

Application of Convenience Theory and Evaluation of Fraud Examination: The Case of the Deloitte Investigation of the Sheriff's Office in Philadelphia

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Abstract

Fraud examiners from global accounting firms and local law firms are hired by private and public organizations to investigate suspicion of financial crime committed by white-collar offenders. Reports of the investigations are the result of work that provides insight into both fraudulent behavior as well as examination performance. Unfortunately, most reports are kept confidential. In this article, a publicly available report is reviewed. Evidence of convenience is found in motive, opportunity and willingness with regard to deviant behavior in organizational contexts. Furthermore, investigation strategies, investigation processes and investigation result are reviewed. A later court verdict is presented, which puts the fraud examination in perspective.

Key Words: *fraud examination; white-collar crime; convenience theory; report of investigation.*

Introduction

Fraud examiners and financial crime specialists from global auditing firms and local law firms are in the business of reconstructing past events and sequences of events. They conduct their investigations and conclude their work by presenting reports of investigations to their clients in which there is suspicion of financial crime by white-collar offenders (Brooks and Button, 2011; Button and Gee, 2013; Button et al., 2007a, 2007b; Schneider, 2006; Williams, 2008; 2014).

For various reasons, reports of investigations are often kept secret (Gottschalk and Buzzeo, 2017). Some reports become publicly available and are then often presented in media reports. Examples include law firm, Jenner and Block at Lehman Brothers (Valukas, 2010) and auditing firm, KPMG in the town of Pelham (Grogan, 2017). Such reports are interesting in the context of perspectives of criminology, management, and investigation as they tell a story based on an investigation.

In this article, we apply convenience theory to the case study of suspected white-collar crime based on an available report of investigation. The forensic investigation report is written by fraud examiners at the auditing firm of Deloitte (2011). The report is three hundred pages long and offers an opportunity to gain insight into both the suspected crime as well as the performance of fraud examiners. Thus, the article addresses the following two research questions: What evidence of financial motive, organizational opportunity, and personal willingness do we find in a fraud investigation report? How can we evaluate a fraud investigation report?

This article starts by presenting convenience theory and examination evaluation. Subsequently, the Deloitte investigation is presented in the context of convenience theory and in terms of examination evaluation. Finally, the prosecution outcome in court is presented.

Convenience Theory

The theory of convenience suggests that white-collar crime occurs as a consequence of financial motive (Goldstraw-White, 2012; Naylor, 2003), organizational opportunity (Cohen and Felson, 1979; Pontell et al., 2014), and personal willingness (Sutherland, 1983; Sykes and Matza, 1957).

A financial motive can be the result of threats or possibilities. A threat can be the fear of not being reelected Philadelphia sheriff, which is discussed in the case study. A possibility can be extraordinary profit as a vendor to the Philadelphia sheriff, which is also discussed in the case study.

Organizational opportunity exists when a financial crime is committed and concealed in a professional context in which the offender has legitimate access to premises and systems. The offender does not hide. Rather, the offence is hidden as a seemingly legitimate transaction in a flow of legal transactions. The offender can be a rotten apple or a “rotten barrel,” and the crime might be for the benefit of the offender or on behalf of the organization (Gottschalk, 2017).

Personal willingness is dependent on a number of factors, such as the extent of self-control and the application of neutralization techniques. Neutralization techniques serve the purpose of decreasing and removing a feeling of guilt when breaking the law. Applicable techniques include denial of injury, denial of victim, condemning condemners, disagreement with the law, and entitlement to action.

The theory of convenience suggests that reinforcements occur in the elements of motive, opportunity, and willingness. For example, a stronger motive or a stronger willingness will cause a potential offender to expand organizational opportunities. Opportunity expansion can occur when the potential offender gains more power and influence over time.

Examination Evaluation

It is interesting to evaluate the report of investigation in light of the claims examiners make concerning suspects. The solving of cases – meaning that examiners really found out what had happened and were able to document it – is an interesting issue to study. An evaluation is a systematic study of work done (Filstad and Gottschalk, 2011). Here we evaluate investigation strategies, investigation processes, and investigation results. Evaluation is a systematic inquiry into a completed investigation.

