Petter Gottschalk

Investigating White-Collar Crime

Evaluation of Fraud Examinations

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About the Author

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Introduction

Investigating white-collar crime is like any other investigation concerned with the past. Investigating is to find out what happened in the past. A negative event or a sequence of negative events can be at the core of an investigation. If there is no certainty about events, then finding out whether or not something has occurred can be at the core of an investigation. An investigation can be concerned with events that did occur or events that did not occur. An investigation is a reconstruction of the past. Information is collected and knowledge is applied to reconstruct the past.

What happened or did not happen? Investigators first develop their know-what in terms of events or absence of events. It might be a bribe that was paid, money that was embezzled, tax that was not paid, or a bank that was defrauded. An investigation typically starts by finding facts about what happened.

How did it happen or not happen? Investigators develop a hypothesis about the path for what happened. They identify information sources that support or disapprove the hypothesis. If the hypothesis is discarded, then a new path for what happened is identified.

Why did it happen? Investigators try to establish causality in terms of cause and effect. The cause may be a motive, another event, or something else. Causality is easily assumed but very difficult to prove in terms of evidence in an investigation.

Who did what to make it happen or not happen? This is where investigators have to be very careful, especially when it comes to suspects of misconduct and crime. Investigators should work just as hard to prove innocence as to prove guilt. Investigators should give suspects the benefit of the doubt. Suspects must be given the right of contradiction, where they can disagree with what investigators claim to have found out about them.

Investigators should involve themselves in neither prosecution nor sentencing. Investigators should leave to public prosecutors whether or not a person or persons should be prosecuted. If the evidence is not convincing and compelling, then charges should not be pressed. If the prosecutor fails to convince the judge in the question of guilt, then the defendant is to be acquitted. Defendants are to be given the benefit of the doubt.

Investigators collect information from a number of sources, and they apply a variety of knowledge categories. Information collection involves sources such as interviews with witnesses and suspects, search in documents and emails, and observation of actors. Knowledge categories include organizational behavior, management decision-making, business practices, market structures, accounting principles, deviant behaviors, personal motives, violation of laws, and past verdicts.

While being like any other investigation concerned with the past, investigating white-collar crime has its specific aspects and challenges. For example, while street criminals typically hide themselves, white-collar criminals hide their crime. Burglars leave traces of the crime and disappear from the scene. White-collar criminals do not disappear from the scene. Instead, they conceal illegal actions in seemingly legal activities. Bribed individuals stay in their jobs, bribing individuals stay in their jobs, embezzling individuals stay in their jobs, and those who commit bank fraud stay in their jobs. They hide their criminal acts among legitimate acts, and they delete tracks. They create an atmosphere at work where nobody questions their deviant behavior.

Another challenge in white-collar crime investigations is the lack of obvious victims. At instances of burglary, murder, or rape, there are obvious and visible victims. In the case of tax evasion, nobody notices any harm or damage. In the case of subsidy fraud, where a ferry company reports lower passenger numbers, the local government does not notice that it has been deceived. Victims of white-collar crime are typically banks, the revenue service, customers, and suppliers. The most frequent victim is the employer, who does not notice embezzlement or theft by employees.

The third challenge in white-collar crime investigations is the resources available to suspects. While a street criminal tends to be happy – at least satisfied – with a mediocre defense lawyer, white-collar criminals hire famous attorneys to help them in their cases. While a street crime lawyer only does work on the case when it ends up in court, white-collar lawyers involve themselves to prevent the case from ever ending up in court. A white-collar lawyer tries to disturb the investigation by supplying material in favor of the client while preventing investigators' insight into material that is unfavorable for the client. This is information control that aims at preventing investigators from getting the complete picture or aims at helping investigators to get a distorted picture of past events. In addition, white-collar lawyers engage in symbolic defense, where they use the media and other channels to present the client as a victim rather than as a potential offender.

White-collar crime investigations are carried out by a variety of professionals in different organizations. Detectives in law enforcement agencies are the most typical crime investigators. All nations in the world have police investigators who reconstruct the past when an offense has occurred. Maybe the most well-known agency is the Federal Bureau of Investigation (FBI) in the United States. The FBI has the authority and responsibility to investigate specific crime assigned to it and to provide other law enforcement agencies with cooperative services, such as fingerprint identification, laboratory examinations, and training. The FBI also gathers, shares, and analyzes intelligence, both to support its own investigations and those of its

partners. The FBI is the principal investigative arm of the US Department of Justice (Kessler, 2012). In its white-collar crime program, the FBI focuses on identifying and disrupting public corruption, money laundering, corporate fraud, securities and commodities fraud, mortgage fraud, financial institution fraud, bank fraud and embezzlement, healthcare fraud, and other kinds of financial crime.

