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Investigating and prosecuting white-collar and corporate crime: Challenges and barriers for national police agencies

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ABSTRACT

Many countries have established national authorities to investigate and prosecute serious and complex white-collar and corporate crime incidents. This article reviews research literature regarding external challenges and barriers for national agencies in Norway (Økokrim), New Zealand (SFO), the United Kingdom (SFO), and the Netherlands (OSF). The policing study in this article is important as it illustrates dilemmas that governments need to address when reviewing their national fraud offices and economic crime authorities. While Økokrim in Norway seems reluctant to prosecute too complex economic crime cases, the SFO in New Zealand attempts prevention of deinstitutionalization, the SFO in the UK might have deterrence effects, while the OSF in the Netherlands is challenged by the private industry of corporate investigators. These are some of the challenges and barriers facing national authorities that are charged with the tasks of investigating and prosecuting white-collar and corporate crime at the national level. The identified challenges and barriers especially related to the convenience theory perspective should enable future research to identify relevant actions.

Introduction

Many countries have established national authorities to investigate and prosecute serious and complex white-collar and corporate crime incidents. For example, there are serious fraud offices in countries such as the United Kingdom (Button et al., 2023; Osafsky, 2023) and New Zealand (Quah, 2022; SFO, 2023), and there are national economic crime authorities in countries like the Netherlands (Nielen, 2004; Meerts, 2020) and Norway (Gottschalk, 2022b; Økokrim, 2023). In this article, these agencies are referred to as UK SFO, NZ SFO, NL OSF, and Økokrim. These agencies are the main source of specialist skills for the police and the prosecuting authorities in their combat against economic crime by privileged and trusted individuals and corporations that may be "too big to fail" and "too powerful to jail" (Pontell et al., 2014: 1). The agencies face external challenges from very resourceful suspects and defendants with skilled defense attorneys, secrecy by corporate investigators reviewing economic crime in client organizations, criticism in the media regarding both role and performance, and other issues that represent useful learning for the agencies as well as barriers to professional performance at the same agencies. This article reviews research literature regarding external challenges and barriers for national agencies in Norway (Gottschalk, 2023a, 2023b; Riksadvokaten, 2017), the United Kingdom (Calvert-Smith, 2022; Levi, 2006, 2009; Middleton, 2005; SFO, 2022), New Zealand (Peursum and Balme, 2010; SFO, 2009), and the Netherlands (Meerts, 2023). The choice of these four countries is based on availability of scholarly research works as well as similarities in policing.

This article starts by discussing external challenges and barriers for national police agencies such as Økokrim in Norway, the SFO in the UK, the SFO in New Zealand, and the OSF in the Netherlands in terms of convenience for offenders. The theory of convenience suggests that there is a motive, an opportunity, and a willingness for deviant behavior (Gottschalk, 2022a), which is similar to the traditional fraud triangle (Cressey, 1972; Wells, 1997). Challenges and barriers for the police represent opportunities to avoid the criminal justice system in convenient ways, where convenience is a concept associated with efficiency in time and effort as well as avoidance of strain and pain (Engdahl, 2015; Sundström and Radon, 2015).

After the review of convenience theory, each of the four national agencies' external challenges and barriers are presented and discussed in view of the theory. The research method applied is to review records to better understand the prosecution and investigation strategies of white-collar crime units in all four countries. This research is important, as success by national units charged with the task of investigating and prosecuting white-collar and corporate crime is dependent on their ability to address and reduce the convenience for offenders. The policing study in this article is important as it illustrates dilemmas that governments need to address when reviewing their national fraud

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offices and economic crime authorities. The identified challenges and barriers especially related to the perspective of convenience theory should enable future research to identify relevant actions.

Theory of offender convenience

External challenges and barriers for national police agencies such as Økokrim in Norway, the SFO in the UK, the SFO in New Zealand, and the OSF in the Netherlands are here discussed in terms of convenience for offenders. The theory of convenience suggests that there is a motive from possibilities and threats, an opportunity to commit and conceal wrongdoing, and a willingness for deviant behavior from choice and reasoning as illustrated in Fig. 1. The opportunity structure in committing white-collar and corporate crime is based on the status of the offender and offender access to resources, while the opportunity structure in concealing crime is based on decay by institutional deterioration, chaos by lack of guardianship, and collapse by rule complexity. The willingness for deviance is based on explicit choice and perceived innocence. There are three dimensions and fourteen convenience propositions in the theory as illustrated in Fig. 1 (Gottschalk, 2022a).

