

# **PROFIT, OWNERSHIP, AND THE CORPORATION: DEVIANCE IN AMERICAN ELDER CARE**

**Jason S. Ulsperger, Oklahoma State University  
Kristen Kloss Ulsperger, Oklahoma State University**

## **Abstract**

Research on the links between organizational type and quality of care in nursing homes has suggested the two affect one another (Jenkins and Braithwaite 1993). All types of nursing homes neglect residents. However, research finds deviation more often exists in facilities that seek profit. In the United States, the Health Care Financing Administration (HCFA) monitors nursing homes. HCFA reports information on nursing home ownership and rates of citations. This analysis of 385 nursing homes shows a connection between profit ownership and deviance. The findings lead us to conclude that organizational type may provide an environment conducive to a lower quality of care in nursing homes. This analysis contributes to research on nursing home deviance in other countries.

## **INTRODUCTION**

There are few propositions that analysts continuously report in terms of corporate deviance. However, criminology has repetitive themes indicating a corporate logic can facilitate deviant activity (Jenkins and Braithwaite 1993). Sutherland (1949) was one of the first criminologists to discuss corporate deviance arguing that deviance could involve abnormal acts committed by persons of respectability. Researchers continue to use this perspective (see Coleman 1989). Clinard, Quinney, and Wildeman (1994) imply that corporate deviance involves profit objectives given from actors at the top of the organizational structure. Other analysts explain that these orientations flow to the bottom of the organization contributing to deviance for the purpose of higher revenues (Powell and DiMaggio 1991).

In 1988, the annual combined sales of the Fortune 500, totaled nearly \$2 trillion with profits of \$115 billion. Clinard (1983) indicates that both middle management and executives make an abundance of unethical decisions based on profit motives on a regular basis in these organizations. A study by Ross (1980) showed that 11 percent of the largest American corporations were guilty of at least one major crime. Moreover,

Clinard and Yeager (1980) report that 115 corporations in the Fortune 500 have paid civil penalties for serious illegal behavior often tied to goals of increasing revenue. In recent decades, corporate lawbreaking has been prevalent in many business settings. Deviance has been reported in the pharmaceutical industry (Braithwaite 1984), the birth prevention field (Frank 1985), the automotive industry (Cullen, Maakestad, and Cavender 1987), and the savings and loan sector (Tillman and Pontell 1995). Jenkins and Braithwaite (1993) built upon corporate deviance literature, focusing on nursing home compliance to regulatory laws in Australia. Their study found greater top down pressures for lawbreaking in for-profit facilities. Their review of Australian nursing homes remains intriguing; however, there continues to be a lack of analysis pertaining to corporate deviance in American elder care.

## **NURSING HOMES IN THE UNITED STATES**

With the elderly population in the United States rising at a rapid rate, caring for the aged has become a lucrative business venture (Glenn 2000). In 1966, the government began subsidizing old-age institutions through Medicare and Medicaid funding. A shift from county-maintained "poor farms"

to institutionalized nursing home care gradually took place (Manard, Kart, and Gils, 1975). Consequently, more individuals in need of intensive long-term care are entering for-profit nursing facilities.

According to Andringa and Engstrom (1997), for-profit facilities driven by monetary gain are required to pay taxes. In these organizations, shareholders may disclose only what the law requires. On the contrary, nonprofit homes have a mission of service. Government agencies and church groups control nonprofit facilities, which are free from tax payments. The Health Care Financing Administration (HCFA) has an essential role in regulating nursing homes dependent on Medicare and Medicaid funding regardless of ownership status.

#### NURSING HOME OWNERSHIP

In 1968, approximately 77.4 percent of American nursing homes were for-profit facilities, while 22.6 percent were nonprofit (Manard et al. 1975). In 1985, 75 percent of nursing homes were for-profit, and 25 percent were nonprofit (Forrest, Forrest, and

research, through secondary analysis of HCFA on-line documents, identified rates of deviance in U.S. nursing homes based on ownership status. With Jenkins and Braithwaite's (1993) research as a model, we expected that for-profit American nursing homes would have higher deficiency rates.

