

Deterrence effects despite lack of prosecution: Punishment outcomes of white-collar crime investigations in Norway

Petter Gottschalk 

Criminology, Department of Leadership and Organizational Behavior, BI Norwegian Business School, Oslo, Norway. E-mail: petter.gottschalk@bi.no

ABSTRACT

The national authority Økokrim was established several decades ago to become a policing centre of excellence in the investigation and prosecution of economic and environmental crime in Norway that is especially concerned with white-collar and corporate crime. This article focusses on deterrence effects from Økokrim investigations that never lead to prosecution or conviction. The research raises the issue of the use of law enforcement publicity regarding investigations of potential offenders, often long before possible convictions. The issue is explored by the press releases from the Norwegian body. The apparent shift in strategy and practice at Økokrim might be explained by the devastating evaluation of the national authority some years ago. The evaluation was initiated after the Transocean court scandal where all defendants were acquitted of all charges. Deterrence strategy by investigations implies that Økokrim passes negative consequences on suspects who never have a chance to defend themselves in court. In jurisdictions with criminal justice, a suspect should always have the benefit of the doubt. Conviction should only occur when guilt is proven beyond any reasonable and sensible doubt. Until eventually proven guilty, a suspect is supposed to be considered innocent. This is a basic principle of justice.

INTRODUCTION

Gottschalk and Gunnesdal (2017, 2018) estimated that one out of 11 white-collar offenders in Norway are brought to justice. Similar estimates can be found in other jurisdictions. Such estimates do not necessarily imply that 10 out of 11 offenders (91%) avoid punishment in Norway. Suspected white-collar offenders tend to experience negative consequences long before their cases potentially and eventually end up in court. For example, there is termination of employment, bad media exposure, family breakup, financial ruin, temporary detention, suicide thoughts, and other forms of harm often occurring. Such harm typically occurs when the suspicion is associated with a perceived scandal, where a scandal refers to 'an unexpected, publicly known, and harmful event that has high levels of initial uncertainty, interferes with the normal operation of an organization, and generates widespread, intuitive, and negative perceptions' externally (Bundy and Pfarrer, 2015, p. 350).

Those very few who end up in prison, especially on the island of Bastøy in the Oslo fjord in Norway, might find it quite comfortable as they meet others who tend to agree that they have done nothing wrong. Prisons in Norway have hotel standard for inmates. Therefore, what happens ahead of potential court procedure and incarceration might be perceived as more serious in terms of harm to the individual. It often starts with exposure on the front page of a major Norwegian newspaper. Important

deterrence effects can thus derive from treatment of suspects who are never charged by Norwegian prosecutors. Of course, such deterrence effects are dependent on whistleblowers and others who report their observations to the media, the police, or other entities that make allegations and accusations publicly known.

This article raises the issue of the use of law enforcement publicity regarding investigations of potential offenders, often long before possible convictions. It explores this issue through the Norwegian body Økokrim and their press releases. This article focusses on deterrence effects from police investigations that never lead to prosecution or conviction. The article addresses the following research question: *How does police strategy and practice cause deterrence effects from investigations of white-collar suspects despite lack of prosecution?* The theoretical basis for this research is impression management, while the empirical basis is press releases. Police practice is studied in terms of actions by the National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway (Økokrim, 2023). Based on reviewed press releases, the national authority seems eager to investigate various complex white-collar crime cases while at the same time being reluctant to bring such cases to court. Therefore, an implicit strategy of the national authority might be to achieve deterrence effects from investigations. In the discussion section, we return to the problematic role of Økokrim

in potentially violating the legal certainty principle regarding justice stating that anyone is to be considered innocent until guilt is proven beyond any reasonable and sensible doubt.

LITERATURE REVIEW

Deterrence is the process in which threatened or actual punishments and sanctions discourage criminal acts (Rorie and West, 2022). Punishment refers to an undesirable or unpleasant outcome caused by an authority. The notion of general deterrence holds that crime rates decrease as the threat of generalized punishment increase. The probability of such punishments includes those based on perceptions and reality (Friedricks *et al.*, 2016; Tankebe, 2019). Kleinewiese (2022, p. 1188) expanded the situational action theory to groups by claiming that ‘the moral norms of the group and deterrence should have an influence through becoming part of the setting in the causation of crime.’

