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Workplace Deviance Investigations: A Case Study of the Application of Maturity Model to a University Investigation

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ABSTRACT

This article presents a case study from Norway that supplements previous research in other jurisdictions such as Australia, Canada, the Netherlands, and the United Kingdom regarding lack of justice when corporate investigators conduct internal examinations in client organizations. The case is concerned with a university researcher who was investigated after allegations of violating the national working environment act. Investigators applied likelihood of fifty percent rather than the criteria of incident beyond any reasonable doubt. There was no real contradiction offered, and many more deviance from a fair process occurred when compared to the public criminal justice system. The presented maturity model with four stages is applied to illustrate the low level of investigative performance in the case. This research does not in any way claim that the presented case is representative of work by corporate investigators conducting internal examinations in client organizations. Nevertheless, this research is important, as it illustrates the lack of justice that is caused by the absence of regulation of the private investigation industry as performed by law firms, audit firms, consulting firms, and others.

ARTICLE HISTORY

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Introduction

The business of internal investigations by audit firms and law firms is a growing industry within many jurisdictions. Private investigators take on the task of reconstructing past events and sequences of events for client organizations when there is suspicion of misconduct and wrongdoing. Scholars have studied the problematic roles and varying performances of private investigators in countries such as Australia (King 2020a, 2020b, 2020c, 2020d, 2021a, 2021b), Canada (Schneider 2006), the Netherlands (Meerts 2014, 2018, 2019, 2020, 2021), Norway (Gottschalk 2016, 2017, 2021, 2023) and the United Kingdom (Brooks, Button, and Frimpong 2009; Button 2020; Button and Gee 2013; Button and Stiernstedt 2017, 2018; Button et al. 2007, 2007, 2015; Button, Kapend, and Stiernstedt 2022; Johnston, Button, and Williamson 2008; Williams 2005a, 2005b; Wood 2020).

Internal investigation reports tend to be kept secret for a variety of reasons (Gottschalk and Tcherni-Buzzeo 2016). Some reports became publicly available and were reviewed in the past. Examples include investigations on suspicions of economic wrongdoing in organizational settings (e.g., Gottschalk 2018, 2019, 2020). The internal investigation report by Lilli and Sunde (2023) regarding suspicion of workplace wrongdoing that is reviewed in this article was disclosed and made publicly available by a colleague of the accused who found the treatment of the accused unacceptable.

This article introduces a maturity model to assess the performance of private investigators. Stages of growth models for maturity levels help to evaluate a variety of phenomena (e.g., Iannacci et al. 2019;

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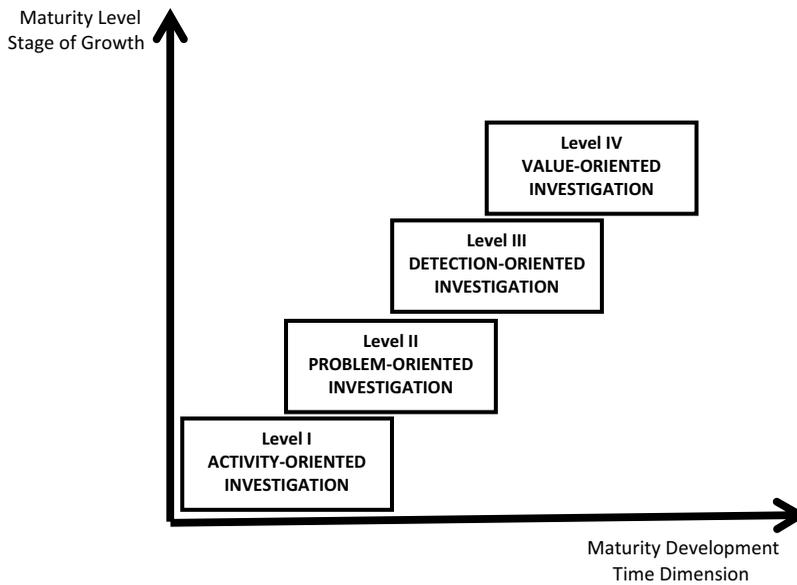


Figure 1. Maturity model for internal private investigations with four stages.

Röglinger, Pöppelbuss, and Becker 2012; Solli-Sæther and Gottschalk 2015). Stage models can predict the development or evolution of investigative maturity from basic performance to superior results (Iannacci et al. 2019: 310):

They also suggest that this development is progressive (i.e., each successive stage is better than the previous one), stepwise (i.e., each step is a necessary prerequisite for the following step in the sequence), and prescriptive (i.e., each step must occur in a prescribed order in accordance with a pre-existing plan or vision), thus emphasizing the chain of successful events rather than the mechanisms by which subsequent stages come about.