The term “evaluation” is used to describe assessment and estimation of the value of something.

Evaluation is about judging a completed investigation. An evaluator has to ask whether the investigation was in some way biased .

Deloitte Investigaton

Deloitte (2011) investigated activities in the sheriff's real estate division in the city of Philadelphia in Pennsylvania. There was concern that poor control procedures provided ample opportunity to misappropriate and conceal theft of funds. The custodial funds questioned resided predominantly in accounts related to the sheriff's sales of real property. From 2006 through 2010, the sheriff's real estate division conducted over 61,500 property sales. John D. Green was the sheriff in Philadelphia from 1988 until January 2011, when he retired.

Reach Communication Specialists Inc. provided advertising services to the sheriff's real estate sales for twenty years, ending in January 2011. The Office of the Sheriff paid Reach \$206 million from 2005 through 2010 for advertising services, settlement pass-through disbursements, related services, and fees. James R. Davis was one of the owners of Reach, and Sheriffsale.com was a website that belonged to Davis.

Both Green and Davis were suspected of misconduct and white-collar crime. Green was suspected of receiving kickbacks from Davis in his reelection campaigns for the position of Sheriff. Davies was suspected of influencing and manipulating operations in the Sheriff's real estate division and for receiving excess fees for advertising services.

Convenient Financial Motive

The Office of the Sheriff overpaid Davis' company, Reach, by adding 2.9 lines to the cost of per writ advertising and by accepting higher billing rates, production fees, and administrative costs. The standard commission of 15 % was always exceeded.

The motive for Green was to be reelected. To become reelected, he needed financial funding. He received substantial financial support in his reelection campaigns from Davis through Reach. Also, Green purchased his private residence from a company owned by Davis in May 2003.

The motive for Davis was to make extraordinary profit on services provided to the sheriff's real estate sales. Reach received millions of dollars in fees that were paid by revenues generated by the Sheriff's sales and ultimately borne by the foreclosed homeowner or judgment creditors.

Reach and the sheriff were interconnected through Green's political campaigns (Deloitte, 2011: 17):

James Cassel, the late co-owner of Reach is named as treasurer on six of Sheriff Green's campaign reports from 2002 to 2003, which he purportedly signed.

Convenient Organizational Opportunity

The opportunity for Green was to provide certain favors and advantages to Davis both in terms of influence on real estate operations as well as excess fees paid to Davis. The contracts were not in compliance with the terms of the home rule charter, but they were not readily accessible for public review, and were not internally circulated and made known within the Office of the Sheriff (Deloitte, 2011: 14):

The deficiencies in the contracting process weakened the Office of the Sheriff's ability to determine the accuracy and legitimacy of vendor invoices, particularly those of the Office's largest vendor, Reach/RCS.

Sheriff Green and his office did not exercise oversight of the Reach invoices and did not minimize advertising costs and other expenses. Under Sheriff Green's tenure there were few internal controls relating to Reach, their invoices, and their fees.

Sheriff Green placed Crystal Stewart and Darrell Stewart, the sister and brother-in-law of Davis, in positions in which they issued payment requests for Reach invoices and then approved the check payments to the companies.

Nobody in the Office of the Sheriff questioned or challenged Sheriff Green about his decisions or his management of the office out of fear of being terminated. Employees who did not have civil service protection were concerned about losing their jobs if they challenged Green. Employees

who had civil service protection were concerned about getting reassigned to undesirable positions within the office. Even the later acting Sheriff said that she signed the Sheriff's office's misleading responses to audit requests because she wanted to retain her job and be the next Sheriff.

The opportunity for Davis was to support Green's reelection campaign through Reach. For example, Reach was twice listed as a \$30,000 creditor of sheriff Green's reelection campaign on a finance report in May and June in 2007. The opportunity increased due to the fact that he had relatives working in the Office of the Sheriff. Furthermore, "Sheriff Green permitted Reach/RCS, its largest vendor, to exert control over the operations of the Real Estate Division of the Sheriff's Office" (Deloitte, 2011: 14). Davis, through Reach, was controlling and running the real estate division.

