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Deviant Behavior and Misconduct of Professionals

By Howard M. Schilit

This paper examines misconduct of professionals and attempts to explain why professionals might violate rules of ethical conduct. To determine why professionals might deviate from established norms, a review of some major theoretical studies of deviant behavior is provided. This study also examines several empirical studies on deviant behavior of professionals, specifically in the legal and auditing professions.

Professionals, by virtue of their special training and knowledge are granted greater autonomy than those in other occupations. In exchange for autonomy, professionals must demonstrate a high level of competence and ethicality. Professionals establish codes of ethical conduct which guide their members to follow prescribed ethical norms.

Sociologists have several theories to explain deviant behavior. An examination of the theories suggests reasons for differential adherence to ethical norms among professionals. The degree of adherence to the ethical norms serves as a measure of deviant behavior.

Theories on Deviance

For many years sociologists have attempted to explain the causes of deviant behavior. Frazier (1976) contended that there have been three broad theoretical approaches to explain deviant behavior which he termed: (1) control; (2) societal reaction; and (3) socialization.

(1) **Control theory** suggests that deviance results from the inability of societies or groups to prevent its occurrence; that is, it lacks social control. Frazier (1976) pointed out that control theory is as much a theory of conformity as it is a theory of deviance stating:

Human action, under normal conditions of social organization, is seen to be regulated by social norms, and deviance is considered minimal precisely because behavior is regulated. But when the social organization is for some reason disrupted, the control force of norms is weakened or broken, leaving human beings unregulated and thereby free to deviate.

Durkheim's (1933) work was an antecedent for control theory. He found that integration of social groups was an important variable in explaining deviance. Disintegrated groups could not constrain individual conduct and the more disintegrated the groups, the more likely the deviance. Durkheim argued that when unregulated by society's moral authority, individual behavior will be unlimited and will follow basic appetites and personal interests. Other proponents of control theory include Reiss (1951), Nye (1958), Matza (1964), and Hirschi (1969).

(2) **Societal reaction theory** examines the effect of negative social reactions on individual rule-breakers and their behavior. It is societal reaction which precipitates and shapes patterns of deviant behavior. Societal reaction theory suggests that deviance is primarily the result of acceptance of, and conformity to, negative expectations inherent in labels that are applied when one is reacted to as a deviant. Proponents of the societal reaction approach to deviance are Tannenbaum (1938), Lemert (1951), Becker (1963) and Goffman (1961).

(3) **Socialization theory** asserts that deviant behavior is learned and transferred to the individual from his social setting. The internalization of values is the ultimate force causing deviant behavior in individuals. Central to the socialization approach is the concept of anomie. Anomie is translated as normlessness — a state of societal deregulation where norms are ineffective as sources of social control. It arises because the division of labor fails to produce sufficiently effective contacts between its members and adequate regulations of social relationships.

Durkheim (1933) initially identified the concept of anomie and applied it to his classic study on suicide. He determined that suicides were occurring during a state of anomie. This state of anomie was created by an abrupt breakdown of social controls, norms, and standards. It was at this time or shortly thereafter that deviant behavior was most likely to occur.

Merton (1938) who redefined Durkheim's concept of anomie, regarded deviant behavior as a symptom of a disorganized society. That is,

when the cultural system was not coordinated with the social system, society was "malintegrated." Merton contended that "when all members of a society share the same goals but the legitimate means for achieving the goals are not equally available or not available at all to some segments, society would be malintegrated and high rates of deviance may be expected."

Merton concluded that individuals develop values and behavior patterns relative to their location in the social structure. If one's position in the social structure was especially exposed to disequilibrium between cultural goals and institutional means, deviant behavior was more probable. Merton also stated that "... the greatest pressures toward deviation are exerted on the lower social strata" Many in the lower social strata do not conform to institutional norms because of the existence of other cultural goals.

Socialization theory asserts that internalization of values is the ultimate force causing deviant behavior in individuals.

Cohen (1966) and Cloward and Ohlin (1960) extended Merton's theory of anomie. Cohen contended that lower-class individuals, especially, were pressured into situations which were likely to result in deviant behavior. Cloward and Ohlin asserted that the "social support of a subculture of deviant peers contributed to deviant behavior." Individuals were likely to emulate and become socialized into the deviant roles that were available in the immediate environment.