This article seeks to examine an important area in private policing and investigations. It contributes to the body of knowledge of workplace deviance and employment investigations. This research is important as it explicitly rather than implicitly applies criteria to study potential lack of justice in private investigations. At lower levels in the maturity model there is more lack of justice than at higher levels of maturity.

The maturity model

Maturity models can have varying number of stages. To limit the number of alternatives while still having room for classification and categorization, the suggested model here has the following four stages as illustrated in Figure 1 (Gottschalk 2021; Gottschalk and Hamerton 2023):

- (I) *Activity-oriented investigation: The examination is a chaos.* The investigation focuses on activities that may have been carried out in a reprehensible manner. The examiners look for activities and prepare descriptions of these. Then examiners make up their minds whether the activities were reprehensible or not. The investigation at level 1 is often passive, fruitless, and characterized by unnecessary use of resources. At this lowest maturity level, investigators typically attempt to find an answer to the question: What happened? The investigation might cause more confusion than before the examination was initiated. The investigation is typically insufficient, inadequate, surface-oriented, a waste of time, useless, passive, unprofessional, worthless, immature, unacceptable, bad, meaningless, fruitless, awful, and chaotic. The investigation is often a failure and a disaster. The investigation lacks useful results and has

little or no value. Investigators typically look where it is easy to find something, rather than searching for relevant information to solve the case. There is abdication from leadership by the client. The investigation report contributes to conflict escalation rather than conflict solution. The report is a biased storytelling of incident by incident without any real substance. There is no mandate enabling evaluation of investigation work. This stage might deserve the following label: Waste of time.

- (II) *Problem-oriented investigation: The examination is a mess.* The investigation focuses on an issue that needs clarification. Examiners are looking for answers. Once examiners believe they have found answers, the investigation is terminated. It is important to spend as little resources as possible on the investigation, which should take the shortest possible time. Focus and management are important for success. The client had an unresolved problem, and the client regulates premises for the investigation. There is no room for investigators to pursue other paths than those that address the predefined problem. At this second maturity level, investigators typically attempt to find an answer to the question: How did it happen? Often, little or nothing comes out of the investigation. The investigation is typically random, amateurish, formalities-focused, somewhat beneficial, but not enough, mainly descriptive, problem-oriented, neutral, unsystematic, inadequate, activity-oriented, shortsighted, fruitless, deviations-oriented, reactive, questions-oriented, and messy. The investigation tends to lack scrutiny, is a collection of information without analysis, and has too many assumptions that make conclusions less valid or invalid. The investigation is superficial and very limited. This stage might deserve the following label: Wishful thinking.
- (III) *Detection-oriented investigation: The examination is a disclosure.* The investigation focuses on something being hidden, which should be revealed. Investigators choose their tactics to succeed in exposing possible misconduct and perhaps even crime. Investigative steps are adapted to the terrain, where different sources of information and methods are used to get as many facts on the table as possible. While level 1 and level 2 are focused on suspicions of wrongdoing, level 3 is focused on suspicions against potential wrongdoers. There are always offenders responsible for misconduct. Level 3 has a focus on exchanges among individuals, while level 2 has a focus on activities. Level 3 is characterized by the search for responsible persons who may have abused their positions for personal or corporate gain. This is a more demanding examination, because suspicions and suspects must be handled in a responsible manner in relation to the rule of law and human rights. Level 3 investigations are active with significant breakthroughs in the examinations. Investigation projects are carried out in a professional and efficient manner. At this third maturity level, investigators typically attempt to find an answer to the question: Why did it happen? Examiners are successful in identifying and documenting some new facts. The investigation has a clear perspective. It is competence-oriented, average, biased, targeted, systematized, integrated, moderate, indifferent, standard, competent, cause-and-effect based causality, revealing, and disclosure-oriented. The investigation is detection-oriented while limited by the mandate. The investigation is reflective, yet only slightly above average. This stage might deserve the following label: Maybe better luck next time.
- (IV) *Value-oriented investigation: The examination is a clarification.* The investigation focuses on value created by the examination, where the investigation is an investment by the client with an expectation of benefits exceeding costs. The ambition of the investigation is that the result will be valuable to the client. The value can lie in clean-up, change, simplification, renewal, and other measures for the future. The investigation also focuses on being justifiable. A number of explicit considerations are identified and practiced throughout the inquiry. The investigation has in addition a focus on explicit decisions regarding knowledge strategy, information strategy, system strategy, and configuration strategy. By explicit strategic choices, the investigation becomes transparent and understandable to the parties involved and affected. It is often examiners in interdisciplinary teams who are to contribute to value