Law enforcement agencies can achieve deterrence effects by impression management that influence potential offenders’ perceptions of punishments. Agencies can also achieve such effects by investigations where executives and other elite members in society become subject to public scrutiny. Such effects are explored in this research.

Impression management refers to the release of information regarding accomplishments to reduce the discrepancy between the desired and perceived professional image of the organization (Lim and Jiang, 2021). Impression management aims to generate positive evaluations of an entity (Bass *et al.*, 2023). Impression management is a conscious or subconscious process in which people and organizations attempt to influence the perceptions of other people and organizations about a person, object, or event by regulating and controlling information in social interactions. Impression management is a strategy where police investigation leadership might release information to distort stakeholders’ perception of accomplishments or lack of accomplishments in the law enforcement unit (Demaline, 2023). Impression management can be construed as manipulative or deceptive. An organization’s words and actions can be purely authentic or manipulative to manage its impression. However, impression management as such never means creating inauthentic behaviour.

Press releases to serve impression management are an important vehicle for organizations to disclose institutional activities to the public. Compared with other disclosure approaches, ‘press releases cover a great variety of topics and publicize much more abundant information than other disclosures’ (Gong, 2023, p. 2081):

Prior studies show that press releases could mitigate outsiders’ information acquisitions and interpretation costs and portray the firm as distinctive, proactive and interesting. Managers also have full control over press releases and can strongly influence audience perceptions of events and firms via their decisions on which information to highlight or emphasize and how to frame that information, such as using negative and positive tones. Consequently, press releases can be used advantageously by managers to disclose information and opinions.

A press release is a news statement initiated by an organization in possession of relevant information to produce the press release (Greene and Smith, 2021). A press release is an announcement originated by an entity and distributed via a news provider (Gong, 2023). It is at the discretion of the news provider, such as a newspaper or a television channel, whether they distribute the content of the press release and if they do, whether they make editorial changes to it. While police managers have full control over press releases, they have no control over the intermediaries’ use of highlighted information to the audience. When police executives use own digital channels and social media to disseminate their information, then they have full control of the information reaching the audience. Even when they have full control over press releases to the intended audience, it may represent a critical communication step as they have no control of knowledge acquisition at the receiving end (Filip *et al.*, 2022). Knowledge at the receiving end is a combination of the press release information combined with interpretation (understanding), reflection (thoughts), and context (relationships). A press release can, for example, be understood as ‘a form of cheap talk’ and ‘reflect managerial overconfidence’ (Filip *et al.*, 2022, p. 65). However, as evidenced in this research, the Norwegian national authority Økokrim is surprisingly successful in having media outlets distribute their statements without any critical reflections or comments.

The tactic of using publicity is commonly found also elsewhere. For example, companies registered on the stock exchange publish statements every quarter regarding their financial situations. State agencies broadcast press releases when there are issues that should be of interest or concern to the public. For example, during the Covid-19 pandemic, various agencies regularly sent out press releases whether schools could be physically attended and how. Some of these press releases are obviously intended to influence behaviour as well as perceptions of the agencies themselves.

The Norwegian police is organized in police districts where minor economic crime incidents are investigated and potentially prosecuted. Økokrim has a special role of taking on more serious fraud incidents. Often, they carry out investigations of more than a year before they decide whether or not to prosecute individuals or fine companies. The extent of white-collar and corporate crime in Norway seems to be similar to other countries where very few are brought to justice (Gottschalk and Gunnesdal, 2017, 2018).

Shepherd *et al.* (2019, p. 3) studied media coverage of offenders convicted of occupational fraud and corruption in the UK, where they found that ‘personal digital criminal legacies create long-term labels which lead to economic strains and social fractures that hinder productive reintegration into society’. Similarly, Button *et al.* (2018, p. 647) found ‘a number of significant negative consequences that stigmatize individuals, damage employment prospects and finances, restrict access to ordinary services, and fracture important relationships’.