In summary, the socialization approach attempts to explain deviant behavior within the framework of the social organization. Pressures and opportunities for deviant behavior may

vary according to one's location in the social strata. If one has access to deviant subcultures and the opportunity presents itself when a period of anomie exists, deviant behavior is more likely to occur.

Review of the literature on deviance suggests alternative theoretical approaches for studying misconduct among professionals. Much empirical research to date examining misconduct of professionals has followed the socialization approach to deviance.

Empirical Studies on Professional Misconduct

This section reviews five major empirical studies on misconduct of professionals. Each follows the "socialization" approach which focuses on structural explanations for deviance. These studies suggest that a professional's location within the social organization of a profession determines the pressures and opportunities to violate professional rules of ethical conduct. Factors such as the type of firm, clients, and colleagues may vary across different social strata of a profession. These studies suggest that differential adherence to rules of ethical conduct by professionals may be related to location within the social strata of the profession.

The empirical studies which will be reviewed are by Carlin (1966), Handler (1967), Loeb (1970), Yerkes (1975) and Schilit (1981).

Summary of Carlin's Study (1966)

The most comprehensive study of deviant behavior in the legal profession is Carlin's study of New York City lawyers. Carlin considered the social setting in which the lawyer worked an important factor in explaining unethical behavior. The focus of his study was on the social system of the lawyer and on situational pressures and opportunities he experienced to engage in unethical behavior.

Carlin found significant differences within the social organization of the legal profession. He concluded that the size of the law firm determined the degree of situational inducements to violate norms. Lawyers in large law firms had different types of: practices, clientele, and income than lawyers in small firms and sole practitioners. Those in large firms were the most financially secure, and they received the most pressure to conform to and

Carlin concluded that unethical behavior was the result of situational pressures and one's inner disposition.

the least pressure to violate norms. In contrast, lawyers in small firms and sole practitioners were exposed to greater client pressure and had more opportunities to violate professional and community norms.

Carlin found that colleagues were an important element of the lawyer's social system. Based on the lawyers' attitude toward professional ethics, Carlin classified each law firm into a: (1) permissive; (2) strict; or (3) mixed group. He found that those in permissive firms were most likely while those in strict firms were least likely to violate rules of ethical conduct. He found that seniority was important since the longer one was in a permissive office, the more likely he was to be involved in unethical behavior. Conversely, the longer one was in a strict firm, the less likely he was to behave unethically.

Carlin found that the size of the firm was related to unethical behavior, although not directly. When lawyers in large and small firms practiced under similar conditions, there was little difference in their rates of conformity or nonconformity to ethical rules.

However, lawyers in these two settings rarely practiced under similar conditions. Factors such as: type of clients; social background; and educational level differentiate large and small firm lawyers, and these factors directly affect ethical behavior.

Carlin also examined the importance of personality, or "inner disposition" (ethical concern) in explaining unethical behavior. He found that lawyers with a low concern for ethics were most likely and those with a high concern were least likely to behave unethically.

He concluded that unethical behavior was a result of situational pressures and the inner disposition of the lawyer. But while the inner disposition to be ethical was spread evenly throughout the legal profession, the situational pressures to be unethical "were greatest at the lower end of the profession."

A professional's location within the social stratification of a profession may determine the pressures and opportunities to violate ethical norms.

Summary of Handler's Study (1967) Handler studied the legal profession in Milwaukee, a middle-sized midwestern city, and confirmed many of Carlin's results. He suggested that deviant behavior was related to the stability and wealth of a lawyer's clientele and to his opportunities to commit ethical violations. He found that a highly integrated professional bar that consisted of small firms and that did not specialize received little competition from other occupations. Handler found only minor violations of professional norms which he concluded resulted from the less competitive small city bar. He suggested that in a big city bar violation of community norms would probably be more common.

Summary of Loeb's Study (1970) Loeb examined factors that account for variation in ethical behavior in the Milwaukee professional auditing community. He studied such factors as: client pressure; opportunities to violate norms; clientele; ethical concern; attentiveness to ethical issues; office colleague relations; and professional organization membership to ethical behavior. Loeb concluded that variation in ethical behavior seemed to be related to two components; (1) the accountant's place in the professional stratification system; and (2) certain

characteristics that are unique to the individual CPA.

