively in Chapters 2 and 3 of this volume. Shared values, decision-making capabilities, and a leader's vision and motivational techniques are seen as positive ethical forces in organizational success, variables that lead to the elimination of destructive deviant behavior and the pursuit of positive results within an ethical framework. However, shared values and the behavior of the leader can create conditions for unethical behavior and destructive deviance. Employees might engage in deviant and unethical behavior because they perceive an incentive to do so due to organizational structure and culture, the organization's reward system, and/or the leadership of the organization. Newburgh's attempts to change the school's culture could well have led otherwise good employees to engage in unethical activity.

Strong leaders are often praised for maintaining optimism during serious organizational adversity. Problems with such a stance in the face of impending failure are obvious. On the one hand, the leader who is excessively confident or optimistic in a situation where catastrophe is the clear outcome is misleading followers and creating conditions that could breed deviant behavior among employees due to the eventual realization of injustice or betrayal. On the other hand, the leader who establishes a record of lies, deceit, and unjust acts is encouraging followers to do the same. Such a leader is also breeding whistle-blowers within the firm. In these circumstances, deviance may be less an example of unethical behavior than a result of such behavior.

But as organizational leaders attempt to establish or modify an organizational culture, what was once considered deviant behavior could become ingrained within the organization with positive results. Shared values of innovation, principled dissent, integrity, and willingness to accept failure can sow the seeds that result in expressions of deviance that could ultimately affect the organization in a positive way as compared with industry competitors that seek to eliminate all acts of deviance.

Deviance, Conflict, and Effective Management

Where deviance is seen as one of the most critical issues facing organizations, conflict is regarded as one of the workplace's most frequent phenomena (Dirks & McLean Parks, 2003). Conflict in the workplace was traditionally considered—and still is in some quarters—to be a type of destructive deviance because it violated norms of harmony sought in many organizations and often led to dysfunctional consequences. In contrast to contemporary views, managers traditionally assumed that conflict itself was detrimental to the efficient functioning of their organizations and that those who caused conflict were deviants who should be admonished, with disputes being eliminated or at least minimized.

As detailed by Rahim (2001), classical organizational theorists tried to eliminate conflict by designing bureaucratic or mechanistic structures that prescribed proper behavior and an organizational command hierarchy that would keep friction and disagreement to a minimum. Neoclassical or human relations theorists tried to eliminate conflict by improving operations of the organization's social system.

Mayo (1933) and Parsons (1949) emphasized a need for cooperation and for eliminating conflict so that greater organizational and societal effectiveness could be pursued. Child (1995) concluded that Mayo had a

deep abhorrence of conflict in any form. . . . Mayo and his colleagues . . . assumed that ordinary employees were largely governed by a "logic of sentiment," which was of a different order from managers' rational appraisal of the situation in terms of costs and efficiency. Conflict with management was thus an aberration that threatened the effectiveness of organizations. (pp. 88–89)

Parsons (1949) viewed society as inherently stable, integrated and functional, therefore conflict was seen as an abnormal and dysfunctional phenomenon.

Many of those involved in conflict situations over organizational resources traditionally took a win–lose stance, failing to consider that opposing sides in an organizational conflict could enjoy positive gains from the resulting tension (Dirks & McLean Parks, 2003). This perception of conflict often had negative consequences for the organization in the form of suboptimal decision making and poor employee morale. The functional benefits of conflict were not truly realized until the second half of the 20th century. For example, when substantive conflict is encouraged within organizations or teams, various parties to a dispute or decision have the opportunity to air their differences and concerns. This activity positively affects the quality of decision making (Janis, 1982) and may prevent unethical behavior that can result from groupthink (Sims, 1992).

We would suggest that some forms of deviant organizational behavior should be considered in a similar vein as today's views on conflict. That is, like conflict, other forms of deviance (e.g., risk taking, expression of voice, noncompliance, aggressive behavior) can have both positive and negative implications for organizations, depending on how they are managed.

Many instances of deviance are clearly wrong, destructive, and/or unethical. However, before ethical judgments can be made, some deviant behavior would be

better viewed in a neutral way, depending on the norms that exist and the type of deviance (Locke, 2003). Robinson and Bennett (1995) pointed out, "Although a particular behavior can be both deviant and unethical, the two qualities are not inevitably linked" (p. 556). Recognizing the potential ambiguity discussed earlier, we now offer ideas about putting a general plan of deviance management into effect.

As noted, much can be accomplished by an organization's leadership—formal as well as informal—to encourage positive forms of deviating from the norm and to discourage negative acts by the way that shared values, decision-making methods, and justice in the organization are managed. Negative deviance in the form of workplace violence, fraud, theft, and lying can be addressed by determining and working on the causes of the behavior as well as by building a positive ethical climate.