RESEARCH METHOD

In 1 year, from June 2022 to June 2023, the National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway (Økokrim) issued 39 press releases

(Gottschalk, 2023a). Assessment of seriousness is an intuitive exercise reflecting characteristics mentioned by national police units such as the Serious Fraud Office in the UK (Osafsky, 2023) and the FBI (2023) in the USA. Seriousness assessment also reflects the national role of Økokrim where crime cases with low or medium seriousness could have been handled by fraud teams in police districts in Norway rather than the national authority that should be a spearhead against serious economic crime in the country. Økokrim (2022) as a national authority claims to be the main source of specialist skills for the police and the prosecuting authorities in the combat against economic and environmental crime. Økokrim's role is to specialize in fighting the most complex forms and incidents of economic crime.

The average prison sentence for white-collar crime in Norway is 2 years. However, in serious white-collar crime cases the prison sentence tends to be several more years. The maximum sentence so far passed in a Norwegian court for white-collar crime is 9 years. Typically, white-collar offenders who are the main target for Økokrim have to go to jail for 5–7 years in recent decades. There is only one such prison length in the 39 press releases, where an offender committed investment fraud against 77 innocent victims. This case is classified as high seriousness. A few others are also classified as high seriousness such as the Nordic case where it was a form of organized white-collar crime.

The following week after the Nordic case in April 2023, another high seriousness case was press released by Økokrim. It concerned the former president of the International Biathlon Union (IBU). While the IBU is headquartered in Austria, the former president is a Norwegian citizen (Ingle, 2023). The impression of the case intake at Økokrim is that external forces made them take on the case. Foreign influence has also in the past caused cases taken on by Økokrim. For example, the FBI in the USA asked Økokrim in Norway to take on the Yara case after the Libya scandal (Milne, 2018).

There are 7 corporate messages among the 39 press releases. There is one investigation, and there are 6 charges that were ready for trial. The remaining 26 press releases concern individuals prosecuted for economic crime. Two-thirds of the press releases (66%) were thus concerned with cases in the criminal justice system that Økokrim prosecuted in court. Only two press releases—for only one case of a prosecuted mayor—told a story of anyone acquitted after prosecution by Økokrim although historically Økokrim has claimed a success rate of 80–90%. If this was still the case, Økokrim in the year 2022/2023 could have published two, three, or four press releases where they failed in court.

Økokrim's (2022) role is 'to protect important values in the Norwegian society'. Values include both material and immaterial values that are considered important in the Norwegian culture. One important value in the culture is trust, where violation of trust among people and people's trust in institutions is important to avoid. Trust refers to the acceptance of vulnerability to another's action (Baer *et al.*, 2021).

In the reviewed press releases, there are no serious economic crime convictions measured by the verdicts' prison length. The longest sentence in the sample is 5 years where the offender had committed investment fraud against 77 victims. The reason for this relatively long imprisonment is probably the number of victims rather than the seriousness of each investment fraud

incident. Five years is in Norway a serious sentence as the longest prison sentence for white-collar crime ever passed to offenders is 9 years (Filstad and Gottschalk, 2012). Compared with the USA, such as the 75-year-old Bernard Madoff receiving a jail sentence of 150 years imprisonment, convictions are quite modest in Norway. It seems that going to prison is the most serious consequence of being a white-collar criminal and not necessarily the length of his or her stay in prison.

RESEARCH RESULTS

When Økokrim announced in a press release that they started to investigate a prominent former minister in the Norwegian government, it sparked an idea that Økokrim's strategy might be deterrence by investigations since it is estimated that only one out of 11 (9%) of white-collar offenders in Norway are ever brought to justice (Gottschalk and Gunnesdal, 2017, 2018), making white-collar crime convenient (Gottschalk, 2022). By initiating investigations, an impression is created that Økokrim is not afraid of pursuing elite members in society. Impression management is a strategy where Økokrim leadership potentially releases information to distort stakeholders' perception of accomplishments or lack of accomplishments in the organization (Demaline, 2023). Deterrence is a process in which threatened or actual sanctions discourage criminal acts (Rorie and West, 2022). Strategy is actions to achieve a long-term aim of being perceived as the leading organization for combatting economic crime (Zhu and Chen, 2015).