Among the findings in the Loeb study were the following:

- (1) Accountants with high-status clients experienced less pressure to violate ethical norms than accountants with low-status clients.
- (2) CPAs with marginal practices had greater vulnerability to client pressure and because of economic reasons would be more likely to violate the code.
- (3) As the accountant's opportunity to violate the code increased, the frequency with which he violated also increased.
- (4) A strict office attitude (toward the code) was likely to decrease the willingness of its members to violate the code, while a permissive attitude was likely to reinforce the accountant's vulnerability to outside pressures to violate.
- (5) An accountant's ethical behavior was affected by his concern with ethics, his attentiveness to ethical issues, and his membership in the AICPA. A high attentiveness to ethical issues increased the accountant's likelihood to act ethically.

Summary of Yerkes' Study (1975) Yerkes, who studied Certified Public Accountants (CPAs) and Public Accountants (PAs) in Cincinnati, Ohio, replicated the methodology employed by Carlin and Loeb. He examined adherence of CPAs of national and local firms and of Ohio PAs to the AICPA Code of Professional Ethics. Yerkes found that the accountant's location in the social organization of the profession influenced his adherence to the Code of Professional Ethics. This location determined the accountant's type of work, clientele, and pressures to violate ethical standards.

Yerkes found that members in national firms had the highest conformity to the AICPA Code of Professional Ethics. He concluded that the greater emphasis on auditing by national firms was an important reason for their high ethical behavior. He found that local CPAs and PAs (which performed the least auditing) had the lowest adherence to the AICPA Code of Professional Ethics. Yerkes found that local CPAs felt the greatest pressure

from peers and clients since they were more dependent on a few large clients, and they faced fierce competition from nonprofessionals.

Yerkes concluded that as the vulnerability to commit unethical acts and as the opportunity to do so rose, the accountant's chances of violating the Code of Professional Ethics also rose. Local CPAs were most vulnerable to client pressure, but PAs exhibited the most unethical behavior because of what Yerkes called "indifference and isolation" and because they were involved in the least amount of auditing work of all three segments of the accounting profession.

Yerkes found that local CPAs felt great pressure from peers and clients and they faced fierce competition from nonprofessionals.

Summary of Schilit's Study (1981) The Schilit study, which is an extension of these recent empirical studies on professional misconduct, examines adherence to ethical standards within the auditing profession. Specifically, it focused on the likely compliance with rules of ethical conduct on auditor independence by practitioners who do audit work.

Similar to the four empirical studies, Schilit also followed the "socialization approach" to explain the misconduct of professionals. A professional's location within the social stratification of a profession may determine the pressures and opportunities to violate ethical norms. The auditing profession can be stratified according to firm size as: (1) large; or (2) small. Socialization theory suggests that members in different strata face differential inducements and pressures which might lead to differential compliance with professional norms. Merton (1938) and others suggested that those in the

lower strata (small firms) may face greater pressure to violate ethical norms and might succumb to this pressure and violate the norms.

The study examined the propensity of auditors to violate selected rules of ethical conduct on audit-independence and identified factors associated with such violation. Data were obtained by presenting participants twelve hypothetical cases involving potential violations of independence rules and asking them how they would act in the cases presented.

Results indicated that those auditors surveyed showed a propensity to violate and to reject various rules of ethical conduct on independence matters. Descriptive statistics revealed that few auditors indicated a propensity to adhere to or to accept all twelve independence cases presented. Chi-square, regression analysis, and log-linear modeling indicated that firm size was the major factor in explaining differential adherence to independence rules.

The study contributes to the literature by: (1) extending previous research on ethical conduct by focusing on compliance to specific rules of conduct on audit-independence; (2) confirming conclusions of these previous studies which found some noncompliance to rules of ethical conduct; (3) introducing log-linear modeling, a different and a theoretically correct method for evaluating the factors explaining differential adherence to the rules of ethical conduct; and (4) confirming socialization theory on deviance and related empirical studies on misconduct of professionals which suggest differential adherence to rules of ethical conduct may be explained by firm size.