Other countries have similar bureaus. For example, in Norway, the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim) is the central unit for financial crime investigations. Økokrim is both a police specialist agency and a public prosecutors' office with national authority. Both the FBI and Økokrim focus on complex investigations that are international or national in scope and where the agencies can bring to bear unique expertise or capabilities that increase the likelihood of successful white-collar crime investigations.

Outside regular law enforcement, we find other investigating agencies within the public sector. An example is the IRS criminal investigation division in the United States. The division investigates potential criminal violations of the US internal revenue code and related financial crime in a manner intended to foster confidence in the tax system and deter violations of tax law.

Outside governments' criminal justice systems, private investigators can be found internally in organizations and externally. An example of internal investigators is fraud examiners in insurance companies who investigate insurance customers' claims. Another example is internal investigators in banks who investigate suspicions of fraud and money laundering. A final example is internal auditors and compliance officers who investigate suspicions of financial crime.

External investigators are fraud examiners who are hired by clients to perform investigations in the clients' organizations. While the investigators are employed by law firms, accounting firms, and consulting firms, they are hired by business and government organizations to carry out internal investigations. They have backgrounds such as forensic accountants, police detectives, business lawyers, organizational psychologists, and executive managers.

In this book, we study investigations of white-collar crime by the latter group. We identify reports of investigations by fraud examiners as the result of their work. External investigators in internal investigations are expected to be independent professionals with integrity and accountability who work objectively to reconstruct the past.

This book is divided into 12 chapters, excluding an introduction and conclusion. For the most part, the first three chapters review the existing literature on the characteristics and causes of white-collar criminality and the way in which these kinds of crime are discovered. The rest of the book delves more thoroughly into the matter of investigative processes and procedures. We take a case study approach to various high-profile instances of corporate wrongdoing to explore common issues across various jurisdictions. For example, the reader learns of the perils of a lack of independent investigation in the Enron case study. This approach, to its great merit, is more thematic than comparative. In general, these accounts are carefully considered

and written; however, on occasion, there may come across assertions that may jar with this general approach.

For example, it may seem asserted that in Lehman's case study, an investigation which does not produce a conviction is not worth it. This contradicts the thread running through the text that investigations are merely factual reconstructions of the past and are not necessarily a resource for apportioning blame. Therefore, all case studies should be read with the perspective that proving innocence is just as important as proving guilt in any criminal investigation.

We argue that one strength of this book is that it evaluates the shortcomings and opportunities of various investigative approaches, anchoring them by reference to specific corporate and white-collar misconduct incidents. It cautions against the need to find a scapegoat or "rotten apple" which may be purged from an organization and highlights the importance of cultural understandings for investigations and the various schools of thought on preserving computer-based data. In addition, bridging theory and practice, the text sets out the hypotheses for crime investigations and various styles of investigative thinking. Moreover, significant amounts of case study material are set out in forms that are readily accessible for the reader, through tabulations of problems investigators might avoid and tabulated advice on objectivity in investigations. It also steps outside the usual viewpoint of the investigator, providing an interesting perspective of the subject of investigations in the Moscow school investigation by EY, for example, thereby providing a more rounded guide to investigators conducting such probes. The value of this work is that it sets out these considerations for investigators and the integrity of investigations. It delineates suggested principles for investigations, an area which is normally unregulated, in order to allow them to uncover factual and truthful accounts in an objective manner with integrity.

The cases in this book may seem heavily weighted towards the United States, but some of the research discussed will be new to the US audience (like convenience theory). Bridging the US and European literatures and practices has been a challenge writing this book.

Chapter 1
Characteristics of White-Collar Crime

White-collar crime is committed for financial gain in an organizational setting by deviant behavior. The motive for crime is profit that can help avoid threats or help reach desired goals. The location for crime is the organization to which the offender belongs or is associated. The behavior for crime is deviant from normal behavior.