In the recent past, Økokrim has investigated several prominent individuals without ever charging them or prosecuting them, which supports the idea of deterrence by investigations rather than deterrence by convictions. Deterrence by investigations is a matter of chasing top executives and other elite members in society. An example is Jo Lunder who resigned from the position of chief executive officer at VimpelCom, a mobile phone network operator with headquarters in the Netherlands. After his resignation, Lunder was chased by Økokrim for his alleged knowledge of corruption in Uzbekistan, where several mobile phone companies, including VimpelCom, were competing for mobile phone licenses. After having been investigated for several years by Økokrim, the charges against him were dropped. In the meantime, Lunder lost on the job market for new chief executive positions because of the ongoing investigation. In the end, Lunder had to refund legal expenses to the Norwegian state amounting to NOK 400,000 (about USD 40,000). Oslo district court decided that Lunder had to pay the state to cover part of the legal costs in his compensation case that never came before the court. One month earlier, the former telecom executive withdrew the compensation lawsuit against the state; just before the trial was due to begin (Lund, 2022, p. 12):

Lunder had put forward a record high compensation claim of up to NOK 600 million, based on past income and expected future income.

-It is a family decision. After careful deliberation with the family, I have chosen to withdraw the lawsuit. The case has been a big strain on us for the past seven years; Lunder told the newspaper in connection with the compensation case being put to rest.

-We have spent a lot of resources over several years, together with the state attorney, on countering Lunder's factual and legal claims, Økokrim chief Pål Lønseth told the newspaper in connection that Lunder is withdrawing the compensation claim.

Lunder never got a state compensation for his suffering from the implicit punishment. Instead, he had to pay. Lunder had put forward three arguments for the state to cover its own legal costs, which would be an exception to the main rule in the Norwegian disputes act (Lund, 2022, p. 12):

"The arrest and imprisonment have caused Lunder great and irreparable damage and loss. It is assumed that the state does not dispute it. It is also an indisputable fact that the criminal persecution was groundless, even if it took the police over two years to reach this conclusion". "The police withheld a number of key documents and information in connection with the detention case. This was information that the police were aware of when they imprisoned Lunder in October 2015". "The state has refused a reasonable settlement offer. Already prior to the lawsuit, an initiative was taken to dialogue with the state, without it being accommodated. It therefore became necessary to initiate legal action", writes Lunder's lawyer. Lunder made a settlement offer to the state of "NOK 15 million as a full and complete settlement".

The settlement offer was put forward by lawyers Sven Eriksrud and Edvard Stulien at law firm Schjødt. The state did not accept it, and the court did the following year assign no weight to Lunder's three arguments. Deterrence strategy by investigation implies here that Lunder received a penalty from Økokrim that was never possible for him to contest in court since Økokrim terminated the case ahead of prosecution. The penalty included suffering from negative public attention, lack of job opportunities, and time spent in detention and interrogation as an accused that had to explain self-behaviour without proper defense.

The incident that sparked the idea that Økokrim's strategy might be deterrence by investigations was the press release communicating that Økokrim would start investigating a prominent former minister in the Norwegian government (Økokrim, 2023):

Økokrim opens an investigation against former minister Ola Borten Moe. In July, Ola Borten Moe admitted that he violated the government's impartiality regulations when he attended a government meeting in January about a multimillion-dollar contract for the ammunition manufacturer Nammo. Økokrim has now decided to start an investigation to look into whether criminal matters may have taken place in connection with Ola Borten Moe's purchase of shares in the Kongsberg Group in 2023. Trust that the purchase and sale of shares takes place within a transparent and well-functioning securities market is a prerequisite for our financial system. It is important that the suspicion that has been expressed against Ola Borten Moe is fully investigated. It is particularly important because Ola Borten Moe was a member of the government when he bought the shares, and

the suspicion is that he may have misused information he has received as a politician and member of the government. The case is therefore also about trust in our political and democratic system. It is difficult to obtain the necessary information without a thorough investigation. The investigation is launched immediately. It is too early to estimate how long time Økokrim will spend on the investigation. In any event, it will continue throughout the fall season.