However, an ongoing deviance management approach that might encourage constructive forms of handling deviance would be well informed by considering evolving views toward organizational conflict, which occurs as people, teams, departments, and organizations that perceive opposition in goals, aims, and values interact with other parties they perceive as potentially interfering with the realization of their goals (Dirks & McLean Parks, 2003, p. 285).

Managers who handle conflict and academics who research it developed the premise that conflict is not necessarily bad. A confrontational (integrative) approach to conflict might result in a win-win situation where both parties achieved their crucial goals and preserved personal relationships, the two dimensions that underlie responses to conflict (Moberg, 2001). Although an integrative approach may tend to bring conflict to a positive conclusion, organizational reactions to conflict traditionally included the view that all conflict is dysfunctional and should be avoided or stamped out.

Similar responses have been applied to various forms of deviance. Deviant people are generally perceived as interfering with the realization of organizational goals. Deviance is considered to be bad behavior because it breaks norms. If possible, it should be ignored and the deviant person should be isolated. Compromises regarding relatively milder forms of deviance (e.g., withholding effort) might be made, whereas the more serious negative forms should be eliminated. However, just as with conflict, an effort to surface deviant behavior at earlier stages and confront it might lessen the occurrence of more serious forms of deviance and their consequences in the future.

The traditional view of conflict avoided the idea that individuals faced with conflict situations engage in defensive reasoning to prevent embarrassment and personal threat that might result from the conflict (Rahim, 2001). These individual defense mechanisms were complemented by organizational defensive routines that included policies and rules to help employees avoid threat or embarrassment. The old conflict paradigm, unlike more enlightened approaches to handling conflict, did not see these defensive routines as barriers to the organization's ability to deal with the conflict and actually made it impossible to design effective conflict management systems.

According to Rahim (2001), "Traditional conflict resolution does not question whether the structure and processes of an organization are deficient [and] are

causing dysfunctional conflict. It tries to resolve or reduce conflict at the microlevel within the existing system” (p. 72). Defensive routines limit the ability of organizational leaders and managers to see much positive in deviant acts by employees and to ignore faulty organizational processes. Defensive routines and rules, policies, and procedures lead to a quick judgment that deviant behavior is a negative unethical act that should be handled on an incident-by-incident basis.

Organizations should consider a new deviance model similar to that suggested in handling organizational conflict, that is, one that involves changes at the group and organizational levels. This approach sees the major issue as organizational learning about processes and systems, not as elimination of isolated acts. If justice issues that lead to arguably less severe forms of deviance—badmouthing, insubordination, withholding effort, and the like—are brought to the surface and dealt with effectively, more severe forms of deviance—violence, addictive behavior, harassment, and the like—might be avoided. Chapter 9 in this volume expands on this idea regarding the topic of employee theft.

Returning to the opening vignette of Fistra’s employee involvement program, a growing body of research links deviant behaviors, such as workplace violence, theft, workplace slowdowns, and sabotage, with perpetrators’ perceptions of being unfairly treated by their supervisors and their organizations (e.g., Neuman & Baron, 1998). This perception of unfairness is particularly high under conditions where procedural fairness has been violated or ignored. Providing the opportunity for employee voice to “right a wrong” or simply to be heard is one means to enhance the perception of procedural fairness and, in turn, to lessen the likelihood of retaliatory deviant behavior. However, at Fistra, the HR manager viewed the employee’s expression of frustration, reactions to management decisions, and challenges to management practices as *the negative and deviant behaviors*. The employee’s comments were viewed as inappropriate and unfounded attacks on management that should be punished.

As we stated earlier in this chapter, we find it increasingly common for managers to take just such a defensive stance in regard to their employees voicing workplace concerns and frustrations. This can have negative consequences for the organization in that employee voice may communicate needed change that might not be heard elsewhere. Furthermore, providing mechanisms for voice implies that employee comments, concerns, and opinions are worthy of being heard by someone in authority. Ignoring employee concerns, or attempting to squelch opinions that attack or embarrass management, will likely lead to heightened employee frustration, unethical behavior, and other forms of destructive deviance.

Conclusion

As managers and academics have begun to realize, it is time to get beyond the formulation of all deviance as unethical negative acts. Although organizational leaders should not abandon the view that many deviant acts are clearly wrong and unethical, these leaders should be encouraged to better learn how to manage deviance and, when possible, make productive lemonade from deviant lemons.

Others have made the point that organizations that are able to reap the benefits of positive deviance will find themselves in a superior competitive position (Bennett & Robinson, 2003). Encouraging employees to think and act outside the constraints of organizational norms, to dissent vociferously from dubious courses of action, to turn in offenders who are placing the company in a bad light by behaving unethically or illegally, and to break rules that stand in the way of effective, yet ethical, performance all are ways in which organizations can be more successful through managing deviance. Examining organizational processes and systems in handling other forms of deviance and having the willingness to change faulty processes that spawn deviant behavior are other means to enhance organizational performance through the ethical management of deviant behavior.