While being similar to the traditional fraud triangle (Cressey, 1972; Wells, 1997), there are certain differences. Fraud theory with the fraud triangle suggests three conditions for fraud (Cressey, 1972; Wells, 1997): (1) incentives and pressures, (2) opportunities, and (3) attitudes and rationalization. Incentives and pressures belong in the economical dimension; opportunities belong in the organizational dimension, while attitudes and rationalization belong in the behavioral dimension. As such, the fraud triangle covers all dimensions of convenience theory.

However, there are three distinct differences. First, convenience is a relative concept, indicating that offenders have the option of alternative actions to reach their goals that do not represent illegitimate behavior. While the fraud triangle suggests that opportunities will stimulate crime, the convenience triangle suggests that relative opportunities will stimulate crime. There is no reason to commit crime, even if there are many opportunities, as long as alternative convenient decisions may lead to the same result. It is the extent of relative convenience, and not the extent of opportunity, that determines whether an offense is attractive. A very conveniently oriented decision-maker may resort to illegal activities when legal activities are slightly more stressful. A less conveniently oriented decision-maker may try intensely to solve problems and explore opportunities without violating the law.

Second, it is in the organizational setting where offenders have access to resources so that opportunity arises to commit and conceal crime. While the fraud triangle emphasizes opportunity in general, the convenience triangle concentrates on the privileged position that offenders can abuse to commit and conceal crime. There is trust and lack of control, obedience and fear, which create convenient opportunities. The convenient opportunity derives from legitimate access to resources in a trusted position without guardians, where resources are enablers to carry out activities that are not available to others. Opportunity convenience emerges because of an organizational structure and an organizational culture where members of the elite may feel above the law.

Third, a white-collar offender can influence the organizational opportunity over time. Therefore, opportunity in convenience theory is a dynamic rather than a static condition. By collecting decision rights, by controlling information flows, and by authoritarian leadership styles a potential offender develops an opportunity space that grows over time. Authoritarian leadership is characterized by power and being "intolerant of dissent, govern with limited transparency, and place limits on individual freedoms" (Neuberger et al., 2023: 70). Whether intentional or not, the opportunity space changes over time as a reaction to the potential offender's behavior.