-Ola Borten Moe has expressed that he will contribute to the best of his ability to inform the case. This is important and positive, says Økokrim chief Pål Lønseth.

This press release received attention in all major media in Norway. No commentators expressed criticism so it seemed to be successful impression management even in the event that Økokrim would later close the case. The Norwegian public broadcasting later that day interviewed the Økokrim chief for the evening news on television about the resigned minister (NRK, 2023):

Now Økokrim will investigate whether Borten Moe did something criminal as well. The investigation will begin immediately. When did the ministers learn about the arms contract with Nammo announced on 13.1.2023? Just days earlier, Ola Borten Moe bought shares for NOK 415,000 in the Kongsberg Group.

Økokrim Chief: It is suspected that a politician has abused his position as a politician. Confidence in our political and democratic system is an important consideration in our decision. Only through investigation can we get to the bottom of this.

TV Reporter: Could it be appropriate to question others in the government?

Økokrim Chief: We cannot rule anything out. We investigate in the usual way, and obtain the information we need.

TV Reporter: How is your access to internal government documents and classified documents?

Økokrim Chief: Fortunately, it's not something we do every day, so we will get back to it later.

TV Reporter: But you have access to it?

Økokrim Chief: We will get back to that.

Then a law professor in business school was next to be interviewed by NRK (2023):

TV Reporter: Now the police will dig into government memos and other secret information. How special is this in the Norwegian context?

Law Professor: It is very special. That a minister is investigated for private financial dispositions made in connection with the position of minister. I don't think that has happened before. But it is natural that it happens when the case has received such attention. It must be investigated to remove any doubt that the case is not taken forward because it is a politician that Økokrim is reluctant to look at it.

TV Reporter: High-profile ministers may be summoned for questioning. There is a risk of leaks. Does the case pose a risk to the government?

Law Professor: It has potential of becoming terribly difficult. Both when it comes to the number of people involved on the interrogation side, but also because Økokrim can come across similar incidents. It can become an ongoing issue over a long period of time. But it can also quickly be established that there has been nothing illegal here. It depends on how Økokrim sets this up.

TV Reporter: Ola Borten Moe is currently a suspect. What are the consequences if he is found guilty?

Law Professor: As you point out, there is a long way to go before a conviction is reached. But Norway is the strictest state in Europe, perhaps even in the world, in enforcing the ban on insider trading. There is no fine or suspended prison sentence. Then it is incarceration.

There is an interesting issue here generally regarding law enforcement efforts towards politicians. Such efforts have long traditions in the USA as exemplified by various prosecutions of former president Donald Trump in the USA in the summer of 2023. There was no such tradition in Norway so far (Gottschalk, 2023b). However, it seems that Økokrim is trying out if the police have a role to play on this field. While lawyers may argue that violating the law should be prosecuted independent of the role of the potential offender in society, criminologists may argue that there is a distinction between politics and law with a grey area where the criminal justice system does not necessarily have a role to play.

Økokrim's involvement in the destiny of top politicians became again visible as the minister of foreign affairs disclosed that her husband had traded shares in the Norwegian weapons industry that exports weapons abroad. Export of weapons from Norway has to be approved by the ministry of foreign affairs. Share prices were rising sharply as the Norwegian weapons industry exported weapons to the Ukrainian defense against Russian aggression. Berglund (2023) reported:

Foreign minister Anniken Huitfeldt of the Labor Party has become the latest member of the Norwegian government to land in serious trouble over potential conflicts of interest. She claims she didn't know that her husband had invested in several Norwegian companies including weapons producer Kongsberg Group, while she's been in office over the past two years. Calls were already going out Wednesday afternoon for Huitfeldt to resign. She struggled to answer several of the questions raised during a sudden press conference on Norway's latest government crisis.