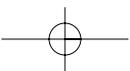
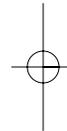
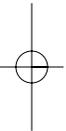
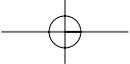
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CASE 1.1

Columbia/HCA Health Care

The U.S. government clearly stated its position on Columbia/HCA Healthcare in 74 pages of court affidavits reported by the *Wall Street Journal* on October 7, 1997.

A Federal Bureau of Investigation (FBI) and Defense Criminal Investigative Service probe had “uncovered a systemic corporate scheme perpetrated by corporate officers and managers of Columbia’s hospitals, home health agencies, and other facilities in the states of Tennessee, Florida, Georgia, Texas, and elsewhere to defraud Medicare, Medicaid, and the [Civilian Health and Medical Program of the Uniformed Services].”

One of the government’s largest Medicare fraud investigations in history, focusing on the biggest for-profit hospital chain in the United States, had begun several years earlier. Investigators alleged that Columbia/HCA, one of the nation’s top 10 employers and the largest buyer of medical supplies in the world, improperly overstated the yearly reimbursements it received from Medicare, Medicaid, and the military health care program. The company was also charged with attempting to hide internal documents that may have disclosed the alleged fraud and was accused of softening the language in its internal audits that were critical of company practices.

Other allegations included false billing for laboratory blood tests, providing financial kickbacks to physicians for admitting patients into Columbia hospitals, allowing doctors to invest in hospitals where they worked, and charging the government for costlier care than what was provided by the company’s medical facilities.

AUTHOR’S NOTE: This case was prepared by Roland Kidwell (Niagara University) as the basis for classroom discussion. It was developed from accounts listed in the bibliography at the end of the case. All names of individuals and the organization are real.

The probe had come to light during the summer of 1997, leading to the quick exit of Chief Executive Officer Richard Scott, the founder and prime mover in the speedy growth of Columbia/HCA. His successor as chief executive, Thomas Frist, Jr., was a Nashville, Tennessee, cardiologist who had been serving as the company's president. Frist was highly respected in the local community and the hospital industry. "We have the responsibility as caregivers to avoid even the appearance of conflicts of interest," Frist said. "Put simply, this is a new day at Columbia/HCA."

Frist initiated an independent audit of the corporation, ended physician investment in hospitals, and dropped plans for Columbia to buy hospitals in places where it faced local opposition. As the government probe of Columbia continued and spread into other segments of the U.S. health care industry, the company's reputation and stock performance spiraled downward. Frist gave himself 100 days to propose ways for the company to improve its standing among investors and other stakeholders. He stated that one element of the plan must be "a world-class ethics and compliance program."

Strategies for Rapid Growth

Scott had significant and, some believed, controversial ideas for health care. In less than 10 years, he turned two small hospitals in Texas into a 68,000-bed health care giant. Scott, a lawyer who specialized in mergers and acquisitions, established Columbia with the help of \$125,000 and financier Richard Rainwater. He quickly grew the company to 600 subsidiaries and affiliates.

In 1990, Columbia became a publicly traded company. Three years later, it acquired the Galen group, adding 71 hospitals. In 1994, Columbia became the world's biggest hospital chain when it merged with HCA, a for-profit, 100-facility company founded in 1968 by Frist and his father. When Columbia/HCA was termed the "Wal-Mart of the hospital business," it was meant as a compliment.

The organization's speedy growth came during a period when the U.S. government was significantly cutting reimbursements to hospitals for Medicare, the federal government's health care program for the nation's elderly. The Medicare cutbacks led to financial crises for many for-profit and nonprofit hospitals. Columbia/HCA purchased and rescued many small hospitals from closure, but some of those purchases met with strong resistance in local communities. Critics charged that Scott was too forceful in purchasing nonprofit community hospitals and then keeping details of the transactions secret. This lack of disclosure led opponents to believe that the small hospitals were making poor deals in selling to Columbia/HCA.

By 1997, Columbia/HCA owned and operated more than 340 hospitals, 150 outpatient surgery centers, and 570 home health care locations and spas. Through the mid-1990s, the company grew by double digits nearly every year

and held assets worth more than \$21.3 billion. In 1996, it employed more than 285,000 people (more than General Motors) and generated \$19.9 billion in revenue.

Scott, a demanding executive who scheduled weekly meetings on Mondays at 6 am, pursued a strategy of high-volume, low-cost health care. The approach included—yet went beyond—traditional means of gaining operating efficiencies such as bulk buying of medical supplies, cutting staff, and driving hard bargains with providers. Columbia/HCA engaged in what critics called the practice of corporate medicine, involving maneuvers that were viewed with disdain by some industry observers.

“For not-for-profits and for-profits, all the [operating] costs are about the same,” Gerard Anderson, a health care finance expert at Johns Hopkins University, told *U.S. News and World Report*. “After you’ve cut costs, one way you boost revenue is by taking liberties.”