#### METHODS SAMPLE

Using a list taken from HCFA records and random sampling procedures, this project examined 385 nursing homes from four states. States included in the study were Arkansas, Louisiana, Oklahoma, and Mississippi. As Table 1 indicates, HCFA records showed that Arkansas had 269 nursing homes at the time of this study. Data from 93 homes were included in our sample. Louisiana had 388 certified facilities, 119 were included in our sample. Oklahoma had 410 facilities, and 87 were included in this research. Finally, HCFA records indicated Mississippi had 199 nursing homes, 86 of which were included in this analysis. This project stratified all facilities included in the sample based on state variation and ownership type.

**Table 1. General Differences in Nursing Homes by State**

Item	Arkansas	Louisiana	Oklahoma	Mississippi	Totals
Number of Facilities	269	388	410	199	1266
Facilities in Sample	119	87	86	385	

Note: Facilities in sample based on systematic random sampling procedures.

Forrest 1993). Currently 11,400 nursing homes in the United States, 67 percent, are for-profit facilities (Gabrel 2000). In their study of Australian nursing homes, Jenkins and Braithwaite (1993) implied comparable proportions of ownership between for-profit homes (66 percent) and nonprofit facilities (33 percent).

The general intent of this article is to expand the corporate deviance literature by exploring American nursing homes. This research analyzed a sample of elder care facilities in the states of Arkansas, Louisiana, Oklahoma, and Mississippi. Specifically, this

#### INSTRUMENT

Data sources for this research included secondary information gathered by state survey teams operating under the HCFA. State survey agencies have various contracts with the HCFA to survey homes every 9 to 15 months and report deviations from rules. Citations are categorized into a wide range of acts such as provision of substandard food, maintenance of low staff-resident ratios, and overuse of restraints (HCFA 2000). This research analyzed the total number of citations given to each institution regardless of category.

**PROCEDURE**

The researchers obtained HCFA information through the Medicare on-line system. The Medicare on-line system provides a database of information relating to nursing home deviance based on HCFA guidelines. The database provides performance information on every Medicare and Medicaid certified nursing home in the United States. To search the database for a nursing home, a researcher can enter a state, city, zip code, or facility name. In turn, information pertaining to that specific home is accessible (HCFA 2000). We obtained both citation and ownership information through this process. By using secondary nursing home data in computer generated form, the ability to use otherwise geographically inaccessible information existed. This provided an advantage in terms of non-reactivity created by direct observation, the possibility to deal with a larger sample size, and lowered cost due to centralized access (Bailey 1978). This research used two-tailed t-tests and multiple analysis of variance (MANOVA) techniques to assess overall differences between state citations and deficiency rates based on ownership type.

**RESULTS**

This project examined the sample of nursing homes in terms of geographic location, ownership status, and citation frequencies. Overall, it examined infraction rates for each individual state in relation to ownership. In addition, this research examined ownership percentages related to deviation from HCFA regulations while excluding geographic variables. Finally, it compared all four states ignoring the variable of ownership.

**COMPARISON WITHIN STATES**

Of the 93 facilities analyzed from Arkansas, 18 were nonprofit. These institutions had citation rates ranging from 1 to 13. As Table 2 indicates, these nonprofit organizations had an average of 4.66 violations per home. Seventy-five of the homes analyzed from Arkansas were for-profit with non-compliance

numbers ranging from zero to 20. These facilities had an average of 7.19 deficiencies per home. The mean numbers of citations given to nonprofit (4.66) and for-profit nursing homes (7.19) in the state of Arkansas were significantly different,  $t(46) = 2.96$ ,  $p < .05$ .

In relation to Louisiana, this research analyzed 119 facilities. Table 2 indicates that the 22 nonprofit institutions had citation numbers ranging from zero to 12 and averaging 2.77 violations per home. Ninety-seven of the homes analyzed from Louisiana were for-profit with citations ranging from zero to 17. These facilities had an average of 4.51 deficiencies per home. Again, a statistically significant difference between the mean numbers of nonprofit (2.77) and for-profit citation rates (4.51) existed,  $t(59) = 2.08$ ,  $p < .05$ .