creation for the client. Level 4 investigations are characterized by the active use of strategies, with significant and decisive breakthroughs in the inquiries, which lay the foundation for learning and value creation in the client's organization. The value may, for example, be that detected deviations and wrongdoings become sanctioned and corrected in a satisfactory manner. At level 4, detection, disclosure, clarification, and solution are seen in context. There will be less to detect in the future if prevention is strengthened. It will be better in the future if the case is completely resolved. The examiners create value by proper investigation. Value is created before, during and after the investigation. Before the investigation, risk understanding and prioritization are developed. During the investigation, method understanding is developed. After the investigation, barriers are built against wrongdoing, holes are closed, routines are developed and practiced, and evaluation is established on a continuous basis. At this top maturity level, investigators try to find the answer to the questions: What went wrong, what can the client learn, and how can wrongdoing be prevented from happening again in the future? Examiners at level 4 are able to reconstruct past events and sequences of events completely. The investigation is responsible, detailed, conscientious, enough, professional, neutral, unprejudiced, integrated, proactive, preventive, mature, competent, systematic, professional, explorative, immaculate, expedient, truth seeking, facts-based, complete, independent, and clarifying. The investigation adds value. The investigation is thorough and works well. This stage might deserve the following label: Time well spent. The investigation is an investment. The investigation makes a valuable contribution to the client organization, where investigation benefits exceed investigation costs. The investigation is optimal, innovative, profitable, strategic, extraordinary, outstanding, provident, value-oriented, advanced, learning-focused, valuable, irreversible, truth-based, socially responsible, exceptional, excellent, perfect, exemplary, and a profitable investment. The investigation is a masterpiece and enrichment for the client and society. The investigation is complete and influential. The investigation is strategically a success. This stage might deserve the following label as well as the first-mentioned label for time well spent: Here's my money.

The case study

Internal investigation reports tend to be kept secret for a variety of reasons (Gottschalk and Tcherni-Buzzeo 2016). Access to the current report was granted by an e-mail from a professor of medical ethics at the institute of medical ethics, Faculty of Medicine at the University of Oslo (UiO) on February 16, 2023:

I am writing to you on behalf of a brilliant female researcher from Turkey who has been exposed to accusations of harassment, but where the university management denies her full access to insights. This has led to her being stripped of her right to manage work as the project manager as of today over two large projects funded by the Norwegian research council that she was awarded last year. I have followed her situation closely since July 2019, when she approached me about harassment from her superior. At that time, I immediately contacted the science ombudsman at the university, Knut W. Ruyter, who reviewed the matter and wrote a sharp report to the then dean at the faculty of medicine, but to no avail. The harassment accusations against the researcher started last autumn, and in the investigation of the accusations, the university management has, as far as I can understand, failed to follow the most basic rules of the game how such accusations should be investigated, among others, she has been denied full access to the charges that have been brought against her, a denial she has appealed to the joint complaint board at the university. In its letter of February 1, the board says: "The joint complaint board has come to the conclusion that the university has not met the requirements for due process in the Public service act and the Public administration act when processing the request for access."

The researcher in the role of main supervisor was accused of unacceptable behavior toward doctoral students in supervision. Accusers claimed that her behavior included outbursts of rage when presenting negative results, and condescending comments about the doctoral students' draft texts for publications and dissertations. The doctoral students felt frequently harmed by personal characteristics such as incompetence, that they worked too little to progress in their scientific work, and that

they did not deliver the expected research outcome. The university hired corporate investigators at law firm Kluge to examine the allegations.

The researcher came to Norway to join the Norwegian center for molecular medicine at the University of Oslo. The center consists of several research groups lead by internationally recruited team leaders. The researcher successfully applied for research funding to establish her own group. The research group used soft biomaterials, such as lipid membranes in their laboratory to mimic the behavior of living cells. By modeling a complex cell with minimal forms in the experiments, the group aimed to gain a deeper understanding of certain biological processes, including migration, mechanical damage and repair, endoplasmic reticulum dynamics, and others.

In September 2017, the researcher moved from Harvard University to the University of Oslo to start as a group leader and established her research laboratory. She works in life sciences, a very demanding research field with high pace. All group leaders including the researcher born in Turkey had temporary positions of five years which was renewable for four more years upon vigorous evaluation of international referees and a panel. She passed this evaluation in 2021, and her contract was renewed until the end of 2025. In Norwegian employment practice, such a long period of temporary employment can lead to the justified claim for permanent employment.

In one of her publications written together with colleagues, she employed model protocell networks for evaluation of molecular transport through lipid nanotubes as potential means of communication among primitive cells on the early earth. Network formation was initiated by deposition of lipid reservoirs onto a surface in a special environment. These reservoirs autonomously developed into surface-adhered protocells interconnected via lipid nanotubes while encapsulation solutes from the ambient buffer. The researchers could observe the uptake of DNA and RNA, and their diffusive transport between the lipid compartments via the interconnected nanotubes.