The Schilit study suggests differential adherence to rules of ethical conduct may be explained by firm size.

Significance, Implications and Future Research

Recently, critics have questioned the motives of professions and professionals, suggesting a lack of strong community commitment and a failure to meet societal needs by professionals. In particular, the auditing profession has recently been under closer scrutiny by the SEC, following two Congressional Committee investigations which questioned professional autonomy.

In part, to test whether professionals met societal expectations of high ethical behavior, several researchers have examined the ethical conduct of professionals. These studies have empirically tested whether professionals adhered to established rules of ethical conduct. The results of each study found differential adherence to ethical norms, with differences in firm size being the most important explanatory factor.

The Schilit study is significant for several reasons.

(1) Similar to results from previous empirical studies on misconduct of professionals, it found a propensity among auditors to violate several rules of conduct on ethical behavior. Results indicated that on the average, auditors showed a propensity to violate one-third of the cases presented. Since it was assumed that competent and ethical professionals should comply with all rules of ethical behavior, the results indicated a potential problem of noncompliance.

This finding lends support to critics who contend that professionals have failed to meet their responsibilities. The results of this study can, in part, give an indication to whether auditors are meeting their professional responsibilities to act ethically. Based upon results from this limited sample in Baltimore, it is questionable whether these auditors are acting responsibly.

(2) Policy-makers, such as the SEC, the AICPA, and/or the Congress, may wish to consider these findings in their attempt to improve the financial reporting process. Results of this study, while limited in scope to Baltimore, suggested a propensity among auditors to violate several rules of ethical conduct on independence promulgated by the SEC and the AICPA.

These policy-makers or other researchers may wish to investigate causes for the apparent problem of noncompliance with several rules of ethical conduct.

Socialization theory teaches that deviant behavior is learned and transferred to the individual from his social or organizational setting.

(3) Results of this research suggest that noncompliance of audit-independence rules may be pervasive in the population studied. Reasons for the apparent lack of compliance could range from a simple lack of awareness or understanding to a willful disregard for the rules. Research could address reasons for noncompliance with rules of ethical conduct on audit-independence. If further investigation indicates the problem results from the auditors' lack of awareness or understanding of the rules of conduct, then additional training and better communication by the rule-makers could be considered. If, however, further investigation finds noncompliance results from a willful disregard for the rules, then stronger and more forceful disciplinary actions may be necessary to punish the violators.

(4) Similar to results in previous empirical studies, this research found differential adherence to audit-independence rules based on firm size. Auditors employed by small firms appeared more likely to violate rules of conduct than those employed by large firms. Since this finding confirms Loeb (1970) and Yerkes (1975), more evidence suggests that firm size may be an important determinant in explaining differential adherence to rules of ethical conduct. Research could be considered to examine factors associated with firm size that account for the differential adherence to rules of ethical conduct.

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Findings of differential adherence to audit-independence rules based on firm size is consistent with socialization theory of deviance. Socialization theory teaches that deviant behavior is learned and transferred to the individual from his social setting. Therefore, values of an individual may be shaped by factors associated with his or her organization. These values may affect compliance to rules of ethical conduct.

Summary

The objective of this paper was to present theoretical and empirical evidence on the misconduct of professionals. Several broad theoretical approaches to explain deviant behavior — (1) control; (2) societal reaction; and (3) socialization — were reviewed. Socialization theory, which includes anomie, contends that individuals develop values and behavior patterns relative to their location in the social structure.

These recent empirical studies of the legal and auditing professions, which followed the socialization theory of deviance, suggested that differential adherence to rules of ethical conduct was based on location in the professional community. Professionals in different social strata within the social organization of a profession faced differential pressures and opportunities to violate professional norms. These studies found that members in the lower social strata faced greater pressure to violate professional norms. Such factors as the type of clientele and colleagues, and the size of practice affected conformity to ethical rules.

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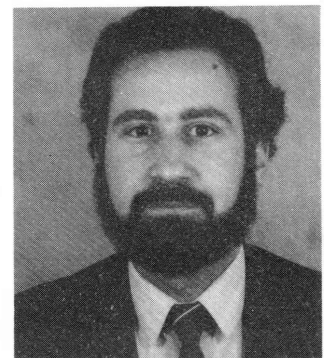
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