Three hours after the disclosure by the minister Anniken Huitfeldt regarding her husband, where insider trading could again become an issue, Økokrim issued two press releases:

The undersigned has reported to the Attorney General that, in the event that the prosecution should consider opening an investigation against the Minister of Foreign Affairs, I will be disqualified. Even though I am, as Chief of Økokrim, incompetent, the Attorney General has nevertheless assessed the case so that Økokrim, under the leadership of Deputy Chief Økokrim Inge Svae-Grotli, can make the necessary assessment in the case, as the Criminal Procedure

Act section 60 second paragraph allows. Pål K. Lønseth, Økokrim Chief.

As the case is reported in the media today, the information deals with questions about errors related to the foreign minister's competence in cases that there is no reason for Økokrim to comment on. So far, no information has emerged that gives Økokrim a basis for assessing questions related to insider trading. Inge Svae-Grotli, Økokrim Deputy Chief.

The law professor was again interviewed by a TV reporter. He said he was surprised that Økokrim concluded so quickly stating that they would not initiate an investigation. The law professor argued that the Borten Moe case and the Huitfeldt case were quite similar (Spence and Sørenes, 2023). A finance professor argued that the Huitfeldt case was potentially more serious than the Borten Moe case regarding insider trading (Lorch-Falch *et al.*, 2023).

The following day, a new statement was released to the press from Pål K. Lønseth as the chief at Økokrim regarding his potential lack of impartiality that led to the conclusion of leaving the Huitfeldt matter to Inge Svae-Grotli as the deputy chief at Økokrim:

A civil servant is disqualified if there are so-called special circumstances that can weaken confidence in the civil servant's impartiality. I have no friendship with foreign minister Anniken Huitfeldt, or am in her circle of friends. However, I have previously collaborated with Huitfeldt on several occasions during the four-year period where I was state secretary in the ministry of justice (2009–2013), and she held various cabinet positions. During the same period, as state secretary, I also had contact with Huitfeldt a number of times in her capacity as a member of the central board of the Labor Party, related to the handling and design of the government's justice and immigration policy. We also collaborated closely when I led the Labor Party's work on new whistleblowing rules in 2018. I have come to the conclusion that this may overall weaken the public's trust that I can assess the matters that have appeared in the media in an unbiased manner, which I informed the Attorney General on Wednesday afternoon.

One hour later, a new press release from Økokrim arrived, this time from the deputy chief Inge Svae-Grotli:

Økokrim became aware of the case through the media yesterday afternoon. We assess available information continuously. In our assessment, no significant new information has emerged so far. Økokrim has received many inquiries about the matter. It is too early to go into specific questions. We will come back when we have obtained a more comprehensive picture and carried out some reviews of available information.

In our perspective of impression management, Økokrim chose to control messages by publishing a series of press releases rather than pick up the phone or read emails and provide answers to journalists.

A third example of possible deterrence strategy by investigation at Økokrim was a lawyer who on behalf of his law firm was accused of attempting to bribe an executive at a company to get the company as a client for the law firm. Økokrim's launch of

an investigation caused enormous media attention (Sinnes and Waalen, 2023).

DISCUSSION

Impression management at Økokrim would require resources. While there previously was only one employee involved in public relations work at Økokrim, there were three employees in 2023. This increase in public relation staff occurred while there was no significant growth in the overall number of employees at Økokrim.

Deterrence strategy by investigations implies that Økokrim passes negative consequences on suspects who never have a chance to defend themselves in court. The penalty, as in the case of Lunder, is suffering from negative public attention, lack of job opportunities, and time spent in detention and interrogation as an accused where the opportunity for self-defense is limited. Økokrim then behaves like a court where they punish people. However, that is a role assigned to judges and not to investigators or prosecutors. Økokrim (2023) argued in the minister cases that 'it is difficult to obtain the necessary information without a thorough investigation.' While this is certainly true, a policing principle seems forgotten that an investigation should only be launched when it is quite obvious that crime has indeed occurred by a criminal. There seems to be a problematic role of Økokrim in potentially violating the legal certainty principle regarding justice stating that anyone is to be considered innocent until guilt is proven beyond any reasonable and sensible doubt.