Doctors were encouraged to invest in the Columbia/HCA hospitals where they were on the staffs. These investments gave the physicians financial incentives to improve quality and keep the hospitals’ beds full. But the American Medical Association questioned the ethics of the practice, claiming that it hurt doctor–patient trust. Other detractors suggested that doctors would be more likely to admit insured patients to their own hospitals and send patients who could not pay to charity hospitals due to the doctors’ personal financial incentives. This system was sometimes called patient skimming.

Columbia/HCA was also accused of luring high-quality doctors to work in its facilities by buying them overseas trips, providing half-priced office rent, and offering the prospect of high financial returns on investments in the hospitals.

Finally, Columbia/HCA’s opponents viewed as unseemly the company’s forceful competition for patients in places where its hundreds of subsidiaries and affiliates operated as well as its target of 20% profit goals, well above industry averages. To help achieve its goals, Columbia/HCA sent consultants to its hospitals to work on ensuring that maximum reimbursement for programs such as Medicare would be paid by the government. The company’s goals for financial return led to suspicions that patient care was being sacrificed, but little evidence existed that the goals led to a decline in care at Columbia facilities.

Federal investigators were most interested in allegations involving fraud, kickbacks, improper referrals, laboratory billing, and a cover-up. The investigation relied heavily on company documents and more than two dozen whistle-blowers inside Columbia. The results included indictments of company subsidiaries and a handful of mid-level managers. Investigators served search warrants on company facilities in six states as part of the multiyear probe. More than 10 states began their own inquiries of Medicaid billing by the company. During the federal investigation, FBI agents moved Columbia/HCA records from company offices. One set of documents was found in a trash bin outside a gas station in El Paso, Texas.

Less than 3 months after Frist became chief executive, and a few days after the federal indictments were unsealed, Columbia/HCA hired an individual to give it an ethics makeover. Alan Yuspeh became senior vice president of ethics, compliance, and corporate responsibility.

Arrival of the Ethics Czar

When Yuspeh was introduced as Columbia/HCA's new executive devoted to ethics and compliance, he quickly stated a clear mission. He vowed to work toward establishing "the finest compliance program in the country."

Yuspeh had spent nearly two decades in Washington, D.C., as a lawyer and public servant. He served as general counsel to the Senate Armed Services Committee and as chief of staff to a U.S. senator. During the 1980s, he had been lauded for his work as executive director of the Defense Industry Initiative on Business Ethics and Conduct.

Yuspeh's voluntary compliance efforts in the defense industry began after several highly publicized scandals involving alleged private sector abuse of Pentagon contracts. Stories of \$9,000 wrenches and \$600 toilet seats, allegations of overcharges and fraudulent billings, and criminal investigations led to a forum in which contractors and compliance officers could discuss how to do business legally and ethically. As a result of the initiative, major defense contractors vowed to strictly enforce individual codes of ethics and promised to alert the government to any improprieties.

Only a few weeks after his arrival at Columbia/HCA, Yuspeh had written the draft of a wide-ranging new ethics code and sent it to company managers. He announced plans to send audit teams of employees to hospitals to review documents related to coding of patients' illnesses to see whether the code matched the one sent to the government for reimbursement. The audit teams were charged with ensuring that the company was not taking advantage of any gray areas in Medicare reimbursement rules.

To emphasize a culture change, Yuspeh called an ethics summit of 200 company executives in February 1998. Michael Chertoff, who led the company's defense team against federal criminal charges, warned the executives not to take risky and dubious actions in pursuing revenue for the organization. "There is a tremendous temptation to shift" costs onto Medicare reports to inflate reimbursements, Chertoff said. "But that is a real no-no."

Under Yuspeh's guidance, the company went to work on policies to make sure that overbilling was disclosed to the government on discovery rather than waiting for an investigation. Within 6 months, all of the Columbia/HCA hospitals had special ethics and compliance officers on-site to oversee and enforce operations that complied with the letter and spirit of the law. Compliance involved obeying more than 130,000 pages of Medicare rules.

The Columbia/HCA ethics and compliance plan contained basic components that Yuspeh and his ethics colleagues suggested, in a 1999 article,

could serve as best practices in the health care industry: (a) structures in the organization that support the program, (b) documents such as codes of conduct that set standards of what is acceptable behavior, (c) methods to create awareness of the program among staff members, (d) a means by which violations of the standards can be reported, and (e) a way in which to monitor and audit ethical performance. In the article, Yuspeh and his colleagues wrote that establishing these elements enables an ethics and compliance program to achieve its two main purposes: (a) to make sure that everyone in the organization obeys laws and regulations and (b) to communicate ethical standards so that members of the organization have practical guidelines in making decisions that involve potentially ambiguous areas. But such a program would not work without top management leadership and commitment to change organizational culture.