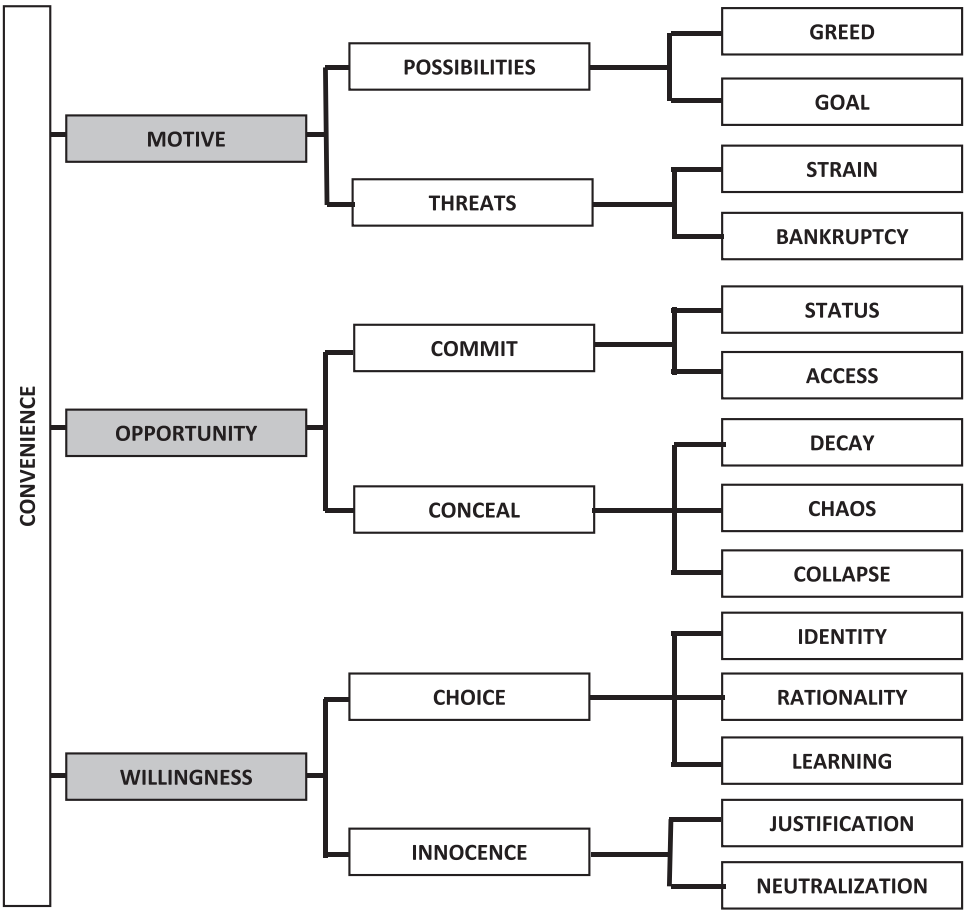

Fig. 1. Structural model of convenience theory (adapted from Gottschalk, 2022a).

Norway: reluctance to prosecute

The national authority for investigation and prosecution of economic and environmental crime in Norway carries the name Økokrim. The national authority was established in 1989, and it is both a police specialist agency and a public prosecutor's office with national authority employing two hundred detectives and lawyers (Økokrim, 2023):

> Our production of criminal cases provides strong general deterrence, and our delivery of assistance and sharing of expertise to the police districts ensures a good effect of the resources the police and public prosecutors use nationally to combat such crime. In addition, Økokrim shall cooperate with other national and international authorities, and have an advisory function for central authorities.

However, Økokrim was hit by a scandal almost a decade ago from which the agency still suffers. Reuters (2014) reported:

> Swiss-based rig operator Transocean and three advisers were acquitted of tax fraud in connection with shifting assets between subsidiary companies, a lawyer in the Norwegian case said today. Norwegian authorities sued several Transocean subsidiaries along with their individual advisers for 1.8 billion crowns ($290,74 million) in damages. "Everyone, both the companies and the individuals charged, were acquitted of all charges," Erling Olav Lyngtveit, the lawyer who headed the defense team, told Reuters.

After Økokrim's failure in the Transocean case, the agency activities were evaluated. The Attorney General's report on the case showed major deficiencies in management and major gaps in competence (Riksadvokaten, 2017). The skilled defense lawyers were professionally superior to the state prosecutors from Økokrim. Therefore, the prosecution made a valiant attempt to hire defense lawyers to strengthen Økokrim's expertise in court. Since then, Økokrim has taken on fewer serious and more less-demanding cases (Gottschalk, 2023a: 5):

> The outcome of the conducted empirical research of press releases is an indication that Økokrim as a national authority in Norway is no serious economic crime office anymore since it seems to be taking on new criminal cases that are less demanding in terms of qualifications among Økokrim members and leaders.

Maybe Økokrim sometimes is willing to look at complicated and demanding cases, but they no longer take them to court, where Økokrim is required to prove guilt beyond any reasonable and sensible doubt (Gottschalk, 2023a, 2023b). An example was the Norwegian Jo Lunder who was chief executive at VimpelCom in the Netherlands that was guilty of corruption in Uzbekistan (Klevstrand et al., 2022).

In the summer and fall 2023, a number of ministers in the Norwegian government were suspected of lack of impartiality and insider trading in shares on the stock exchange, where the latter issue was a potential task for Økokrim to investigate (Norwell, 2023). Økokrim started an investigation into stock trading by a minister who resigned, but it was not at all obvious whether they would charge the minister and bring the case to court. Økokrim was aware that they could lose the knowledge competition against the defense lawyers (Gottschalk and Hamerton, 2023). Also, Økokrim was accused of becoming a political actor (Rui et al., 2023), where misconduct by ministers in the government should be reviewed by the control and constitution committee in the Norwegian parliament and not by the police.