In another of her publications, the researcher explored the origin of life as still one of humankind's great mysteries. At the transition between nonliving and living matter, protocells, initially featureless aggregates of abiotic matter, gain the structure and functions necessary to fulfill the criteria of life. Research addressing protocells as a central element in this transition is diverse and increasingly interdisciplinary. The authors reviewed current protocell concepts and research directions, addressing milestones, challenges, and existing hypotheses in the context of conditions on the early earth.

The University of Oslo is a public research university located in Oslo, Norway. It is the highest ranked and oldest university in Norway. The university was ranked number 126 in the world in 2023.

The investigation report to be reviewed in this article is in the public domain and thus available for research. Internal investigations in organizations are very common, they often have serious consequences for individuals, and are rarely in the public domain (Gottschalk and Tcherni-Buzzeo 2016). The secrecy and confidentiality raise all kinds of implications for justice. The current study thus offers a unique insight on one such investigation relating to an academic in Norway. Transparency rather than secrecy is needed to shed light on the industry of internal investigations by lawyers and others who are often causing serious harm outside the criminal justice system. Lawyers cannot claim client-attorney privileges as they are doing consulting work and not legal work when conducting internal investigations (Gottschalk and Hamerton 2023).

The investigation report

The Kluge report by attorneys Marco Lilli and Liss Sunde at law firm Kluge starts with a summary of main findings and conclusions. The university director had asked the law firm to investigate two whistleblowing notifications that were set forward against the researcher as the group leader at the Norwegian center for molecular medicine from four research fellows in her research group. The summary was:

- We have identified 13 different incidents in which the researcher behaves so censurable that it is in breach of the Working Environment Act section 4-3 (3), which prohibits exposing employees to “improper behavior.”
- In addition to these 13 incidents, there are several cases of censurable behavior from the researcher which are not so serious that they can be characterized as “improper behavior,” but which is in breach of the duty to ensure that the working environment is fully satisfactory, cf. the Working Environment Act section 4-1 (1).
- The sum of these incidents implies that the researcher’s behavior must be characterized as “harassment” of several PhD students in her group, cf. the Working Environment Act section 4-3 (3). These conditions have persisted for a long time, and many of the incidents must be considered as very serious.
- On one occasion, the researcher exposed one of her PhD students to illegal retaliation, after the person concerned had notified according to the Working Environment Act chapter 2 A. This is in breach of the prohibition of retaliation in the Working Environment Act section 2 A-4. The retaliation has had major consequences for the person concerned. There are also other aggravating circumstances, which makes it a very serious case of retaliation.
- The researcher has broken her work obligations on two occasions; one time by refusing to carry out a guidance interview after one of the PhD students had made justified criticism against the researcher and the other time by terminating the supervision of a PhD student because the PhD-student did not live up to her expectations in the final phase of the work on the PhD thesis.
- The researcher has broken UiO’s internal regulations by not conducting appraisal interviews.
- The seriousness of the situation is reinforced by the fact that the researcher seems completely unable to see anything censurable in her own behavior. Even when she is confronted with how the whistleblowers have experienced her behavior, she takes no form of self-criticism, but does instead meet the whistleblowers with mockery. On some issues her explanation of her own behavior also appears to be unreliable.

One of the incidents is presented in the report this way (Lilli and Sunde 2023: 26–27):

On 17/9/2021, a group meeting was held in which the following individuals participated: the researcher, NN1, NN2, NN3 and NN4. NN1 has stated to us that they initially talked about various practical issues in the lab, as they usually do. After that, the researcher began to talk about the submission of NN5’s PhD dissertation. At that point, NN5 had ceased working in the researcher’s group and was therefore not present at the meeting. According to NN1, the researcher said the following. (which NN1 states that she wrote down word for word right after the group meeting)

“NN5’s submission was horrible. I had to stay up day and night and live on pizza to help her. I told her that if she can skip the 45 min coffee breaks, she would make it. But she didn’t listen to me and see what happened. I told you not to do things last minute, but everyone thinks that stupid Irep will fix it in the end. It was the same with NN6’s submission. I am the one that wrote the theses; it is my work. I have made personal sacrifices. And you go on making stupid personal decisions when you are writing a thesis. You can’t send your husband to another country, while you have a baby at home and are writing your thesis! And when NN6 says you don’t need to stress, NN5 says “She was very stressed.” I was stressed! In my 15 years in academia, I have been in different kind of labs, both big and small, with different leaders and people. I have never seen anyone cancel a group meeting presentation. But it happened in MY group twice! And apparently you don’t even feel the need to ask me to go on vacation anymore. Apparently, NN2 was in Sweden on Monday, and didn’t even feel the need to tell me. . .”

NN1 (and NN2) have both stated that they reacted to the researcher’s statements in a setting where neither NN5 nor NN6 was present. NN1 also stated that it became completely still in the room after the researcher had spoken and that the reason that there were no reactions was that no one dared say anything.