Yuspeh said that the company was successful in turning around its misfortune due to values-based, principled leadership. Writing in *Executive Excellence* in 2002, Yuspeh identified three elements of principled leadership: (a) communicating principles and values such as compassion, honesty, fairness, loyalty, and respect; (b) demonstrating those principles and values in decisions made by leaders; and (c) reflecting those principles and values when dealing with others.

From those three elements, Yuspeh suggested that a person who practices principled leadership articulates primary values, principles, and goals—and sticks to them—is proactive and innovative, confronts problems directly and honestly, cares about people inside and outside the organization, listens to others and includes them in making decisions, is humble and honest, gives as much responsibility to others as possible, builds a team, and celebrates organizational achievements. Yuspeh wrote that Frist and his father, who had founded HCA many years earlier, had laid the foundation for principled leadership in the company.

A Settlement Is Reached

More than 3 years after Yuspeh and his colleagues began putting the company's ethical house in order, judgment day arrived with the federal government. By that time, the company had been renamed HCA to further diminish the taint of scandal associated with the Columbia label.

The company pleaded guilty to unlawful billing practices and was assessed more than \$840 million in criminal fines, damages, and civil penalties. The company admitted to overstating expenses for reimbursement to the government, embellishing patient diagnoses to get higher reimbursements, improperly structuring its business deals to shift costs to Medicare, and giving doctors kickbacks in exchange for patient referrals. Two middle managers who had been convicted in connection with the investigation had their convictions overturned on appeal. No senior executives were criminally charged.

Along with the fines, HCA agreed to an 8-year corporate integrity agreement with the U.S. Department of Health and Human Services, requiring the company to increase its reviews of inpatient coding, laboratory billing, outpatient billing, and financial relationships with physicians and to report its activities to the government.

The settlement helps to “allow us to move forward, maintaining our focus on providing quality patient care,” Frist said.

The New HCA: An Ethical and Effective Organization?

We are committed to an environment in which compliance with rules, regulations, and sound business practices is woven into the corporate culture. We accept responsibility to aggressively self-govern and monitor adherence to the requirements of law and to our Code of Conduct. (HCA Code of Conduct, April 2003, <http://ec.hcahealthcare.com>)

HCA's corporate integrity accord, agreed to on January 25, 2001, is to stay in effect until 2009. As part of its compliance program, the company handles hundreds of ethics-related complaints each year. To assist in enforcing its program, the HCA board has established an ethics and compliance committee of independent directors and two separate corporate committees to draft ethics policy and monitor ethical behavior. HCA spends approximately \$4 million a year on its ethics department in addition to the costs of ethics monitors in its hospitals and ethics training for all of its employees, according to *Forbes* magazine.

In 2004, HCA employees numbered around 190,000 due to the restructuring and sale of more than 160 HCA hospitals over several years. Industry observers cited the restructuring as one reason why HCA stock rose nearly 15% over 2 years to \$41 in May 2003. (The S&P 500 lost approximately a third of its value during the same period.) The company's net income for 2002 rose 35%, and revenues were up 10%. (In 1998, a few months after the scandal surfaced, the stock price had dipped below \$20 a share and profits experienced a substantial decline.)

As part of its compliance plan, all HCA locations display posters that urge employees to report various violations to supervisors or to call a 24-hour ethics hotline. The code of conduct also includes limits on invitations to social events worth more than \$100 per event, sets limits on gifts from business associates (\$50 or less per year from the same person), and restricts employees making gifts to Medicare or Medicaid beneficiaries to \$10 per gift and \$50 per year per recipient.

“Internal controls can always be corrupted,” Jack O. Bovender, HCA's chief executive, said in an interview with *Forbes* magazine in 2003. “We've tried to come up with a system that would require a lot of people to conspire.”

Another view came from a rank-and-file employee. “The [ethics] training is a waste of time and money,” a nurse at a Florida hospital told *Forbes*.

"Anyone with two brain cells could figure out the stuff they're teaching us, and besides, the fraud that supposedly happened was high up in the company."

Discussion Questions

1. List and analyze some examples of deviant and destructive behavior discovered in Columbia/HCA. Why did this behavior occur, and how might it have been prevented?
2. Explain the process used to discourage improper behavior and encourage ethical behavior within the organization. What key steps were involved?
3. Access the HCA Code of Conduct (<http://hcahealthcare.com>). What are the significant elements of the HCA code, and how are they designed to limit illegal and unethical behavior within the organization? If you were a colleague (employee) of HCA, how would you feel about working at this company?
4. Was HCA's emphasis on ethics useful in helping the company to achieve its goals? Is it a more effective company due to its ethics and compliance emphasis? Why or why not?

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CASE 1.2

The Undercover Operator

Anita Mancuso

Timothy O. Ireland

The use of undercover police work is a source of debate, not only among criminal justice scholars but also in society at large.