The apparent shift in strategy and practice at Økokrim might be explained by the devastating evaluation of the national authority some years ago. The evaluation was initiated after the Transocean court scandal where all defendants were acquitted of all charges. Swiss-based rig operator Transocean and three Norwegian advisers were acquitted of tax fraud in connection with shifting assets between subsidiary companies (Reuters, 2014). Økokrim had been investigating the case since January 2005. The verdict of acquittal of all defendants was passed in Oslo district court in July 2014. The trial in Oslo district court was dominated by the best white-collar defense lawyers in the country. Økokrim could not match their competence. Therefore, Økokrim recruited and hired some other excellent white-collar defense lawyers to join the prosecution team. This looked strange to observers as it became obvious that there was a lack of competence while Økokrim still claimed to be the spearhead against economic crime in Norway.

Økokrim appealed the verdict from the district court, and the appeal court hearing was scheduled for January 2016 at Borgarting court of appeal. The appeal proceedings were, however, postponed, first after the defense attorneys presented a disqualification objection against the lead prosecutor in the case on 21 December 2015, and then after the lead prosecutor from Økokrim were removed from the case on 4 January 2016. On 13 January 2016, Økokrim withdrew the appeal in its entirety, and the Borgarting court of appeal ruled the following day acquittal without appeal hearing (Gottschalk, 2023a).

The Transocean court scandal caused the Attorney General in Norway to appoint a review committee to review Økokrim performance. The review concluded that there was

both management failure and competence shortage within the national authority (Riksadvokaten, 2017). The consequence seems to be that Økokrim is only willing to prosecute less complex and serious white-collar crime cases (Gottschalk, 2023a), and that the national authority is reluctant to prosecute politicians (Gottschalk, 2023b). This results in the suggestion that Økokrim is pursuing a strategy of white-collar crime deterrence by investigations rather than by prosecutions and convictions. An increase in the communications department from one to three does indicate a greater priority to outreach and maybe to enhancing the deterrent effect of Økokrim. However, this does not imply an allegation that the public relations efforts by the body are an intentional substitute for prosecution.

One central assertion of this article is that suspected white-collar offenders tend to experience negative consequences long before their cases potentially and eventually end up in the courtrooms. This is an important issue that is, however, not restricted to white-collar defendants. The frequent exposure of white-collar suspects on the front pages of major business newspapers nevertheless makes the assertion relevant. White-collar suspects seem to suffer stigma at the individual level, while others, such as Muslims or Kosovo-Albanians, may suffer stigma at the group level. This research suggests that the extent of relative exposure and stigmatization from media coverage is an interesting avenue for future research related to press releases regarding white-collar crime suspects.

There are several more avenues for future research. One avenue is to interview defense attorneys about the deterrent effect potentially achieved by Økokrim. In jurisdictions with criminal justice, a suspect should always have the benefit of the doubt. Conviction should only occur when guilt is proven beyond any reasonable and sensible doubt. Until eventually proven guilty, a suspect is supposed to be considered innocent. This is a basic principle of justice. The question to defense attorneys would be whether this principle is violated by Økokrim. Criminal justice is secured in well-functioning democracies by two parties arguing their case in front of a third party, which is the agency Økokrim versus the defendant in front of the court. The prosecutor from Økokrim presents one (biased) narrative, while the defendant presents a different (biased) narrative. Therefore, when Økokrim makes a statement to the press, one might assume that this is a somewhat biased narrative telling a story that the defense attorney will dispute on behalf of the client.