The researcher has made a statement about the episode in her memorandum of 16/12/2022. She does not appear to deny that she made these statements. However, she provides a long explanation of why NN5’s PhD process in the researcher’s view was “horrible.” She also submits an e-mail from NN5 to the researcher of 23/9/2021, in which NN5 states the same and also accepts extensive criticism in regard to this. According to the researcher, NN5 has acted “irresponsibly, dishonestly, and without shame repeatedly abused my good will and tolerance.”

In our assessment, we have no reason to doubt that the researcher saw NN5 and NN6's PhD submissions in the way she described in the meeting on 17/9/2021. NN5's e-mail of 23 September gives the impression that NN5 for her part as well thought the process was extremely poor and that she also accepts large parts of the blame for this.

However, this is not suited to excusing the researcher's statement. It is strongly reprehensible of the researcher to criticize NN5 and NN6 in a group meeting at which they are not present. These are matters that the other group members had nothing to do with. By their appearance, the statements primarily appear to be a personal attack and a denunciation of NN5 and NN6, and that is also how they obviously were interpreted by the group members who were present. The researcher's statements involve breaches of both Norwegian Working Environment Act Section 4-1 and Section 4-3.

Lilli and Sunde (2023) selectively presented some elements in the researcher's contradiction to their report. She argued that nothing the accusers said was trustworthy, and argued that she could prove that they were lying on multiple counts. The exact opposite of what they claimed had happened in reality, she was quoted of saying in the report.

The maturity assessment

Attorneys Marco Lilli and Liss Sunde at law firm Kluge wrote a 49-pages report dated February 1, that was handed over to the client, the University of Oslo, represented by the internal auditor and the personnel manager. The accused researcher received the report from the personnel manager on February 16 with a message that the researcher was to attend a meeting with the personnel manager on February 21 regarding the report. Quite surprisingly, the personnel manager canceled the meeting on short notice.

To assess the maturity of the Kluge report, it is important to find characteristics that match one of the four levels in the maturity model. The assessment procedure starts by assuming that a report is top quality and thus at top level IV. Then potential shortcomings are identified that might reduce the maturity level from stage IV to stage III, and potentially further down to stage II or stage I. The following shortcomings were argued against the investigation work by Lilli and Sunde (2023):

- (1) The Norwegian Labor Inspection Authority does not recommend "faktaundersøkelse" as an investigation method. The Kluge report written in Norwegian claims that it follows guidelines from the inspection authority regarding a specific method for fact finding missions.
- (2) There is massive criticism of method praxis in recent years (Antonsen and Løkling 2020; Hallgren and Trædal 2022; Jebens and Dorans 2019; Lerø 2021; Nordrik and Kuldova 2021; Slettemark and Kvamme 2022; Topdahl and Akhtar 2018; Trædal 2021).
- (3) Taking on all three roles of investigator, prosecutor, and judge is violation of justice. In democratic nations such as Norway with a well-functioning criminal justice system, there is distinct separation between police detectives who conduct criminal investigations, state attorneys who conduct prosecutions, and judges in the courtroom who administer the trial hearings and conclude in a verdict document regarding the sentence.
- (4) Concluding on law violations represents consultancy failure. While attorneys as corporate investigators might argue that their conclusions about violations of the law only represent advice to the client and no verdict, the client will typically trust the conclusion and be convinced about law violations.
- (5) There is no real mandate enabling evaluation of investigation work. There are certain requirements to a text to qualify as a mandate. The mandate has to describe initiatives and activities to reach a certain goal or goals. The mandate text by Lilli and Sunde does not satisfy this requirement.
- (6) There is a presentation of incident by incident without substance. A storytelling as presented by the investigators is not a reconstruction of past events and sequences of events.
- (7) Contradiction by accused returned to whistleblowers is subject to criticism. An investigation should start by identifying information sources and derive relevant information from those sources.