Some argue that the police must—in all situations, including undercover actions—obey the law. Any erosion of the rule of law has long-term negative consequences that arguably work to unravel the very fabric of organized society and outweigh any short-term benefits. Others argue that undercover operations are a “necessary evil.” For example, there is no better way to catch a drug dealer than to buy drugs from him or her or to investigate public corruption than to bribe a government official.

Undercover operations, by definition, take place outside the regular scrutiny of departmental supervisors, uniformed colleagues, and the general public. As a result, concerns about the discretion and conduct of undercover operators come to the forefront and their actions are often called into question. Also, research on undercover operations has not consistently shown benefits in terms of arrests and/or prosecutions that exceed the monetary costs of the operations or the personal costs to the undercover operators. In fact, some research suggests that undercover police actions can entice the average person, who might not have otherwise committed an illegal act, to do so.

When most people think of undercover operations, what comes to mind is something along the lines of infiltration by an undercover operator into an

organization systematically engaged in crime such as the Mafia or a motorcycle gang. In theory, these operations target career criminals. Undercover operations also can be set up as integrity tests for those who might be tempted to commit a crime given a certain set of circumstances. Finally, undercover operations may use informants to assist undercover operators in building a case against a particular individual or organization. Some informants conduct their own criminal ventures behind the protective cloak of “working for the police,” and this is problematic.

This case is designed to provide a context for exploring some of the complexities of undercover operations and to address the ambiguous nature of deviant behavior. In the case, a fictional police officer discusses various issues involved in undercover operations. The officer is a composite of numerous contacts, discussions, and experiences of the authors, and his narrative highlights some of the ethical challenges of working undercover.

Undercover Work

I’ve been a police officer in a major metropolitan city in North America for the past 15 years. After about a year on road patrol, I began making repeated requests to join the drug squad, the street crime unit, or the vice unit. I finally got a call to assist the street crime unit. I knew this was a temporary thing; they just needed a fresh face for a short term of “sting” play. But I also recognized that this was the opportunity I had been waiting for and that it could open the door to a permanent position. I knew that to do well as an undercover officer, I had to make arrests. So, my first time with the street crime unit, I was hungry to make arrests.

I had a strange feeling that first night. I had never reported for duty without wearing my uniform. The uniform always reminded me of who I was; it governed my actions, what I said, and how I acted. Also, because of the uniform, everyone else was quick to tell me what I couldn’t do and what I couldn’t say. Without a uniform, I could blend in with the street life and disappear for hours. It didn’t seem like I was accountable to either my supervisor or, for that matter, the public.

Anyway, I was assigned to a detail with two other undercover officers, and our job was to focus on robberies and larcenies in the subway system. I told them that I needed an arrest to increase my chances of getting a permanent assignment to an undercover squad. They both agreed to “work” and described a decoy strategy that was sure to land a quick and easy arrest.

Following their directions, I poured booze on my clothes and pretended to be passed out on a bench on the subway platform waiting for the train. My props were a flashy gold watch and a money clip partially hanging out of my front pocket. I was supposed to portray a possible victim—an easy mark—waiting for someone to rip me off. As the time ticked by, I had to remain in the “role” of a drunk. I couldn’t shift my position, I couldn’t get up and stretch, and I couldn’t open my eyes and look around. I had to remain

“passed out.” Sometime later, a few people came into the tunnel. As the cover team waited and watched, I heard a group of guys arguing. Then I heard footsteps heading toward me, and I felt one of the guys kick my feet—I guess to see whether I was asleep. I groaned but pretended not to wake up. I was nervous—anything could happen. I couldn’t tell if they were armed, and I couldn’t tell how many of them there were or even where they were or what they were doing. In fact, I realized that I had no idea what any of them even looked like.

As the train pulled into the station, I felt a hand go into my pocket and another tug at my wrist. I had never done this before, but my partners had told me not to react, and I fought my instincts and training. I was dying to jump up and grab whoever it was, but I didn’t. I continued to lay there as though I was too drunk to feel anything. My partners appeared, and they arrested three young males. I made sure I didn’t blow my cover, and my team “woke me up” to inform me that the suspects had attempted to rob me. I guess that was to ensure that I could repeat my performance on the next night without anyone knowing that I was a decoy.

All three arrestees claimed to be college students who had never been in trouble with the police before. This didn’t seem to matter to my partners, who called for a wagon to transport them to the precinct where the arrests were processed. In fact, all three had told the truth; none of the thieves had been arrested before, and the night court judge released them without bail.

I couldn’t believe that this was my “job” and I was getting paid for doing it. Over the next few months, I acted as a decoy on occasion. Each time we went out, we were able to make an arrest, and I began to develop a reputation as a good undercover cop. However, of all the people arrested while I was acting as a decoy, only one had a criminal history. For all of the others, it was their first arrest.