White-collar crime is now synonymous with the full range of financial crime committed by business and government professionals. These kinds of crime are characterized by deceit, concealment, and violation of trust and are not dependent on the application of threat of physical force or violence. The motivation behind this kind of crime is financial – to obtain or avoid losing money, property, or services or to secure a personal or business advantage.

These are not victimless types of crime.

White-collar crime is financial offenses by persons of respectability and high social status in the course of their occupation. It is crime by high-status offenders who are powerful in society and who abuse their powers for organizational and/or personal gain. Michel et al. (2016) found that the public is not very well aware of upper-class criminality.

White-Collar Crime Offenders

Offenders in white-collar crime belong to the elite in society. Most people in society do not have an opportunity to commit white-collar crime. Most people may be able to commit financial crime, but they are not in a position to commit white-collar crime. Only the elite in society have an opportunity to abuse trust in an organizational setting. Examples of elite members include business entrepreneurs, market investors, executive managers, department heads, and professionals such as lawyers and doctors.

Individual differences between offenders and non-offenders in regard to psychological and cognitive characteristics are important explanatory factors in the etiology

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of criminal behavior. Benson (2013) argues that the importance of individual differences has been made apparent by the increasingly relevant research of biosocial criminologists, as well as the theories and findings of life course and developmental criminologists. White-collar criminals are often assumed to be quite normal people who do not suffer from personal disturbances that seem so common among street offenders. The only obvious disturbance is white-collar criminals' resistance to define their activities as crime. Other than their tendency to rationalize and excuse their crime by active application of neutralization techniques, the psychological makeup of white-collar offenders is often not visible.

However, many white-collar criminals have a mindset that will make them stop at nothing to enrich themselves and their organizations. The extent of convenience obviously varies with the mindset. Individual characteristics matter in regard to white-collar crime convenience. Personality traits may facilitate business success at one point in time and white-collar offending at another point in time. Benson (2013) finds that narcissistic self-confidence when coupled with drive, ambitiousness, and insensitivity to others may enable some people to successfully undertake risky business endeavors that more prudent and introspective individuals would never attempt. An ambitious and convenient mindset may also permit if not drive these individuals in the single-minded pursuit of their goals to engage in financial crime.

Almost all white-collar criminals are known to use linguistic techniques to justify or excuse deviant behavior. By applying neutralization techniques, white-collar criminals think they are doing nothing wrong. They deny responsibility, injury, and victim. They condemn the condemners. They claim appeal to higher loyalties and normality of action. They claim entitlement, and they argue the case of legal mistake. They find their own mistakes acceptable. They argue a dilemma arose, whereby they made a reasonable tradeoff before committing the act (Siponen and Vance 2010). Such claims enable offenders to find crime convenient.

Benson and Simpson (2015: 145) found that white-collar criminals seldom think of injury or victims:

> Many white-collar offenses fail to match this common-sense stereotype because the offenders do not set out intentionally to harm any specific individual. Rather, the consequences of their illegal acts fall upon impersonal organizations or a diffuse and unseen mass of people.

The idea of neutralization techniques (Sykes and Matza 1957) resulted from work on Sutherland's (1949) differential association theory. According to this theory, people are always aware of their moral obligation to abide by the law, and they are aware that they have the same moral obligation within themselves to avoid illegitimate acts. The theory postulates that criminal behavior learning occurs in association with those who find such criminal behavior favorable and in isolation from those who find it unfavorable (Benson and Simpson 2015). Crime is relatively convenient when there is no guilt feeling for doing something learned from others.

Evidence of neutralization can be found in autobiographies by white-collar criminals such as Kerik (2015), Bogen (2008), Eriksen (2010), and Fosse and Magnusson (2004). Bernard B. Kerik was the former police commissioner in New York, who

served 3 years in prison. He seems to deny responsibility, to condemn his condemners, and to suggest normality of action.

Offender-focused theories explain crime in terms of personality characteristics (Koppen et al. 2010). Self-control theory is a typical theory related to deviant behavior (Gottfredson and Hirschi 1990). Individuals with low self-control have a tendency to be impulsive, self-centered, out for adventure and out for immediate pleasure. Immediate pleasure may be achieved more conveniently by white-collar crime than by legal activities.