In the convenience theory perspective, Økokrim seems to have a strategy of deterrence by investigation where deterrence is the process in which threatened or actual punishments and sanctions discourage criminal acts (Rorie and West, 2022) Deterrence by investigating but not prosecuting influences two of the fourteen convenience propositions in Fig. 1. The opportunity to get away with it by chaos is reduced since the state improves its oversight, control, and guardianship to avoid chaos. The willingness to do it by rationality is reduced since the advantage remain the same, while the disadvantage increases. Another element at Økokrim is impression management that refers to the release of information regarding accomplishments to reduce the discrepancy between the desired and perceived professional image of the organization (Gottschalk, 2023a). Impression management aims to generate positive evaluations of the police unit (Bass et al., 2023; Lim and Jiang, 2021). Impression management influences one of the fourteen convenience propositions in Fig. 1. The relative status of offenders is reduced as the criminal justice systems appears to be closer because of impression management.

United Kingdom: deterrent purpose

The UK SFO has experienced criticism for both lack of competence and lack of integrity. They are "too slow to act" (Levi, 2006: 1047). They have "been criticized by some for prosecuting" (Middleton, 2005: 831). They can suffer from "serious risks of media and political criticism for publicity-seeking incompetence" (Levi, 2009: 59). Comments attacking the government and its agencies using de-subordination and cynicism terminology were quoted by Levi (2006: 1052):

> This theme is echoed in various British cases, such as Barlow Clowes, BCCI, Maxwell and Asil Nadir's Polly Peck, and is symbolized in the Private Eye terminology for the Department of Trade and Industry as "the Department of Temerity and Inactivity" and the Serious Fraud Office as the "Serious Farce Office" and the "Seriously Flawed Office".

Middleton (2005: 832) argued that "there is little doubt that a criminal-justice response to serious fraud is necessary for deterrent purposes":

Deterrent action properly includes the symbolic creation or support of institutions, like the SFO, which demonstrate a public commitment to the investigation and prosecution of serious and complex fraud. The existence of the SFO is, in a way, as important as the way in which it does its job. And like other institutions it is just one part of a system which depends upon the other institutions, which with it must interact, to do its job properly.

The preventive symbolism was created by establishment of institutions such as Økokrim and the SFO. Symbols are presented artifacts to portray an institution as a serious threat to potential criminal offenders by communicating in favor of the deterrent effect of the institution's existence. A symbol is an object or a phrase that represents an idea, a belief, or an action. Symbolic communication is the application of symbols in signals that can benefit the institution. Signaling is an important symbolic approach to influence. Signals refer to observable actions that someone takes to provide information to a target audience about unobservable intentions or capabilities. Signals might indicate that someone is willing and able (Jardine et al., 2020).

Symbolism was applied by Økokrim when they claimed that "confidence in our political and democratic system is an important consideration in our decision" (NRK, 2023). Protection of the political and democratic system is certainly not a task for Økokrim. Yet the national authority probably wanted to signal that they were ready and capable of taking on cases involving prominent politicians in the country. The deterrence effect also included the message that Økokrim were reading news in the media and continuously considering whether to initiate investigations, knowing in the case of the former and potentially future prime minister Erna Solberg that "if it becomes a case for Økokrim, then she herself and the party should consider a leave of absence" (Kristiansen and Gausen, 2023: 13).

Similar preventive symbolism applies to the SFO, where the deterrent effect might originate from factors such as demonstrating power within public authorities (Middleton, 2005: 821):

Indeed, the Serious Fraud Office (SFO) has disclosed information to assist a claimant in civil litigation, although the claimant in question was another government department! The SFO used a statutory gateway to make the disclosure and survived an argument that this was

a breach of Art. 8 of the ECHR. Since the potential recipients of such disclosures from the SFO are closely defined in the legislation and, in short, are public authorities, the power was held to be lawful and proportionate. What is lacking is an effective gateway similar to this that can help private litigants. The absence of a gateway is arguably justifiable to ensure responsible control of what may be sensitive information and also on the more pragmatic ground that the SFO's effectiveness could be compromised by the need to consider what might be numerous or onerous requests for disclosure by private individuals. It should be noted, however, that SALS concluded that it: could see no fundamental objection to allowing prosecutors and regulators to disclose information to a defrauded member of the public; this indeed was proposed by the SFO some years ago, but was not taken forward by other departments.