Another sister of Davis also worked in the real estate division of the sheriff's office and had invoice approval authority. Davis' daughter also worked in the Office of the Sheriff and had full access to all financial information in the office. Even more importantly for Davis' organizational opportunities in the Sheriff's office, Reach had control over the computerized accounting system in the office (Deloitte, 2011: 18):

The interrelationship between the Sheriff's Office and RCS culminated in RCS taking control of the Sheriff's Office's computerized accounting system shortly before the release of the City Controller's audit report in September 2010. RCS placed all of the Sheriff's Office records on the RCS server. The control ended in January 2011 when RCS was terminated following the release of the City Controller's Audit Report. At that point, the Sheriff's Office lacked direct access to four months of its own records and was unable to write checks from their own bank accounts because the Sheriff had yielded possession of its computerized financial records to its largest vendor, Reach/RCS. The Sheriff's Office also lacked access to Phillysheriff.com, the Office's unofficial website, since that website was owned and under the control of Reach.

None of the letter agreement contract between the Sheriff's office and Reach were prepared or reviewed by the City's law department as required by a city charter. The agreements did not appear on a registry as required by the charter. The agreements were not available for public

inspection, nor did the Sheriff's office provide them to the city controller during audits. The Sheriff's office did not provide vendor and other information to city auditors even though that information was specifically requested.

While the city controller found the Sheriff's office to be "unresponsive" during the controller's audit for fiscal years 2007 to 2009, and the Sheriff's office production of information to be "quite inadequate", no reaction occurred from the controller to the Sheriff's office. The Sheriff's office was intentionally withholding information.

Tyrone Bynum was uncooperative in providing information and was unavailable during the course of the audit. He was the senior representative for the Sheriff's office in dealing with the audit. Auditors asked Bynum for copies of all signed contracts with Reach, but none were provided by Bynum. Bynum and Green were the only ones who had complete knowledge of the business with Reach. Bynum had been hired by Green and was loyal to him.

There were two different signed letter agreements. One agreement said that Reach agreed to accept as compensation the 15 percent standard commission paid by advertising mediums. The other agreement said that a higher compensation rate applied. There was confusion in the other letter as to whether Reach was to be paid by the Sheriff's office or by advertising mediums. Both contracts had the signatures of Janet Pina, signing on behalf of the Office of the Sheriff, and James R. Davis, Jr. signing on behalf of Reach.

When the city controller asked why Reach was overpaid, Green always answered that billing rates, production fees, and other administrative costs would be defined. He said that he was implementing a new policy for consulting and professional services.

The city controller found that Reach overcharged the sheriff's office for advertising expenses by adding 2.9 lines to the cost of per writ advertising. The controller also found that Reach was overpaid for production costs, that documents supporting disbursements were inaccurate, and that fiduciary assets were not safeguarded. Sheriff Green replied that he would follow the recommendations and institute written contracts with advertising vendors to clearly define billing rates, production fees, and other administrative costs. But that never happened. It was purposely avoided by exploiting organizational opportunities allowing communication with the city

controller by means of fake messages.

Convenient Personal Willingness

The willingness for Reach can be found in Green's claims that he did not know and did not remember the role of Davis in Reach (Deloitte; 2011: 10):

He did not recall who made the decision to select Reach and RCS as vendors; he did not know the role James R. Davis, Jr. had in RCS and initially said he did not know what role Mr. Davis had in Reach; he had "no idea" of the amount of advertising expenses the Office paid; he did not know if RCS had a contract with the Sheriff's Office, but suspected they did; he said that Reach never had an advertising contract; he did not initially know what services RCS performed other than computer services, but after a telephone call with someone whose identity he would not disclose, he said RCS also provided settlement services; he was generally aware that RCS performed other services, but did not know what they were; and he did not know how much Reach and RCS were paid for their services. The Sheriff explained that, as the head of the Office, he did not see certain things and there was so much going on.

Sheriff Green was quoted in a Philadelphia Daily News article dated November 18, 2005 as describing Davis as a member of his inner circle. Davis was involved in the operations of the Sheriff's office to the extent that he, the largest outside vendor of the Office of the Sheriff, helped write the Sheriff's office response to the City Controller's 2010 audit report.