The typical profile of a white-collar criminal includes the following attributes:

- The person has high social status and considerable influence, enjoying respect and trust, and belongs to the elite.
- The elite have generally more knowledge, money, and prestige and occupy higher positions than others in the population.
- Privileges and authority by the elite are often not visible or transparent but nevertheless known to everybody.
- The elite can be found in business, public administration, politics, congregations, and many other sectors in society.
- Elite is a minority that behaves as an authority toward others.
- The person is often wealthy and does not really need crime income to live a good life.
- The person is typically well educated and connects to important networks of partners and friends.
- The person exploits his or her position to commit financial crime.
- The person does not look at himself or herself as a criminal but rather as a community builder who applies personal rules for own behavior.
- The person may be in a position that makes the police reluctant to initiate a crime investigation.
- The person has access to resources that enable involvement of top defense attorneys and can behave in court in a manner that creates sympathy among the general public, partly because the defendant belongs to the upper class similar to the judge, the prosecutor, and the attorney.

White-collar crime implies elite crime by skilled offenders. White-collar criminals are mostly men. The low female fraction can be explained by a number of factors, such as relative need for material wealth, relative opportunity to commit crime, and relative risk aversion. In addition, the detection rate for female white-collar criminals may be lower than for male criminals, for example, because women are more seldom suspected of crime. Most famous US cases are men such as Ebbers, Madoff, and Schilling. Martha Stewart represents an exception. In Germany, Blickle et al. (2006) studied a sample of 76 convicted white-collar criminals where 6 offenders were women while 70 offenders were men. The US sample studied by Langton and Piquero (2007) consisted of 16% women and 84% men. A study in the Netherlands of 644 prosecuted white-collar criminals between 2008 and 2012 shows 15% women and 85% men in the sample (Onna et al. 2014).

White-Collar Crime Offenses

White-collar criminals commit financial crime where a great variety of options can be found, as illustrated in Fig. 1.1. Fraud, theft, manipulation, and corruption are four main categories of financial crime with a number of subcategories (Gottschalk 2016a, b).

Fraud can be defined as intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or