A third avenue is to interview innocent people how they experienced being exposed in the media for alleged white-collar crime. Some of them have told their stories in the media as they required state compensation for their ruined lives. A fourth avenue is to explore why Norwegian media are so quiescent about Økokrim's press notices, if indeed they are. How much criticism of the law enforcement body and its work has there really been in the Norwegian media, and are there signs of that criticism increasing after these acquittals or failures to prosecute? The research presented here finds that the press has been naïve in simply distributing messages from Økokrim. However, this finding needs review in future research.

A fifth and final suggestion for future research is the absence of negotiated agreements with suspects. The option of deferred prosecution agreements and similar arrangements does not exist in Norway. One reason is the danger of miscarriage of justice. As

stated above, only suspects found guilty by a third party—that is judges in court—beyond any sensible and reasonable doubt should accept conviction. A (biased) narrative from a prosecutor in terms of a document labeled ‘statement of facts’ should not be sufficient. However, to avoid years of actual punishment and suffering, it may seem tempting—also for an innocent person or a corporation—to sign a deferred prosecution agreement. This is problematic, since the reason for such an offer by a prosecutor might be that the criminal justice system was unable to prove violation of the law to the extent that it would lead to conviction. Scholars who have studied jurisdictions with deferred prosecution agreements and similar arrangements present mixed results (e.g. Hertstein *et al.*, 2024; Homer and Maume, 2024; King and Lord, 2020; Lüth, 2021; Parker and Dodge, 2023).

CONCLUSION

The national authority Økokrim was established several decades ago to become a policing centre of excellence in the investigation and prosecution of economic and environmental crime in Norway that is especially concerned with white-collar and corporate crime. After handling some successful complex crime cases, Økokrim failed in a major court case of accusing Swiss company Transocean and its advisers of tax fraud. The attorney general in Norway launched a review of the national authority that concluded with shortcomings in Økokrim management and lack of competence among detectives and lawyers in the policing unit. A review of recent press releases from Økokrim reveal that the national authority takes on less complex and serious crime cases compared with the past (Gottschalk, 2023a). Furthermore, a review of recent fraud by top politicians in the country indicates that Økokrim might be willing to investigate, yet reluctant to prosecute such cases (Gottschalk, 2023b).

Therefore, this article addressed the following research question: *How does police strategy and practice cause deterrence effects from investigations of white-collar suspects despite lack of prosecution?* The research identified several deterrence effects from perceived punishments that are publicly known. Firstly, Økokrim’s disclosure of suspected individuals and companies lead to negative exposure in the media causing harm to the corporate social license to operate (Gottschalk, 2023c). Next, Økokrim’s investigation lasting typically for years rather than months frequently lead to negative consequences for suspected individuals in terms of job loss, family breakup, financial ruin, temporary detention, suicide thoughts, and other forms of harm. Family and friends will also suffer and sometimes decide to distance themselves rather than support the suspected individual.

Based on the above, I wrote an article that was published in several Norwegian newspapers (Klassekampen, Nettavisen, and VG on Wednesday, 6 September 2023) with the heading ‘Is Økokrim a court?’ and the following text:

After Økokrim’s failure in the Transocean case, the activities were evaluated. The Attorney General’s report on the case showed major deficiencies in management and major gaps in competence. 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 demanding cases. This is shown in my review published in the *Journal of Economic Criminology*. 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. An example was Jo Lunder at VimpelCom. Ola Borten Moe is likely to become a new example. Right now, many are calling on Økokrim to take a look at Anniken Huitfeldt. Maybe Økokrim will do that, but they are unlikely to take her to court. Økokrim is aware that they will lose the knowledge competition against the defense lawyers. When Økokrim now looks at Ola Borten Moe and perhaps also Anniken Huitfeldt, there will be an investigation, but no legal process. 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 on Bastøy. Økokrim is unfortunately becoming a court where suspects have few opportunities to defend themselves. One of the reasons is that Økokrim is managed by lawyers and not by investigators.

The presented research is exploratory with several shortcomings. One of them is the use of press releases that were interpreted by only one rater. Future research is encouraged to improve the current study as well as to compare with studies from other jurisdictions.

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