- (8) Contradiction was prevented by denied access to relevant documentation. The accused complained that she had no access to documents relevant to her case.
- (9) An investigation report should separate a part on all facts from the part on assessments. Statement of facts can be agreed by both accusers and accused, while interpretations and conclusions typically cause disagreement. Therefore, a separation is important in the report. Unfortunately, the Kluge report is a continuous storytelling mixing facts and opinions.
- (10) Selective inclusion of statements makes the report biased. It is open to guesswork by readers what episodes are included and what episodes are excluded. The impression is created that matters included are random stories that whistleblowers have told, and that examiners found serious enough to include.
- (11) Examiners demonstrate lack of insights into supervision dynamics. The core content of the Kluge report is concerned with communication between the accused and the accusers. While the accused was in a senior position, most accusers were in junior positions.
- (12) Examiners should have asked supervision experts to review whistleblower statements. Based on the previous point, examiners lacking insights into supervision dynamics should obviously have searched for advice among academics with supervision experience.
- (13) It is subject to criticism to apply simple probability of 51% to draw conclusions. To draw conclusions regarding law violations that can lead to criminal charges, the requirement in Norway is probability beyond any reasonable doubt.
- (14) The working language at this level is English, and the report should thus be in English. Lilli and Sunde, however, wrote their report in Norwegian. This seems arrogant and ignorant toward the investigated person. At the University of Oslo, the working language among researchers is English, not Norwegian.
- (15) It is a violation of the accused's right to justice to present a report in Norwegian. Justice is a matter of equal treatment for all. It is an act of discrimination when the Kluge report is written in a local language not used in the research environment at the University of Oslo.
- (16) There is no knowledge strategy (people) or information strategy (sources). Selection of relevant corporate investigators is dependent on the knowledge needs for each specific examination challenge.
- (17) There is no configuration strategy (procedure) or system strategy (digital). There are two basic configurations, i.e., sequential and iterative respectively.
- (18) The report contributes to conflict escalation rather than problem solution.
- (19) Information analysis is completely absent in the report. The information collected in various interviews should have been subject to thematic analysis, which involves identifying, reflecting, and reporting patterns of themes within the complete sample of interviews with interviewees.
- (20) The content of the report lacks reliability as well as validity. Reliability refers to the extent of exact replication of incidents. There is no analysis of potential discrepancy between allegations and events, and there is no analysis of statements potentially contradicting each other. There is no triangulation of claims.
- (21) It is an activity-oriented investigation lacking problem solution, detection outcome, and investment value.

The assessment outcome

While it is not a direct shortcoming of the Kluge report, it is yet another deficiency that Lilli and Sunde did not involve impartial managers at the university during the investigation process. Managers could guide investigators toward knowledge regarding what is typically not considered harassment in academic settings and how to approach top academics regarding their behaviors and reactions. The main criticism in this respect, however, has to be directed at the internal auditor and the personnel manager together with the university director and

the dean of the medicine faculty regarding their abdication from leadership by leaving the whole matter to an external consultancy. External investigation represents abdication from leadership by UiO management. Abdication refers to a failure to fulfill a responsibility and a duty.

It is important, however, to acknowledge special characteristics of leadership roles of individuals such as university director, internal auditor, faculty dean, and personnel manager in their university setting. Basically, while they have various leadership responsibilities, their roles have little or no importance to faculty members. They do not decide whether a master thesis is of sufficient quality, as this is decided by an external examiner. They do not decide whether a doctoral dissertation is of sufficient quality, as this is decided by an external committee. They do not decide whether an applicant is qualified for positions such as associate professor or professor, since this is decided by an external committee. They do not provide access to research funding, as this is provided by external national and international agencies. They do not decide whether your research output should be accepted or rejected by a research journal, since this is decided by external referees in blind reviews. In light of all these role limitations, it is indeed surprising that the UiO leadership outsourced an important task for which they are responsible and thus abdicated from leadership.

In conclusion, given all the shortcomings and thus the substandard quality of the Kluge report, UiO management should consider whether or not they are obliged to pay for the work. Since there is no real mandate that can be used to conclude that Lilli and Sunde did no proper job, it might be difficult to refuse to pay. Nevertheless, the internal auditor and the personnel manager at the university might consider not paying for the Kluge work or ask to get UiO money back from the law firm.

The suggested consideration might be strengthened by the biased Kluge investigation against the researcher while there was lacking investigation against a university lawyer. In an e-mail by Lilli to the researcher, Lilli stated that “for the sake of good order, I repeat that we will start our handling of your complaint against the university lawyer after our interview with you.” While this e-mail was dated November 2022, the researcher had been informed of nothing regarding Lilli’s handling of her complaint against a university lawyer by the end of February 2023.

Figure 2 illustrates the assessment procedure of allocating all the twenty-one shortcoming items that reduce the maturity level from stage IV via stages III and II to stage I. The characteristics are listed in Table 1 where they are assigned relevant stage of growth for internal investigations. In summary, the above assessment of the Kluge report maturity must lead to the lowest level possible of an activity-oriented investigation as illustrated in Figure 3.

While this review is mainly concerned with the Kluge report, it is relevant to emphasize the role of the university leadership that made it even worse for the accused to respond in a relevant and constructive manner. As mentioned above, university executives should have guided investigators into knowledge sources to understand communication in academic settings. They should have avoided abdication from leadership. They should in fact have not outsourced the investigation task but rather established an investigation internally with people trusted by both accusers and accused.

Furthermore, the university should not have left the researcher alone to handle the accusations. She was entitled to support from her employer. For example, if she was facing legal allegations, she was entitled to a defense lawyer paid for by the university. If she was facing other kinds of allegations, she was to have access to experts free of charge for her. This is a matter of security of justice for an employee for which the university as employer is responsible.