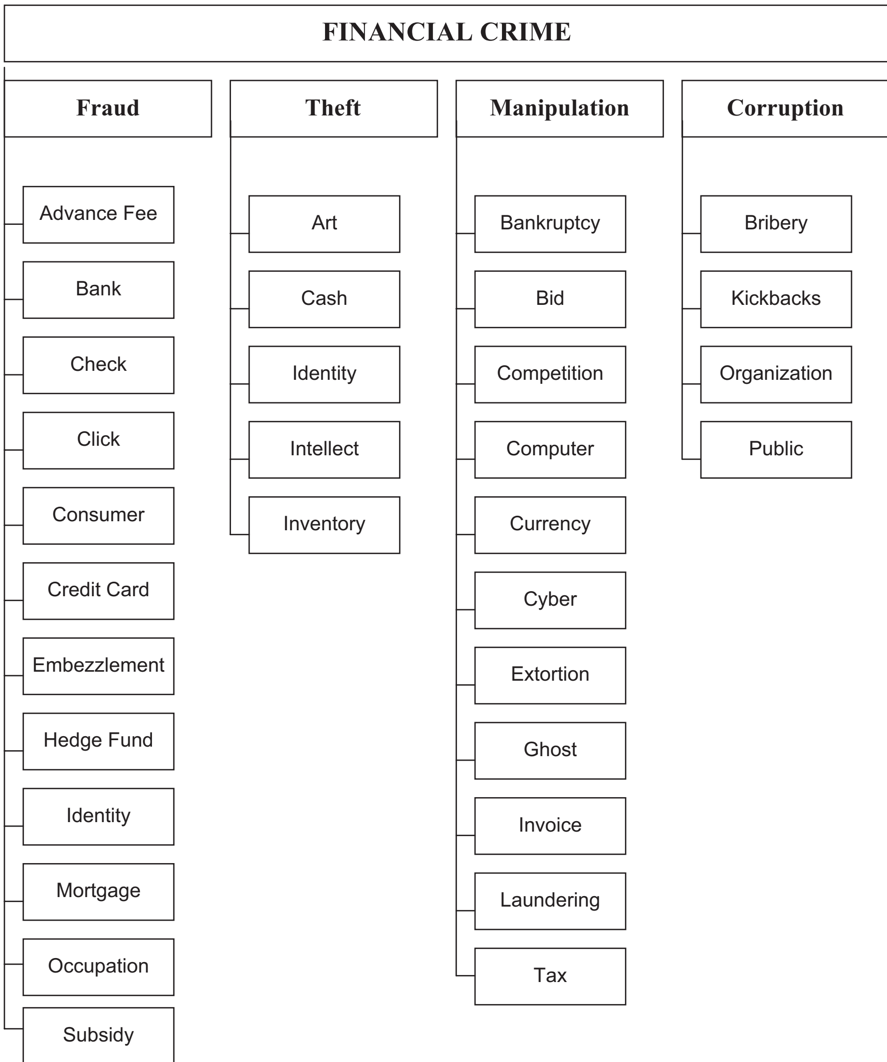

Fig. 1.1 Main categories and subcategories of financial crime

to surrender a legal right. Fraud is unlawful and intentional making of a misrepresentation, which causes actual prejudice or which is potentially prejudicial to another. Bank fraud is a typical example. Bank fraud is a criminal offense of knowingly executing a scheme to defraud a financial institution.

Theft can be defined as the illegal taking of another person's, group's, or organization's property without the victim's consent. For example, identity theft combined with identity fraud is the unlawful use of another's personal identifying information. It involves financial or other personal information stolen with the intent of establishing another person's identity as the thief's own. It occurs when someone uses personally identifying information, like name, social security number, date of birth, government passport number, or credit card number without the owners' permission, to commit financial crime.

Manipulation can be defined as a means of gaining illegal control or influence over others' activities, means, and results. For example, bankruptcy crime is criminal acts committed in connection with bankruptcy or liquidation proceedings. A person filing for bankruptcy or a business that has gone into liquidation can hide assets after proceedings have been initiated, thereby preventing creditors from collecting their claims. However, most of the criminal acts are typically committed before bankruptcy/liquidation proceedings are initiated, e.g., the debtor has failed to keep accounts or has unlawfully withdrawn money from the business.

Corruption is defined as the giving, requesting, receiving, or accepting of an improper advantage related to a position, office, or assignment. The improper advantage does not have to be connected to a specific action or to not doing this action. It will be sufficient if the advantage can be linked to a person's position, office, or assignment. An individual or group is guilty of corruption if they accept money or money's worth for doing something that he is under a duty to do anyway or that he is under a duty not to do or to exercise a legitimate discretion for improper reason. Corruption is to destroy or pervert the integrity or fidelity of a person in his discharge of duty, it is to induce to act dishonestly or unfaithfully, it is to make venal, and it is to bribe. Corruption involves behavior on the part of officials in the public or private sectors, in which they improperly and unlawfully enrich themselves and/or those close to them, or induce others to do so, by misusing the position in which they are placed. Corruption covers a wide range of illegal activity such as kickbacks, embezzlement, and extortion.

White-Collar Crime Behaviors

For an offense to occur, there has to be an opportunity. Benson (2013) argues that social, economic, legal, and regulatory conditions or changes in such conditions influence opportunities for various types of white-collar crime. As opportunities increase or decrease, white-collar crime expands or contracts accordingly because the choice to engage in white-collar crime becomes either more or less convenient to potential offenders.

Situation-focused theories explain crime in terms of opportunity structures. Piquero and Benson (2004) proposed a middle-ground explanation of white-collar crime, which they call the punctuated situational theory of offending. This theory assumes that white-collar criminals start offending when they reach their thirties or forties. External factors, such as personal or occupational crisis, and opportunities that result from a certain occupational status are claimed to explain crime. Situational opportunities – such as a more influential job and more important contacts – give access to legitimate means to obtain desirable goals.

Situational factors include (Ceccato and Benson 2016) (i) the effort required to carry out the offense, (ii) the risk of detection while committing the offense, (iii) the rewards to be gained from the offense, (iv) provocations that may encourage criminal behavior, and (v) excuses offenders can use to justify their actions.

The opportunity perspective in the situation has also been stressed by Benson and Simpson (2015). They emphasize legal access to premises and resources, distance from victims, and manipulation within regular transactions.

The situation is not only characterized by opportunities in the organization but also by the organizational environment. Criminogenic conditions in the environment make white-collar crime even more accessible. Alibux (2015) exemplify the environment by the attitude toward banks that are considered too powerful to fail, which thus may protect wrongdoings of bank executives. This is in line with institutional theory, which suggests that opportunities are shaped by individuals, groups, other organizations, as well as society at large.