Deterrence is a process in which threatened or actual sanctions discourage criminal acts (Homer and Maume, 2022). White-collar offenders have typically no fear of coming in contact with the criminal justice system as they consider it quite unlikely to happen to them (Leasure and Zhang, 2018). There is thus little or no perceived deterrence effect from unlikely incarceration to prevent offences (Comey, 2009). Laws and regulations tend to have even less deterrent effect in the case of large business organizations (Dion, 2008). Therefore, institutions such as Økokrim and the SFO can have a deterrent effect in their preventive symbolism and signals. The severity of punishment does not necessarily add to the deterrence impact from the probability of conviction.

Another example of the SFO demonstrating power is concerned with the problem of using information from compulsory interviews (Middleton, 2005: 827):

A similar problem has arisen in the context of compulsory interviews by the SFO under s. 2 of the Criminal Justice Act 1987. Interviewees' answers cannot, generally, be used in evidence in criminal proceedings against them. However, a trial judge ruled that the statutory bar on use by the prosecution did not prevent co-defendants from using them for cross-examination purposes, and the Court of Appeal decided, with regret, that it had no jurisdiction to interfere.

Middleton (2005: 829) also discussed the extent of business self-regulation versus involvement of the SFO by arguing that "professional self-regulators generally lack intrusive investigative powers such as entry, search, arrest or compulsory questioning". All these measures are available to the SFO and considered important in the agency's fraud investigations. An argument against self-regulation was that "self-regulators would not seek some powers – since they will be expected to use them and thus uncover inconvenient evidence of wrongdoing" (Middleton, 2005: 829).

The deterrent purpose of the institution might also be exemplified by efforts of the SFO in their impression management in the media to get more powers and resources (Levi, 2009: 58):

Police and prosecutors may encourage media interest to gain publicity for them personally; to generate a positive image for their activities; and to get more powers and resources to do their job better. One route is to dramatize the past harm and future threat from the activities.

Middleton (2005: 832) concluded that "overall, there is little doubt that a criminal-justice response to serious fraud is necessary for deterrent purposes". In the convenience theory perspective, the SFO seems to have a similar approach to Økokrim in terms of deterrence influencing convenience propositions chaos and rationality in Fig. 1, mainly by symbolism. The "Seriously Flawed Office" could, on the other hand, lead to disadvantages increasing, thereby making white-collar and corporate crime more attractive to offenders.

New Zealand: deinstitutionalization avoidance

The NZ SFO is the public authority responsible for investigation and prosecution of serious and complex economic crime in the country. "Our purpose is to protect New Zealand's financial and economic wellbeing", "The SFO is the lead enforcement agency for investigating and prosecuting serious financial crime", and "The SFO plays a role in preventing financial crime and corruption" (SFO, 2023):

> We focus on a relatively small number of cases that have a disproportionally high impact on the economy and the financial wellbeing of New Zealanders. Other lead agencies that investigate and prosecute financial crime include NZ Police, Inland Revenue and the Financial Markets Authority.

The NZ SFO investigates and prosecutes white-collar cases, which tend to receive considerable media attention similar to Økokrim in Norway and the SFO in the United Kingdom. White-collar suspects and defendants in New Zealand as well tend to have resources to present their own narratives regarding accusations and allegations confronting them (Peursum and Balme, 2010: 305):

SFO members may, therefore, find themselves caught between obtaining evidence against fraudsters and concurrently defending their own ability and authority to do so.

Defending own ability and authority is problematic as evidenced also in Norway and the UK. In Norway, the Attorney General had a committee evaluate the performance of Økokrim, which concluded that there were gaps in competence and shortcomings in leadership (Riksadvokaten, 2017). In the UK regarding the SFO, Calvert-Smith (2022) concluded that "no one working on the Unaoil case was in command of all the moving parts in what was a large and complex case". In New Zealand regarding the SFO there, a bill was introduced "that would dissolve the SFO and refer white-collar crime to a less-empowered police investigations unit" (Peursum and Balme, 2010: 305).

SFO employees in New Zealand were empowered with authority that had provoked media attention (Peursum and Balme, 2010: 305):

SFO members are charged with investigating complaints of large frauds (usually over $500,000), cases of public interest and/or complex financial frauds. The SFO Director has, under statute, the authority to require suspects to provide documentation and to be interviewed without the right to remain silent. The Director also has the authority to select complaints to investigate and prosecute, which they then follow through to resolution. This level of authority, in particular to select and screen potential fraudsters, is unusual. The SFO can be perceived, therefore, as an intimidating authority by those who are subject to its investigations.