Also, the denial of access to documents made it more difficult for the accused to defend self in the contradiction phase. In fact, as stated in issue number 8 above, contradiction was prevented by denied access to relevant documentation. The accused complained to the university leadership that she had no access to documents relevant to her case. She filed her complaint, and the joint complaint commission rejected the university’s arguments against not giving the researcher full access to all the documents behind the different allegations.

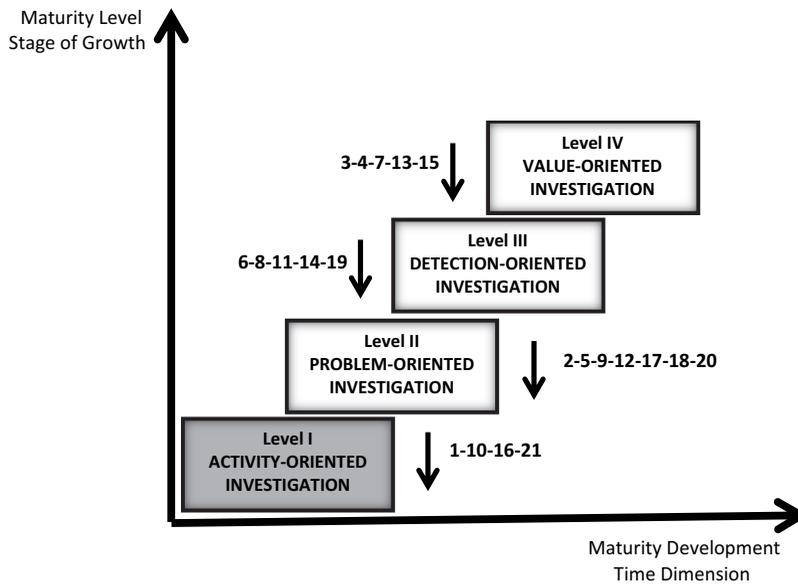


Figure 2. Maturity reductions by investigation shortcoming items.

Table 1. Characteristics reducing the Kluge report maturity.

#	Characteristic of Conducted Kluge Investigation	Violation of Activity-Oriented Investigation	Violation of Problem-Oriented Investigation	Violation of Detection-Oriented Investigation	Violation of Value-Oriented Investigation
1	Fact finding	Claim support from authority			
2	Fact finding		The praxis of investigations		
3	Three roles				Criminal justice
4	Sentencing				Criminal justice
5	No mandate		Unknown what to solve		
6	Sequential			No overview to detect	
7	Recycling				Unfair treatment
8	Denial			No option to suggest	
9	Separation		No focus on issues		
10	Bias	Not transparent			
11	Non-familiar			Wrong benchmark	
12	Experts		Misleading focus		
13	Probability				Criminal justice
14	Language			Barrier to participation	
15	Language				Criminal justice
16	Knowledge	Shortcoming interviews			
17	Configuration		Shortcoming understanding		
18	Escalation		No consensus achieved		
19	Analysis			No themes identified	
20	Reliability		No relevant representation		
21	Problem	Escalation of allegations			

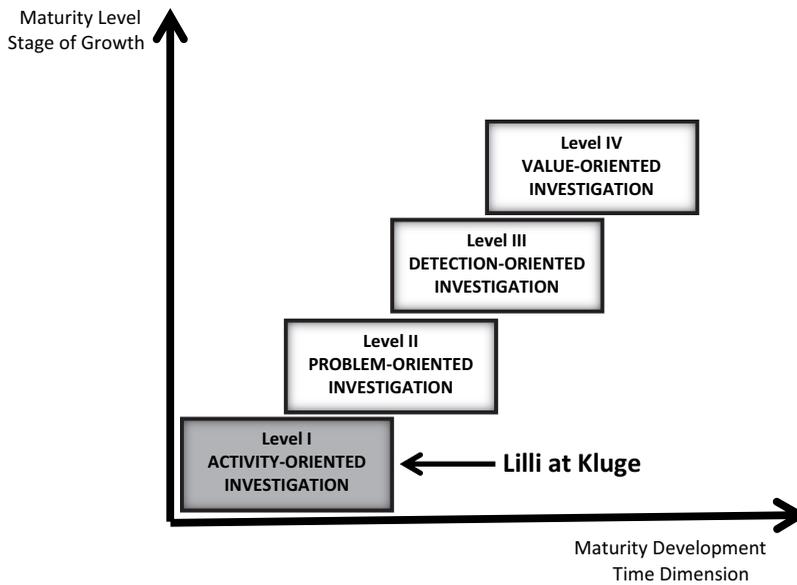


Figure 3. Maturity assessment of the Lilli and Sunde report at law firm Kluge.