Of the 87 facilities from Oklahoma examined, 15 were nonprofit with infraction rates ranging from zero to five. As Table 2 indicates, nonprofit organizations in Oklahoma had an average of 1.86 violations per home. Seventy-two of the homes analyzed from Oklahoma were for-profit with rates of deviation HCFA regulations ranging from zero to 21. These facilities had an average of 4.31 deficiencies. As in the cases of Arkansas and Louisiana, a statistically significant difference between mean numbers of nonprofit (1.86) and for-profit citations (4.31) existed,  $t(43) = 3.43$ ,  $p < .05$ .

Of the 86 facilities examined from Mississippi, 28 were nonprofit institutions with citations ranging from zero to 15. As Table 2 reveals, these facilities had an average of 4.21 violations per home. Fifty-eight of the homes from Mississippi were for-profit institutions with non-compliance rates ranging from zero to 18 averaging 5.13 deficiencies per home. Though the mean number of infractions in for-profit homes was larger than nonprofit facilities, Mississippi was the only state without a statistically significant difference between the mean number of citations based on ownership,  $t(42) = 1.04$ ,  $p < .05$ .

**Table 2. Precise Differences in Nursing Homes by State**

Organization	Arkansas	Louisiana	Oklahoma	Mississippi	Totals
Nonprofit Homes					
Number	18	22	15	28	83
Mean	4.66	2.77	1.86	4.21	3.38
For-profit Homes					
Number	75	97	72	58	302
Mean	7.19	4.51	4.31	5.13	5.28

### ORGANIZATIONAL DIFFERENCES AND MULTI-STATE COMPARISONS

Holding geographic status constant, the nonprofit facilities examined averaged 3.38 violations per home, and the for-profit facilities averaged 5.28 violations. Controlling for state variation, the effect of organizational type was statistically significant,  $F(1,380) = 10.82, p < .05$ . Therefore, the overall mean deviance rate for for-profit homes was significantly higher than the rate for nonprofit facilities. For Arkansas, data from this sample indicated that the mean number of infractions was 5.93 controlling for ownership. Louisiana had a mean number of 3.64 infractions. Oklahoma averaged 3.09 citations, the lowest average for all states examined. Mississippi averaged 4.67 violations. Controlling for the variable of ownership, the effect of state variation was statistically significant,  $F(3,330) = 8.21, p < .05$ . Hence, the rates of deviance between states were significantly different as well.

### DISCUSSION AND CONCLUSIONS

For several decades, analysts have discussed the connection between deviance and corporations (Braithwaite 1984; Frank 1985; Cullen, Maakestad, and Cavender 1987; Yeager 1991; Tillman and Powell 1995; Simon 2000). In terms of elder care, Jenkins and Braithwaite (1993) provided knowledge relating to deviance and for-profit nursing homes in Australia, but a void still existed concerning U.S. facilities. The present findings fill this void. Moreover, these findings have the ability to aid in the assessment of HCFA survey processes. As indicated, violation rates from HCFA regulations differ

greatly, suggesting perhaps that the surveys performed in different geographic locations are based on unstable measures. Conformity among measures may be needed to increase the quality of care in American institutions for the aged.

Regardless of state variation, the findings of this research build on Jenkins and Braithwaite's (1993) seminal work on corporate lawbreaking and the elder care industry in several ways. First, the findings suggest a consistency in cross-national nursing home ownership. Jenkins and Braithwaite (1993) indicate a large proportion of for-profit homes as compared to nonprofit facilities in Australia. The sample used in this study confirmed similar numbers of ownership in the United States. Second, the findings provide empirical evidence of the importance of ownership in determining patterns of non-compliance to government regulation in the United States nursing home industry. As Jenkins and Braithwaite (1993) argue, Australian for-profit nursing homes are more likely to deviate from government regulations based on corporate ideologies. Third, the findings confirm the contention that for-profit ownership does impede quality of care based on HCFA measures.