I continued to pester the sergeants heading up the undercover units, and after about 3 years on the job, I was transferred to the drug squad. Although I had received some on-the-job training as a decoy, the permanent assignment to the drug squad was a whole new experience and I had to learn a new “game” basically through trial and error. My first detail was to work in a drug-infested area of the city with an open-air drug market. Through conversations with some of the more senior undercover operators in the drug squad, I tried to learn the language of the streets. I listened to hours of war stories. I watched how they walked and talked, how they dressed, and how they wore their hair. I studied their mannerisms. Of course, as the rookie, I said nothing. I knew that this was the only way I was going to become a successful undercover operator. I also learned that it was all a game, that the rules were defined by deception, and that the only winners had to be us.

Drug dealers are always watching out for signs that the buyer is not a legitimate user but instead a police officer. The dealers will look for a variety of cues to determine whether a prospective buyer is legitimate—are the clothes too nice, are the shoes too new, is the hair too clean, and how about the hands and under the fingernails? The dealer constantly asks himself how the

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buyer was introduced and by whom—does the buyer speak too properly, does he or she smell too good, is there nervousness in the body language or the voice, is there desperation in the eyes? All of these cues let the seller know whether the buyer is legitimate or a narc. I realized that there was no school for this kind of training, that there were no formalized rules, and that you simply learned what works and what doesn't through trial and error as well as vicariously through other cops' experiences.

The first time I did a buy and bust, I was nervous as hell, but it worked. I walked away with a package of heroin, and my cover team observed the transaction and then executed an arrest as I walked away with the drugs. The next day, I did the exact same play, except this time the dealer gave me his cell phone number. He told me to call him anytime I wanted to score. I wasn't sure exactly what to do with the number, but this guy just didn't seem to be your average everyday street user/dealer. He was slick, and everyone around seemed to be showing him respect. So, I made the decision not to signal for his arrest.

I met with the members of my cover team instead and told them what had happened. I guess it was the right thing to do. They were ecstatic and advised our boss of the situation. One member of the cover team recognized the dealer as a small-time criminal from the projects, but based on the seller's behavior, the cop figured he had become a big-time heroin supplier in the neighborhood.

Our supervisor approved the launch of a project revolving around this key player, and it became my full-time job, that is, 24/7. All of a sudden, I didn't have days off, and the fictional person I created to make a simple street buy took on his own three-dimensional life. I befriended the dealer, and we became "business associates." Besides several long meetings to plan and buy heroin, I socialized with him and became his friend. As time went on, I met his wife and kids, his brother, and some of his other business associates. As I bought more and more heroin and spent more money, it seemed as though the dealer's trust in me grew. In fact, he didn't seem to be such a bad guy after I got to know him, and he always seemed to want to please me.

The department higher-ups began to get nervous and wanted arrests and seizures, but what they really wanted was for us to get to the dealer's suppliers. That day finally came when I ordered more heroin than my dealer could be trusted to deliver. The plan worked, and his supplier had to meet me to complete the deal. My dealer introduced me as his best customer from way back, although in reality I'd known him for only a few months. At that very moment, I knew my dealer had signed his own death warrant, not with the police but with those he feared more—the suppliers.

The deal went through without a hitch, and at the end of a very long 36-hour shift, 18 search warrants were executed, 27 people were placed under arrest, 254 charges were filed, and 10 semiautomatic handguns, 14 kilos (more than 30 pounds) of heroin, and \$1.5 million were seized.

Eventually, most of the players got bail. The next time I saw all of the arrested parties was at the courthouse several months later. They all looked at

me as though I was the bad guy. Everyone was there except my dealer. A warrant is still out for his arrest. Some say he was killed by the suppliers for bringing me into the organization, and others say he left the country. I prefer to believe the latter, although other guys on the crew say he got what he deserved. You know, "What goes around comes around, and when you play with fire you get burned. Besides, he was a drug dealer."

After months on the streets working as an undercover operator in the drug squad, I developed relationships with several informants who helped me to make cases. Each of the informants was involved in the criminal lifestyle in one way or another, and many had drug problems. Some were "small fish" who I had arrested in the past and who wanted to trade information for consideration on their charges. Other informants were "cop wannabes" who probably watched too many cop shows on television. These informants tended to live on the periphery of the criminal world for the sole purpose of working with police. Still others decided to become informants to make money off the system. These "informants for profit" often had the best information, but they were also the most dangerous because they would sell information to the highest bidder—cop or criminal.

Shortly after finishing the heroin project, a call came into the office from an informant. The informant was a "proven and reliable" source, which basically meant that in the past he had given information that turned out to be accurate and could withstand the scrutiny of the judicial system. This informant claimed that he knew the location of a large stash of cocaine and a handgun. All that we had to do in return for the information was to help him out of a bit of trouble with uniformed officers first. This informant, like the majority of informants I met over the years, was drug addicted. As a result, he periodically had problems with paranoia, trust, reliability, clarity of thinking, and recall. After checking out his information, we agreed that the target had a lot of potential. The informant agreed to take me in an undercover capacity and introduce me to the target. So, I was launched into another full-scale illicit drug project. I ended up buying several pounds of cocaine over a span of 6 months. My relationship with the dealer developed into a routine business partnership grounded in mutual respect and trust. The deals went smoothly, and I eventually became a recognized element of the organization's hierarchy. But after several months, the project was finally slated to end.