A similar description of the Norwegian Økokrim under the heading "Is Økokrim a Court?" was presented by Gottschalk (2023b):

Økokrim has a special status as a special authority, where they themselves choose what they deal with. They can work on a case as long as they like. They don't care if there is a lack of reasonable grounds for suspicion if they feel like looking into the case. In many white-collar cases, Økokrim has chosen to pick up the suspect at home with uniformed police while the children see their father or mother being arrested, thrown into solitary confinement, exposed in the media, terminated at work, and abandoned by family and friends. Suicidal thoughts appear. This punishment can be far worse than spending a few months or years in Bastøy prison.

The NZ SFO was modeled after the UK SFO when the authority was established in 1990 under the Serious Fraud Act. In the beginning, the authority had forty employees, mainly criminal-law lawyers, police-trained investigators, and forensic-educated accountants. The authority claims to have a "success" rate, measured as the proportion of fraud-determined cases successfully prosecuted and leading to conviction of "over 90 %, comparing favorable with overseas units of similar nature" (Peursum and Balme, 2010: 305). Økokrim in Norway has also reported similar "success" rate (NRK, 2009).

The high conviction rate might be explained in various ways. One possible explanation is that serious fraud authorities only bring to courts cases where they are convinced of convictions. They avoid trial

cases where there is some uncertainty, even when it would indeed be useful to have the cases evaluated in court since the cases have caused public interest among both laypersons, law makers, and others in society.

Peursum and Balme (2010) studied threats to the NZ SFO using an institutional perspective. Institutions are systems of interrelated formal and informal elements – rules, guidelines, norms, traditions, beliefs – governing relationships between institutional members within which members pursue their mutual interests (Gyõry, 2020). Institutions are the patterned, mutually shared ways that people develop for working together (Minbaeva et al., 2023: 557):

Overall, institutions have been characterized as durable social structures that are relatively resistant to change. In the social sciences, regulative, normative systems and cultural-cognitive elements are widely seen as ingredients of institutions.

While institutionalization refers to the process by which an institution is established, deinstitutionalization refers to the process by which an institution is destabilized. Deinstitutionalization is a matter of challenging the legitimacy of the SFO with its established organizational practice. Challenging the legitimacy refers to a belief that the SFO has no basic right to operate. Lack of legitimacy is an assessment of the lack of appropriateness of the SFO's actions (Bundy and Pfarrer, 2015; Fitzgibbon and Lea, 2018). Challenging the legitimacy implies that the SFO and its activities are not considered reasonable and acceptable. According to Demuijnck and Fasterling (2016: 678), legitimacy "refers to the congruence between social values associated with or implied by activities and the norms and acceptable behavior in the larger social system". Lack of legitimacy implies that the activities are not neutral or not desirable, not proper and controversial, and not appropriate within a socially constructed space of norms, values and beliefs (Baba et al., 2021; Hurst et al., 2020; Saenz, 2019).

Accordingly, the bill that was suggested in New Zealand "would dissolve the SFO and refer white-collar crime to a less-empowered police investigations unit" (Peursum and Balme, 2010: 305). However, the bill was never approved by the politicians after the election of a new government in New Zealand (SFO, 2009: 5):

The Serious Fraud Office entered a new chapter in its life following the change of Government at the general election. The new Government confirmed that the Serious Fraud Office would remain as a separate department of state and the previous government's proposal to merge the Serious Fraud Office into the Organized Financial Crime Agency New Zealand would not proceed.

The future of the Serious Fraud Office was up for debate again a decade later. Concerns were expressed "over a declining number of prosecutions launched by the office, driven by what was claimed to be a conservative, risk-minimizing approach under the tenure of director Julie Read" (Nippert, 2018). Similar criticism was facing Norwegian Økokrim accused of taking on less serious and less complicated crime cases (Gottschalk, 2023a, 2023b).

According to the most recent annual report for 2022 from the NZ SFO, the authority had 76 employees. The population size of the country is similar to Norway where Økokrim has 200 employees. In 2023, the media in New Zealand wrote about a number of investigations conducted by the SFO. An example was the SFO charging two Christchurch people for an alleged $4.1 million Ponzi scheme (Sherwood, 2023). A Ponzi scheme is where people invest in the scheme, expecting to receive extraordinary returns if they want their invested money back. The returned sum is, however, stolen from later contributors into the scam (Huang and Pontell, 2023).