Jenkins and Braithwaite (1993) suggest chief executives set a tone of violating regulations for profit maximization. If this is true, the words of a chief executive officer from American nursing home corporations can give us an indication of how their organizational logic legitimizes deviance. In a 1989 interview in *Health Week*, the President and Chief Operating Officer of the largest nursing home chain in America was asked about

recent violations regarding staff to patient ratios. He excused the company's deviant activities by explaining that the law, and not violations of the law, is the problem. He stated, "The law is unfair and does not direct itself toward this type of problem. It is like a cure for the crime that's much greater than the crime... we're going to fight it all the way" (Mayer 1989:17).

#### REFERENCES

- Andringa, R., and T. Engstrom. 1997. *Non-profit Board Answer Book*. Washington D.C.: National Center for Nonprofit Boards.
- Bailey, K.D. 1978. *Methods of Social Research*. New York: The Free Press.
- Braithwaite, J. 1984. *Corporate Crime in the Pharmaceutical Industry*. London: Routledge and Kegan Paul.
- Clinard, M.B. 1983. *Corporate Ethics and Crime*. Beverly Hills, CA: Sage.
- Clinard, M.B., R. Quinney, and J. Wildeman. 1994. *Criminal Behavior Systems: A Typology*. Cincinnati: Anderson Publishing Co.
- Clinard, M.B., and P.C. Yeager. 1980. *Corporate Crime*. New York: The Free Press.
- Coleman, J. 1989. *The Criminal Elite: The Sociology of White Collar Crime*. 2d ed., New York: St. Martin's Press.
- Cullen, F.T., W.J. Maakestad, and G. Cavender. 1987. *Corporate Crime under Attack: The Ford Pinto Case and Beyond*. Cincinnati, OH: Anderson. Forrest, M.B., C.B. Forrest, and R.
- Forrest. 1993. *Nursing homes: The Complete Guide*. Dallas: Taylor Publishing Company.
- Frank, N. 1985. *Crimes against Worker Health Safety*. San Francisco: Sierra Club Books.
- Gabrel, C. 2000. "An Overview of Nursing Home Facilities: Data from the 1997 National Nursing Home Survey." *Advanced Data for Vital and Health Statistics No. 311*. Hyattsville, Maryland: National Center for Health Statistics.
- Glenn, E.N. 2000. "Creating a Caring Society." *Contemporary Sociology* 29:84-94.
- Jenkins, A. and J. Braithwaite, J. 1993. "Profits, Pressure, and Corporate Lawbreaking." *Crime, Law, and Social Change* 20:221-232.
- Manard, B., C. Kart, and D. Gils. 1975. *Old-age Institutions*. Lexington: Lexington Books.
- Mayer, D. 1989. "Insider Interview: David Banks — President, Chief Operating Officer Beverly Enterprises." *HealthWeek*. February:17.
- HCFA- Health Care Financing Administration. 2000. Nursing Home Compare. Retrieved May 23, 2000 (<http://www.medicare.gov/NHCompare/home.asp>).
- Powell, W.W. and P.J. DiMaggio, ed. 1991. *The New Institutionalism in Organizational Analysis*. Chicago: The University of Chicago Press.
- Ross, I. 1980. "How Lawless Are Big Companies?" *Fortune*. December: 57- 64.
- Simon, D.R. 2000. "Corporate Environmental Crimes and Social Inequality: New Directions for Environmental Justice." *The American Behavioral Scientist* 43(4): 633-645.
- Sutherland, E. 1949. *White Collar Crime*. New York: Dryden Press.
- Tillman, R. and H. Pontell. 1995. "Organizations and Fraud in the Savings and Loan Industry." *Social Forces* 73.
- Yeager, P.C. 1991. *The Limits of the Law: The Public Regulation of Private Pollution*. New York: Cambridge University Press.

#### ACKNOWLEDGEMENT

Send all correspondence to Jason S. Ulsperger, Oklahoma State University -Sociology Department, 006 Classroom Building Stillwater, Oklahoma 74078- 4062. The authors would like to thank Dr. Ed Arquitt and editors for helpful comments on previous versions of this paper.