Institutionalists argue that cultural rules constitute actors such as state, organizations, and professions who define legitimate goals for them to pursue and therefore affection action and meaning at the local level within organizations (Vaughan 2007).

Opportunity is a distinct characteristic of white-collar crime and varies depending on the kinds of criminals involved. An opportunity is attractive as a means of responding to desires. It is the organizational dimension that provides the white-collar criminal an opportunity to commit financial crime and conceal it in legal organizational activities. While possibility in the economic dimension of convenience theory is concerned with goals (such as sales and bonuses), opportunity in the organizational dimension is concerned with crime (such as corruption and embezzlement).

Aguilera and Vadera (2008: 434) describe a criminal opportunity as “the presence of a favorable combination of circumstances that renders a possible course of action relevant.” Opportunity arises when individuals or groups can engage in illegal and unethical behavior and expect, with reasonable confidence, to avoid detection and punishment. Opportunity to commit crime may include macro- and micro-level factors. Macro-level factors encompass the characteristics of the industries in which the business finds itself embedded, such as market structure, business sets of an industry, that is, companies whose actions are visible to one another, and variations in the regulatory environment.

Benson and Simpson (2015) argue that many white-collar offenses manifest the following opportunity properties: (1) the offender has legitimate access to the location in which the crime is committed, (2) the offender is spatially separate from the

victim, and (3) the offender's actions have a superficial appearance of legitimacy. Opportunity occurs in terms of those three properties that are typically the case for executives and other individuals in the elite. In terms of convenience, these three properties may be attractive and convenient when considering white-collar crime to solve a financial problem. It is convenient for the offender to conceal the crime and give it an appearance of outward respectability.

Opportunity is dependent on social capital available to the criminal. The structure and quality of social ties in hierarchical and transactional relationships shape opportunity structures. Social capital is the sum of actual or potential resources accruing to the criminal by virtue of his or her position in a hierarchy and in a network.

The organizational dimension of white-collar crime becomes particularly evident when financial crime is committed to benefit the organization rather than the individual. This is called corporate crime as opposed to occupational crime for personal benefit. Hansen (2009) argues that the problem with occupational crime is that it is committed within the confines of positions of trust and in organizations, which prohibit surveillance and accountability. Heath (2008) found that individuals who are further up the chain of command in the firm tend to commit bigger and more severe occupational crime. Corporate crime, sometimes labeled organizational offending, on the other hand, results from offenses by collectivities or aggregates of discrete individuals. If a corporate official violates the law in acting for the corporation, we still define it as corporate crime. However, if he or she gains personal benefit in the commission of a crime against the corporation, we regard it as occupational crime. A corporation cannot be subject to imprisonment, and therefore, the majority of penalties to control individual violators are not available for corporations and corporate crime.

The typical modus of a white-collar criminal includes the following attributes:

- Crime is committed in an organizational context of business that shapes the economical foundation for deviant acts.
- Crime is committed by nonphysical means and by dark activities through manipulation and hiding of activities and general secrecy.
- Crime is committed on purpose, with intention and planning, and the act represents a breach of trust.
- The act is organized into legal activities, where activities rather than offender are not to receive attention.
- When suspicion occurs, the offender influences witnesses and potential whistleblowers by applying formal and informal authority in the organizational setting.

White-collar criminals commit offenses in their professional setting, where criminal activities are concealed and disguised in organizational work of otherwise law-abiding behavior. The criminals have power and influence, from relationships with other persons or professionals, that protect them from developing criminal identities, and they enjoy trust from others in privileged networks (Kempa 2010; Podgor 2007).

Brightman (2009) emphasizes that white-collar offenders commit crime without violence. Very different from burglars, killers, and possibly thieves, there is no physical violence involved in criminal activity. On the contrary, typical cases are characterized by individuals who behave nicely and properly. They tend to use their charm, charisma, and influence to commit and cover their illegal activities. However, psychological violence may be present in white-collar crime cases.

Convenience theory, as introduced in the next chapter, adds something to criminologic understanding because it:

(a) Disaggregates the components of an individual's decisions about crime
(b) Provides a way to think about why organizations might not do anything about being used for crime

Convenience theory includes common concepts in criminology such as routine activity, opportunity, situational factors, decision making, and rational choice. It is important to recognize that the substance flows among these terms and that the borders are artificial.