Green confirmed to examiners that his relationship with Davis was close (Deloitte, 2011: 18):

After advising us that they were friends, we asked how long the relationship had existed and were told thirty years. We asked Sheriff Green if he ever asked Mr. Davis about his role in Reach and RCS; we were told that the Sheriff did not know. We asked if the subject ever came up in conversation. Sheriff Green said he never asked Mr. Davis about his position in RCS and was not sure about it. Later in the interview, Sheriff Green told us that James Cassel and Mr. Davis were principles in Reach.

The willingness for Davis can be found in his success in advertising and marketing properties for the Sheriff's office. It seems that his firm, Reach, was indeed successful due to its advertising and by making available the website sheriffsale.com to potential buyers. Reach charged the Sheriff for putting sales notices on Reach's website and then used the website to attract bidders to the Sheriff's sales, for a fee payable to Reach. Present and former Sheriff's employees knew that Reach used the website to identify potential bidders for homes sold at Sheriff's sales, represented the bidders at Sheriff's sales, and successfully bid on sales on their behalf.

Forensic Investigation Strategies

In terms of information strategy, the Deloitte investigation did not include Reach documents, nor were examiners able to interview Davis. The attorney for Davis advised that Davis would not meet with examiners.

Crystal Stewart and Tyrone Bynum did not return calls from examiners requesting interviews. Stewart is the sister of Davis employed in the real estate division in the Office of the Sheriff, while Bynum was director of finance and compliance in the same office. Furthermore, examiners were also unable to gain access to existing email accounts of present and former Sheriff employees.

We have to question the examiners' approach to contacting potential sources of information. People often deny cooperation with investigators when they think that they have reason to believe that examiners will not be objective and will not be willing to listen to and present their versions of the story. Examiners also seem passive, e.g. when they claim that potential interviewees "did not return our calls" (Deloitte, 2011: 10).

Examiners had access to financial and other records of the Office of the Sheriff, which were unorganized and stored in several different locations. The Reach invoices they analyzed were provided at different times over several weeks, thereby making the analysis and invoice scheduling lengthier and more complicated.

Examiners interviewed several members of the Office of the Sheriff.

Examiners were obviously qualified to investigate accounts and transactions. They were able to identify overcharges and provide a detailed list of occurrences in advertising. They also identified the influence of Reach on Sheriff's affairs. For example, Reach was identified as the owner of both the www.phillysheriff.com and www.sheriffsale.com websites for which the Office of the Sheriff paid all maintenance costs.

Examiners explain in the report what procedures they performed. However, they do not explain what kind of knowledge they applied in the investigation. There is a difference in applying accounting, legal or management knowledge when carrying out an investigation.

Forensic Investigation Process

Examiners seem to have trusted an acting Sheriff and Green's successor much more than they trusted Green. This may sound reasonable, since Green was one of the two suspects. On the other hand, a successor might prefer to place all blame on Green (Deloitte, 2011: 21):

We asked the Acting Sheriff why she signed the letter and sent the response, and if she still contends that the Sheriff's Office had been cooperative with the City Controller. She said that if she knew then what she knows now, she would not have signed the cover letter and sent the response. The Acting Sheriff said that in signing the response letter and taking the position she did, she relied on people who she now knows were not telling her the truth, Mr. Bynum and James Davis.

Janet Pina's signature was on both contracts mentioned above. In an interview with examiners, she said that she did not sign either contracts, did not authorize anyone to sign her name to the contracts, and did not know who signed the contracts. Pina also said that she did not understand the contract language that described compensation based on lines per writ.

The fraud examiners made no attempt or failed in identifying the person who had signed both contracts on behalf of the Office of the Sheriff. It is surprising that they left the question of who had signed the contracts open. Fraud examiners are in the business of reconstructing events and sequences of events, and they are to answer question, "who did what." But the Deloitte people

failed to do so.

Examiners claim in their report that they used the findings in the city controller's audit report as the starting point for their forensic investigation. This is surprising, as the audit report had no impact on the procedures in the Office of the Sheriff. Given this starting point, examiners naturally focused on custodial accounts and, in particular, the accounts dealing with the Sheriff's sales and unclaimed funds. This approach seems to have narrowed the investigation into transaction focus rather than offence focus or offender focus.