The supervisors and project leaders decided on one last big buy to draw out the major players and the main supplier/importer. As I did on every occasion, I called my connection and we made our usual plan to meet and talk face-to-face about my order. But I knew something was wrong; it was in his voice, and I felt it again when he told me where to meet him. I tried to convince my boss and crew that something was up, but the higher-ups decided that I had to make this final deal happen. The department had spent too much time and money to pull out and not arrest the supplier. I took all the extra precautions that I usually didn't bother with; I hid a small gun in my boot, and I wore a transmitter so that my cover team could monitor the meeting.

When I arrived at the meeting location, my informant was sitting in the corner just looking at me; he didn't say a word. I hadn't seen or heard from him in a couple of months, and by the looks of things, he had fallen on desperate times. Obviously, to feed his addiction, he had given me up to the target. My connection began the meeting by calling me by my real name, telling me my address, and listing off the names of my girlfriend and her kids. I could see the gun, a semiautomatic, sitting in his waistband, and I also could see that the target had brought friends. I tried my best to buy time by discrediting the "junkie" informant. I knew that the dealer was weighing his options; if the informant was telling the truth, he was looking at a long prison sentence, but if the informant was lying, he didn't want to blow such a profitable deal.

My crew, listening outside, picked up on the problem and decided to execute the arrests before I lost the dance and got shot. The arrests didn't go down easily, and the informant was shot in the leg; I'm not sure whether it was by us or them. One of my crew members was shot in the shoulder while he was covering me, and two of the dealer's crew members were shot and killed. A shipment of cocaine and millions of dollars and assets were seized. In all, 14 members of the drug organization were arrested and 167 charges were filed. All of those arrested were convicted, even the informant.

I guess that the operation was a success because the department put out a major press release. However, what it meant to me didn't make the news. After the arrests, I received a number of death threats directed at me and my family. The department considered the threats to be authentic and feared for my family's safety. So, they set up uniformed police cars outside my house until the defendants were convicted and sentenced. I continued to work undercover for several more years, always looking over my shoulder and worrying about the well-being of my family.

Conclusion

In the end, after years in the drug squad, I requested a transfer back to patrol. Had I done any good? Were crime rates lower in the city? What had I accomplished with all of the risks I had taken? I know now what I lost—my personal life was in shambles. My girlfriend decided that seeing me once every 2 or 3 weeks just was not a relationship, and all of my civilian friends no longer called me. I also experienced types of stress that patrol officers typically do not face, for example, the risk of saying the wrong thing at the wrong time and compromising my cover, the constant moral ambiguity of using questionable means to bring about desired ends, and the possibility of running into a mark when I was not "on the job."

Working undercover is not a promotion in most police departments. Instead, it is an assignment. At the end of the assignment, most undercover operators return to traditional road patrol, but because they have been outside the traditional command-and-control structure, they have missed out

on opportunities for additional training and promotion. That is exactly what happened to me.

Finally, there was quite a disconnect between the criteria used to hire me as a police officer and the skill set required to be a successful undercover operator. During the initial hiring process, significant resources were expended to make sure that I was of good moral character and that I exemplified honor, integrity, and courage. However, on entering undercover police work, I was required to leave much of my moral character at the precinct. Out on the streets, what worked was deceiving, cheating, establishing false friendships, developing false trust, and manipulating people, all in the name of fighting crime. However, this skill set cannot be used when dealing with supervisors, it certainly cannot be used in the courts, and it is not supposed to spill over into an officer's personal life. Reflecting back on my experiences, it truly was a strange experience for a young rookie cop, and it significantly affected both my personal and professional lives.

Discussion Questions

1. Of the three undercover scenarios described in the case, which is the most morally questionable? Which is the least questionable? Why? Explain the functional and dysfunctional aspects of the undercover officer's behavior in the case.
2. Consider the points of view regarding deviance that are expressed in Chapter 1. Is the undercover operator in this case engaging in deviant behavior? Is the operator's behavior positive or negative? Why or why not?
3. Should the police be involved in integrity tests using decoys designed to entice generally law-abiding citizens and/or other police officers into criminal activity? What ethical standards should be required of undercover operators?
4. What is the level of training that this undercover officer received? Should there be more training of undercover officers? Is it unethical to demand results (e.g., more arrests, reduced crime, higher sales, high-quality work) from people in high-stress jobs with minimal training or support services? Explain.
5. In many undercover operations, achieved ends are said to justify questionable means. What can happen in business when such an ethos is practiced?