Despite controversies over the role and the performance of national serious fraud authorities such as the SFO in both the UK and New Zealand, and Økokrim in Norway, they remain as independent. Various attempts at deinstitutionalization in recent decades have not succeeded. For example, Quah (2022: 196) stated that New Zealand relies on the SFO "to enforce the anti-corruption laws".

Netherlands: public-private control

The NL OSF in the Netherlands is responsible for investigating and prosecuting economic and environmental offences. The office also serves as the Public Prosecution Service's center for expertise on confiscating proceeds of crime. Asset confiscation of proceeds of crime is important to counter the suggestion by many scholars and practitioners that "crime is often the most expedient way to get what you want" and "fraud is often easier, simpler, faster, more exciting, and more certain than other means of securing one's ends" (Agnew, 2014: 2). Of course, if detection probability is low, then the statement might be relevant. However, if someone is caught for economic crime, then asset confiscation is indeed important, even when it requires both investigation and prosecution to get hold of the proceeds after the offender has been convicted. The proceeds-of-crime approach in the Netherlands is to "hit them where it hurts most" (Nielen, 2004).

Unfortunately, no discussion or criticism of the national office's performance or role could be found in the scholarly literature for this research. A study in the Netherlands of 644 prosecuted white-collar criminals between 2008 and 2012 showed 15 % women and 85 % men in the sample (Onna et al., 2014). The female fraction was slightly lower in similar countries such as Norway (Benson and Gottschalk, 2015).

What we found in the scholarly literature for this research in the Netherlands regarding the national office was the problematic relationship between public and private investigations as researched by Meerts (2014, 2018, 2019, 2020, 2021, 2023). A business of corporate investigators has grown that does not necessarily cooperate with public investigators.

Corporate investigators work in audit firms, law firms, and consulting firms. They 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 such private investigators in countries such as Australia (King, 2021), Canada (Schneider, 2006), Norway (Gottschalk, 2022b), and the United Kingdom (Button et al., 2023), in addition to the Netherlands (Meerts, 2023: 3):

Several factors contribute to the attractiveness of corporate investigations for organizations. These can be categorized in factors that are connected to corporate investigations and factors that are connected to the alternative, criminal justice investigations. Criminal justice investigations have certain disadvantages for organizations: negative effects can be expected for the organization as a result from law enforcement involvement in a case. Reputational damage is among the foremost reasons to avoid the involvement of law enforcement authorities. Other considerations include potential loss of productivity and revenue and a low level of trust in the (expertise of) law enforcement agencies with regard to internal economic crime. Part of the latter concern is the limited capacity of the criminal justice system (especially when it comes to financial or economic crime), the slow process of criminal justice investigations and the likelihood that a case will not be investigated as a result of the overburdening of the criminal justice system.

The industry of corporate investigators tends to limit and prevent criminal justice involvement in the control of corporations and their executives. Incidents of fraud, embezzlement, corruption, and other forms of economic crime seldom reach external democratic oversight by the criminal justice system. The national office in the Netherlands does not learn about incidents and thus is unable to investigate and prosecute serious economic and environmental offences (Meerts, 2023: 6):

In practical terms, the involvement of private commercial actors in the control of internal economic crime is substantial, and it seems, here to stay. Corporate investigations and settlements provide efficient and, often, suitable reactions to internal economic crime. However, concerns can be raised about multiple aspects of this system of corporate justice, that deserve both academic and policy attention.