Forensic Investigation Results

The report of investigation by Deloitte (2011) is 312 pages long. Most of those pages are exhibits in an attachment. The core report is 144 pages. The report is signed by Louis R. Pichini, a director of forensic and dispute services at Deloitte.

The report lists a series of findings related to financial transactions and actors in those transactions. The report is repetitive in style and has no guiding chronological organization that would make it easier to read.

The findings section concerning Green mainly focuses on who he hired into the Sheriff's office, such as (Deloitte, 2011: 15):

Sheriff Green placed Crystal Stewart and Darrell Steward, the sister and brother-in-law of the owner of Reach and RCS, in positions where they issued payment requests for Reach and RCS invoices and then approved the check payments to the companies. Ms. Stewart sometimes received checks from the Sheriff's Office on behalf of Reach and RCS.

While these roles may seem suspicious, they are no evidence of fraud or corruption. It seems that examiners failed to find links to actual transactions where Green had instructed employees to favor and overpay Reach to the benefit of Davis. Maybe this is the reason why the report repeatedly emphasizes personal relationships, such as on page 57, that "Darrell Stewart is the bother-in-law of James R. Davis, Jr. and is married to Mr. Davis' sister, Crystal".

Prosecution Outcome

Green was elected Sheriff in 1987 and served 22 years before resigning in January 2011, after questions were raised about the office's finances. The investigation took years, as did the prosecution. Green and Davis were charged in December 2015, but the trial did not begin until 2018. For five weeks, a jury heard detailed evidence and testimony about contracts and financial transactions between Green and Davis (Davies, 2018).

As federal prosecutors opened their bribery and corruption case early 2018, defense attorneys said the case could come down to a battle of credibility between the former Sheriff on trial and his successor as Sheriff. Green's attorney, Peter Scuderi, thus urged members of the jury to withhold judgment (Roebuck, 2018):

“If John Green is a criminal”, Scuderi said, “he's a lousy criminal”.

Former Philadelphia Sheriff John Green was prosecuted in 2018. He avoided conviction on all five of the federal corruption charges against him. A federal jury in Philadelphia found Green not guilty on three counts of honest services fraud. But the jury failed to reach a decision on two other charges against Green, which meant that federal prosecutors could retry him on those counts (Davies, 2018):

“I'm very relieved,” Green said after the verdict. “I'm appreciative of the jury's thoroughness in examining the evidence.”

Philadelphia businessman James Davis, Green's co-defendant in court, was found guilty of conspiracy, honest services fraud, filing false federal tax returns, and failing to file federal tax returns. Davis was acquitted of two counts of conspiracy, and the jury closed another charge against him (Davies, 2018):

“I've always tried to help people. I'm confused at this verdict,” Davis said in a brief interview after the verdicts were read. “It was a complicated case, hard to understand. I'm going to reflect on it and figure out where we go from here.”

Prosecutors had charged Green for handing millions of dollars in public contracts to companies owned by Davis, and Davis returned to Green with money, loans, illegal campaign contributions, and even a cash advance to buy his Florida retirement home (Davies, 2018).

Discussion

While fraud examiners emphasized misconduct by Green rather than Davis, the court emphasized crime by Davis rather than Green. A fraud examiner can be wrong, but a judge can also be wrong. Therefore, we do not suggest that fraud examiners were wrong because the court sentenced otherwise. But we suggest that uncertainty and ambivalence is present when fraud examiners tried to draw conclusions regarding what happened, how it happened, why it happened, and who did what to make it happen.

Similarly, we cannot trust the findings related to motive, opportunity, and willingness as defined in convenience theory. We have to read the report of investigation by Deloitte (2011) as an honest yet incomplete recollection of what happened. This is important, as reports of investigations should never represent a verdict, but only a review of what might have happened.