Discussion

The academic was accused of workplace deviance where deviance in this context refers to purposeful behaviors that violate organizational norms and is intended to harm someone or something. Deviance is a term to describe behavior that contravenes accepted norms, values, and ethical standards (Smith and Raymen 2018). Deviance is “the failure to obey group rules” (Becker 1963: 8), where offenders may be lacking group identity that “occurs when individuals derive a sense of self from being a part of their group” (Shang, Abernethy, and Hung 2020: 375). Deviance is “a form of behavior that violates organizational norms and that consequently negatively impacts the well-being of the organization and its members” (Michalak and Ashkanasy 2013: 20). Deviant behavior is fundamentally counter-normative behavior (Piazza, Bergemann, and Helms 2023: 5):

That is, behavior that is at odds with societal expectations, informal norms, or written laws. However, norms are subjective, laws can be inconsistently applied, and different segments of society may have different ideas regarding whether behavior is in line with norms; right or wrong, ethical or unethical.

Deviance is detrimental to organizational performance in several ways, including damaged reputation, exposure to lawsuits, and financial loss (Dilchert et al. 2007). Deviant behavior breaks social norms and laws and has thus negative implications. Some scholars have suggested that there might be an opposite phenomenon of positive deviance (Fox, Wise, and Brehm 2022), but we argue that “positive labeling is not a form of deviance because it does not lead to stigma, social degradation or discreditation” (Goode 1991: 306). As argued by Piazza, Bergemann, and Helms (2023: 4), “deviance is risky, both because of the negative externalities of non-conformity and because sanctioning – in its many forms – can do real damage to the profitability and survival prospects of organizations.” One reaction to deviance is to conduct an internal investigation as exemplified in this article.

The secrecy of most internal reports by corporate investigators at law firms and audit firms (Gottschalk and Tcherni-Buzzeo 2016) is a problem since there tends to be lack of justice when compared to the criminal justice system (Button 2020; Gottschalk 2020; King 2020c; Meerts 2020). As emphasized in the case study, a number of problematic issues arise when corporate investigators are hired by client organization. One issue is the triple role of many investigators as they take on the investigation, the prosecution, as well as the sentencing. Another issue is the requirement of an

evidence of an incident being more likely than not. A requirement of 51% probability of being an offender in law violation is far from the justice requirement of being an offender beyond any reasonable doubt. A third issue is the use of an investigation report by clients who do not treat it as a consulting work but rather as a court verdict.

In many jurisdictions, the business of corporate investigators is not at all regulated. While lawyers in the role of attorneys have certain guidelines to follow, there are no guidelines when they are in the role of corporate investigators. Being a voluntary member of the Association of Certified Fraud Examiners (ACFE) in the United States, for example, or any other similar association does not imply any role obligation where deviance can be sanctioned. Meerts (2018: 6) found that the legal framework is almost non-existent or nonfunctioning for corporate investigators in the Netherlands:

Respondents indicate that the state has very little insight into what happens in the corporate security sector (. . .) The legal framework that applies is dependent on the label an investigator wears (. . .) Although forensic accountants and legal investigators are regulated by a general legal framework, these laws are not constructed to deal with investigative activities – rather, they are focused on traditional accounting activities and the traditional role of the lawyer. (. . .) The diversification in the corporate investigations arena and in legal frameworks and control create a fragmented field in which the state has very little knowledge about actual activities. Democratic control over the corporate security sector is very limited. Control over corporate investigations is, for an important part, reliant on the ethics of individual investigators and on the client. This places much responsibility on organizations using the services of corporate investigators.

This description of the nonexistence of a legal framework for corporate investigators in the Netherlands resonates completely with the situation in Norway. When forensic accountants and auditors conduct fraud examinations then they only relate to general rules that apply to accountants and auditors. When investigating lawyers conduct fraud examinations then they only relate to general rules that apply to the legal profession. While lawyers can claim the client-attorney privilege of secrecy even toward public authorities, this is not possible for certified accountants and auditors, even when they all carry out exactly the same kind of work in fraud examinations (Gottschalk 2017, 2018, 2019, 2020, 2021).

Conclusion

This research does not in any way claim that the presented case is representative of work by corporate investigators conducting internal examinations in client organizations. Nevertheless, this research is important, as it illustrates the lack of justice that is caused by the absence of regulation of the private investigation industry as performed by law firms, audit firms, consulting firms, and others. While judges pass verdicts on defendants in court, corporate investigators may arrange settlements in private investigations. Clients often want to settle a matter quietly, for example by a contract in which parties agree on an amount payable by the involved person. It may also include conditions, such as the termination of the labor contract. Non-disclosure clauses are fairly standard to settlements agreements where parties commit themselves to the confidentiality of the agreement and the circumstances of termination. There is no public scrutiny of the potential justice violations involved.

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Notes on contributor

Petter Gottschalk focuses on research into criminology by application of convenience theory for white-collar crime. Dr. Gottschalk was the chief executive at several corporations before joining the business school as a professor in strategy.

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