The secrecy and ignorance of corporate investigators has led to a de facto public-private separation. The autonomy of corporate investigations represents an obstacle for the national office to do their job of investigating and prosecuting serious fraud, charge environmental crime, and confiscate proceeds of crime. Despite such challenges, the national office continued to publish a number of news releases to the press similar to those presented for the Norwegian agency Økokrim. In October 2023, these media titles were visible on the website for the national office (Prosecution, 2023):

- Arrest in dividend stripping investigation: The Dutch Fiscal Intelligence and Investigation Unit/Service (FIOD) arrested a 53-year-old man from the municipality of Aerdenhout on Tuesday, June 6. He is suspected of actually leading the deliberate filing of incorrect dividend tax and dividend stripping declarations resulting in over 4 million euros being wrongfully paid out by the Dutch tax authorities. His home and office were searched. The office of his tax advisor was also searched.
- Unconditional prison sentence of 36 months for money laundering of more than 3.2 million euros and use of false invoices: Today, the Overijssel court (Zwolle location) dealt with a 52-year-old woman from the east of the Netherlands who is suspected by the Public Prosecution Service of laundering more than 3.2 million euros and (complicity in) committing forgery of documents on multiple occasions between 6 March 2009 and 4 April 2017. The Public Prosecution Service demanded an unconditional prison sentence of 36 months.
- Public Prosecutor's Office dismisses criminal investigation into bribery by Shell in Nigeria: Following an Italian request for legal assistance, the Public Prosecutor's Office launched a criminal investigation into Royal Dutch Shell plc (Shell) in early 2016. The Italian and Dutch criminal investigations both focused on possible bribery by Shell of a former president in Nigeria, to reobtain exploration rights of a Nigerian offshore oil field. On 19 July 2022 the Italian criminal case ended in an acquittal for Shell. As a result, the Dutch Public Prosecutor's Office dismissed the criminal case against Shell.

As emphasized by Meerts (2020: 90), there is a distinct difference in the interests served by criminal investigations as part of law enforcement and the private business of corporate investigations:

> In principle at least, state-led investigations essentially serve public interests. A crime is defined primarily as a dispute between the offender and the state, with the exclusion of the (legal) person affected by the norm violation.

White-collar and corporate offenders who avoid the criminal justice system by internal investigations also avoid the punishment by the state. Therefore, it is not only the national office unable to do its job. People who do not have the privilege of avoiding law enforcement attention can be punished for wrongdoing, while those who can hide behind corporate will not be punished. They are "too powerful to fail" and "too powerful to jail" as a result of secrecy by corporate investigators (Pontell et al., 2014: 1), unless the organizations that they belong to terminate their positions and sue them financially.

In the convenience theory perspective, corporate investigators might be perceived as agents for the criminal justice system. Corporate investigators who acquire knowledge inside business organizations may feel obliged to report wrongdoing to the OSF. This will have a deterrent effect on deviance motives such as greed and goal in Fig. 1, as well as create an impression of guardianship and oversight that is effective and efficient.

There is a need here in the article to mention that this section on the Netherlands is indeed problematic as there is no literature regarding the performance of the OSF. Therefore, this section might have been removed. The comments about the gender spilt in prosecutions might seem completely irrelevant and does perhaps not add any information about the OSF and its challenges. The following discussion about corporate investigators is not quite successful in explaining how an increasing number of corporate investigators might be a challenge for the OSF. Nevertheless, the section on the Netherlands deserves being included here as the country has global leaders in research on the topic of investigating and prosecuting white-collar and corporate crime such as Meerts (2018, 2019, 2020, 2021, 2023) and Onna et al. (2014).

Conclusion

Investigating and prosecuting white-collar and corporate crime is a challenging task for police units. Suspects and defendants have access to resources to complicate police work. Evidence is often hard to find. To succeed, there is a need for knowledge, information, systems, and procedures. Knowledge needs include law, management, sociology, and psychology. Information sources include people, archives, and places. Systems include intelligent search and retrieval. Procedures include the value configuration of the value shop rather than the configuration of value chain. The value shop is an iterative procedure.

While Økokrim in Norway seems reluctant to prosecute too complex economic crime cases, the SFO in New Zealand attempts prevention of deinstitutionalization, the SFO in the UK might have deterrence effects, while the OSF in the Netherlands is challenged by the private industry of corporate investigators. These are some of the challenges and barriers facing national authorities that are charged with the tasks of investigating and prosecuting white-collar and corporate crime at the national level. Convenience themes that can be addressed include motives for deviance such as greed and goal, opportunities for deviance such as status and lack of guardianship, and willingness based on rationality. The identified challenges and barriers especially related to the perspective of convenience theory should enable future research to identify relevant actions.

CRediT authorship contribution statement

Gottschalk Petter: Writing – original draft.

Declaration of Competing Interest

No conflict of interest.

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