This research is important, because private internal investigations by fraud examiners represent a privatization of law enforcement with many problematic issues. While not having the same powers as police investigators, private investigators are not subject to regulation like police investigators. Researchers such as Scheider (2006) and Williams (2014) have emphasized the problematic role of private detectives where they sometimes combine the roles of investigator, prosecutor, and judge that are separate in the criminal justice system. This research is also important because most client organizations hold the reports of investigations secret and confidential (Gottschalk and Tcherni-Buzzeo, 2017).

Mercer (2012) argues that the larger idea of privatizing governmental services is popular due to a number of mainly ideological, neo-liberal factors. A government has the option of increasing the number of police detectives significantly to investigate all suspicions of white-collar crime, but the rightwing or conservative view is that one does not want a too big public sector. Privatization is particularly attractive when trying to do the same with less, which is an economic factor.

Privatization is particularly problematic where the police are the only authority allowed to use force against its own citizens. One might argue that an investigation is no force against citizens. However, the consequence of an investigation can be that conclusions lead to force such as conviction and incarceration. Privatization of crime investigation is a topic that belongs to the larger issue of privatization of policing.

Williams (2005: 317) reflected on private versus public policing of economic crime, where he expresses skepticism towards global accounting firms and local law firms involved in private internal investigations of client organizations:

As self-proclaimed experts in the field of financial security, these firms have positioned themselves as purveyors of a unique and highly specialized form of investigative and quasi-judicial labour geared to the resolution of ‘business troubles’ ranging from the theft of intellectual property, to the misappropriation of corporate assets, to breaches of financial security. This unique constellation of investigative, legal and advisory services has been packaged and marketed, primarily to the corporate community, under the banner of ‘forensic accounting’ and collectively constitutes what I term the ‘forensic accounting and corporate investigation (FACI) industry’.

Williams (2005) argues that it is a common finding that private systems of justice are dealing informally with the majority of occurrences of white-collar crime rather than formally reporting occurrences to the police or other regulatory bodies. The responses to misconduct and crime take place within internal systems of corporate justice and employment sanctions. The FACI industry supports, and is a part of, private systems of justice. The industry is a private, professionally mediated form of investigative activity geared to the financial security needs of its largely corporate clientele. The industry challenges state-centered approaches to economic regulation and punishment of law violations.

Like Gottschalk and Tcherni-Buzzeo (2017), Williams (2015a: 327) also emphasizes the secrecy and lack of visibility of private investigations:

As research on white-collar and economic crime as well as the private investigation industry has consistently revealed, one of the primary reasons cited by corporate

executives for failing to report cases of financial wrongdoing to the police is that they lose control over the matter and thus sacrifice two highly valued corporate assets, namely secrecy and discretion.

An important advantage for a client organization to hire a FACI firm is the ability to determine exactly what facets of a case they will investigate. An alleged fraud can become subject to a narrow examination in order to limit the liability of others (Williams, 2015a: 328):

This is often important to upper-level executives who may be subject to additional forms of scrutiny should the trail of the fraud somehow end up at the doorstep of their corner offices.

Even when private investigators have a mandate to include top-level management in their examinations, investigators tend to end up not blaming top executives, maybe because they pay for the investigations. An interesting example is the Jenner Block (2014) investigation at General Motors.

While police detectives have the goal of finding out whether or not a crime has occurred and who the offender is, organizations may have a different goal when suspicions arise. Williams (2005: 329) found that:

When confronted with a fraudulent activity, a corporation is usually interested in pursuing, or at least contemplating, a number of fairly distinct objectives. These include: (1) stopping the bleeding; (2) recovering lost assets, and (3) establishing programs to minimize future losses and financial risk. It is only at this point, depending on the success of these primary objectives, that the pursuit of criminal charges may be contemplated.

Criminal charges are usually not important to the victim organization, if asset recovery and other objectives are more conveniently achievable without incarceration of offenders. An organization finds little or no pleasure in seeing offenders go to prison or jail, and the organization does not consider it their job to make sure that criminal justice takes place in the public. Only if the organization can regain its corporate reputation by tough prosecution is the business willing to spend time with the criminal justice system to document offences.