White-Collar Crime Motives

Benson (2013) argues that no matter how alluring or enticing a white-collar crime opportunity may be, not everyone who could offend does. Why are some people ready to take advantage of white-collar crime opportunities, while others are not? Why are opportunities more tempting to some people than others? Answers to these questions must lie both in the nature or characteristics of the people involved and their personal situation. We have to understand their motives. What would they like to achieve by committing crime?

An interesting starting point is to look at Maslow's hierarchy of needs. The Russian-American psychologist Abraham Maslow developed a hierarchy of human needs. Needs start at the bottom with physiological need, need for security, social need, and need for respect and self-realization. When basic needs such as food and shelter are satisfied, then the person moves up the pyramid to satisfy needs for safety and control over own life situation, as illustrated in Fig. 1.2. Further up in the pyramid, the person strives for status, recognition, and self-respect. While street crime is often concerned with the lower levels, white-collar crime is often concerned with the upper levels in terms of status and success (Gottschalk 2016a, b).

Most individuals will want to move higher up in the pyramid when needs below are satisfied. However, there are some exceptions. An example can be found in law firms, where partners work very long hours and make a lot of money without reaching very high in the pyramid. Business lawyers tend to over-satisfy basic needs by owning large houses, several cars, boats, and shares in companies. They are not very respected and are not considered leading experts of the law.

The opposite example seems to be a university professor, who quickly tries to move up the pyramid when basic needs of housing are satisfied. They struggle to

Fig. 1.2 Pyramid of needs for white-collar offenders (Adapted from Maslow)

publish in leading research journals to become famous associated with a reputation of being leaders in their fields. As far as money or other valuable items can help climbing higher in the pyramid, potential offenders may find white-collar crime convenient if other options to achieve success are more stressful and require more resources. Whether the offender wants more at a certain level or wants to climb to higher levels in the pyramid, financial crime can be a means to the end.

For some white-collar criminals, money is the goal of crime. For other white-collar criminals, money is a means to a goal of acceptance, influence, and fame.

For example, to be accepted and recognized as a successful business man, the enterprise has to grow and make money. Financial success as a business man can lead to influence, privileges, and status. Admiration and respect in the elite is a desirable goal for many individuals. If such a goal cannot be reached by legal means, illegal means represent an alternative.

On the other hand, the threat of bankruptcy may cause a fall from a high level to a low level in the hierarchy of needs. When a famous person in the elite has enjoyed admiration and respect for many years, suddenly is facing a business collapse, which may cause a fall in the hierarchy down where even friendships can get lost, the person may apply illegal means such as tax evasion and corruption to save the business. By saving the business, the person can remain high up in the pyramid of needs.

Some white-collar criminals commit financial crime to benefit themselves, while others commit crime to benefit the organization. The former is labeled occupational crime, benefiting the individual, while the latter is labeled corporate crime, benefiting the larger organization (Holtfreter 2015). Antitrust violations, securities offenses, and healthcare fraud are typical examples of corporate crime. Corruption is typically characterized by a briber who commits corporate crime, while the bribed commits occupational crime.

The typical motive of a white-collar criminal includes the following attributes:

- Crime is committed for illegal profit for personal or organizational gain.
- It can be greed, availability, possibility, threat, fear, or strain that cause the act.
- Threats can come from loss-making business and special market structure and forces.
- Crime is committed to climb in the hierarchy of needs or to avoid falling in the hierarchy of needs.
- White-collar crime is profit-driven crime based on favorable economic circumstances.
- Human behavior finds motivation in the self-interested pursuit of pleasure and the avoidance of pain.
- The offender considers the current gain convenient when compared to future cost and would like to avoid additional time and effort to solve the problem.
- Crime is convenient as it often is an attempt to circumvent more difficult (legal) means of accomplishment – like hard work, fair competition, and navigation of bureaucracy and red tape.
- The individual got tired while dealing with complexity and thus search for simple solutions.

Some members of the elite are very competitive. Merzagora et al. (2014) argue that even if it is a desirable quality in an area such as business, the excess can lead too often to prefer competition to cooperation, unable to make to work with others. Some have a tendency to an exaggerated social climbing.