Private law enforcement is thus different from public law enforcement where the outcome depends on situational factors such as secrecy, scope and objectives. For example, at Wells Fargo, the scope of the investigation was limited to their Community Bank (Shearman Sterling, 2017). At Fuji Xerox, scope of the investigation was limited to New Zealand (Deloitte, 2017). At Lehman Brothers, investigators excused the bank collapse by not blaming top executives (Jenner and Block, 2014).

In private law enforcement, there is legal flexibility, including the option of ignoring certain laws and regulations. Private law enforcement can follow many avenues, and any given loss or transgression investigators may frame as (Williams, 2005: 329):

(1) An internal disciplinary matter, (2) a breach of the employee contract, (3) a civil tort or contractual violation, and/or (4) a criminal offence, with the ultimate frame having very little if anything to do with the actual characteristics of a case and everything to do with client interests and desires. The fact that the majority of these cases are resolved informally through either private or quasi-private avenues suggests that this legal flexibility and loose coupling are deftly used by industry practitioners to satisfy client desires for secrecy and low visibility in the investigation and adjudication of their cases. In light of these considerations, the services by the public police will invariably be found to be lacking.

One might argue that private law enforcement has a more constructive perspective than public law enforcement. Private approaches attempt to solve problems and help the victimized organization recover. Public approaches focus only on incarceration of guilty individuals and penalties for guilty organizations. However, given the principle of equality in front of the law, it seems unacceptable in a democracy to have some guilty individuals avoid prosecution because of the organizational setting where their offences occurred.

The preceding different attributes of public versus private serve to mark diverging modes of governance. Global auditing firms and local law firms who conduct fraud examinations for their clients are packaging and delivering a unique form of customized corporate justice, explicitly tailored to the needs and interests of the paying client. While being concerned about accountability, integrity, independence, and objectivity, fraud examiners have to do what clients

define in mandates for investigations.

Sometimes, the client organization is happy with a blame game where private investigators point at a certain individual as the offender, rather than at other individuals or at the organization in general in terms of its deviant culture. For example, Sheriff Green in Philadelphia was heavily blamed in an investigation by Deloitte (2011a), but seven years later a court found allegations against the defendant unsubstantiated (Davies, 2018):

“I’m very relieved,” Green said after the verdict. “I’m appreciative of the jury’s thoroughness in examining the evidence.”

Similarly, Tolstedt at Community Bank got all the blame from both the above at Wells Fargo as well as from interviewed employees. Rather than reflecting, interpreting and putting allegations against her in context, investigator Shearman Sterling (2017) simply concluded in the same way as all the critics.

Customized corporate justice restricts disclosure of financial crime in the organization to those activities that are extremely harmful to corporate interests and that imply a clear position of the organization and its top executives as victims. Otherwise, secrecy and discretion have priority to keep control over the scope of an investigation and its outcome.

The primary motive of the police is service to the public. The primary motive for private investigators is to make money by making clients happy with the work they perform. Clients want private investigators to help them avoid negative publicity, avoid questioning of corporate practices, avoid discovery of other unreported but potential offences, and avoid claims for an overly broad interpretation of organizational responsibility.

Therefore, privatization is not only a matter of transfer or shift in caseload from the public to the private sector. The private sector has developed a business model that is directly responsive to the needs and interests of the corporate community.

Some have argued that the crime cases investigated by private fraud examiners would never have reached the police, regardless of their levels of funding, resources and expertise. They argue that financial crime would go uninvestigated. While it certainly is true that some cases would remain

in the dark and that thanks to private fraud examiners, those cases come forward in the light, at least internally, the dark figure of economic crime is probably much larger.

Conclusion

The business of fraud examiners is growing, and their reports are interesting with regard to understanding white-collar crime in a convenience perspective. Since reports are often several pages long, they provide a thorough understanding of the phenomenon being investigated. A report of investigation tells a story, in addition to emphasizing certain aspects of the case and making recommendations to the client. Evidence of convenience can be found in the case study in terms of motive, opportunity, and willingness for both Sheriff and vendor.

A report of investigation also provides a thorough insight into the performance of fraud examiners. They collect information from various sources, typically by interviews and by reviewing documents and accounts. The extent to which they failed in reconstructing past events and sequences of events can be the result of missing information sources, knowledge shortcomings, and procedural failures in the investigation process.

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