Strengths, weaknesses, possibilities, and threats are typical motives for white-collar crime. Strengths are to be explored. Weaknesses are to be compensated for. Possibilities are to be exploited, while threats are to be avoided.

Karevold (2017) suggests that we believe threats can cause more crime than possibilities. Generally, we believe that the clever ones cheat less than the not so clever ones. However, among the clever ones, ambitions and goals tend to increase, making it even harder to reach them in legal ways.

Magnitude of White-Collar Crime

The tip of the iceberg in white-collar crime in Norway is estimated at 9.4%. We know that the magnitude of convicted white-collar crime is 1.1 billion Norwegian kroner (approximately $138 million). Given that these convicts only represent less than 10% of the total offender population, the total magnitude of white-collar crime in Norway is 12 billion Norwegian kroner (approximately $1.5 billion). With a population of 5 million inhabitants as compared to the United States with 321 million inhabitants, the equivalent of $1.5 billion detected in Norway would be $96 billion in the United States. Ninety-six billion is less than estimates from the FBI and the Association of Certified Fraud Examiners, who approximate the annual cost of white-collar crime as being between $300 and $600 billion, according to the National White Collar Crime Center (Huff et al. 2010).

References

Aguilera, R. V., & Vadera, A. K. (2008). The dark side of authority: Antecedents, mechanisms, and outcomes of organizational corruption. *Journal of Business Ethics, 77*, 431–449.

Alibux, A. N. R. N. (2015). Criminogenic conditions, bribery and the economic crisis in the EU: A macro level analysis. *European Journal of Criminology, 12*(1), 1–21.

Benson, M. E. (2013). Editor's introduction – White-collar crime: Bringing the offender back in. *Journal of Contemporary Criminal Justice, 29*(3), 324–330.

Benson, M. L., & Simpson, S. S. (2015). *Understanding white-collar crime: An opportunity perspective*. New York: Routledge.

Blickle, G., Schlegel, A., Fassbender, P., & Klein, U. (2006). Some personality correlates of business white-collar crime. *Applied Psychology. An International Review, 55*(2), 220–233.

Bogen, T. (2008). *Hvor var du, historien om mitt liv (Where were you, the story of my life)*. Oslo: Schibsted Publishing.

Brightman, H. J. (2009). *Today's white-collar crime. Legal, investigative, and theoretical perspectives*. New York: Routledge, Taylor & Francis Group.

Ceccato, V., & Benson, M. L. (2016). Tax evasion in Sweden 2002–2013: Interpreting changes in the rot/rut deduction system and predicting future trends. *Crime, Law and Social Change, 66*, 217–232.

Eriksen, T. S. (2010). *Arven etter Ole Christian Bach – et justismord (The legacy of Ole Christian Bach – A miscarriage of justice)*. Oslo: Norgesforlaget Publishing.

Fosse, G., & Magnusson, G. (2004). *Mayday Mayday! – Kapteinene først i livbåtene! (Mayday Mayday! –The captains first in the lifeboats)*. Oslo: Kolofon Publishing.
Gottfredson, M. R., & Hirschi, T. (1990). *A general theory of crime*. Stanford: Stanford University Press.
Gottschalk, P. (2016a). Knowledge management in criminal investigations: The case of fraud examiners. *Journal of Information and Knowledge Management, 15*(4), 15 pages.
Gottschalk, P. (2016b). Private policing of financial crime: Fraud examiners in white-collar crime investigations. *International Journal of Police Science and Management, 18*(3), 173–183.
Hansen, L. L. (2009). Corporate financial crime: Social diagnosis and treatment. *Journal of Financial Crime, 16*(1), 28–40.
Heath, J. (2008). Business ethics and moral motivation: A criminological perspective. *Journal of Business Ethics, 83*, 595–614.
Holtfreter, K. (2015). General theory, gender-specific theory, and white-collar crime. *Journal of Financial Crime, 22*(4), 422–431.
Huff, R., Desilets, K., & Kane, J. (2010). *The national public survey on white collar crime*. National White Collar Crime Center. Fairmont, www.nw3c.org
Karevold, K. I. (2017). De beste jukser (The clever cheat), bimonthly Norwegian financial magazine *Kapital*, issue 7, p. 135.
Kempa, M. (2010). Combating white-collar crime in Canada: Serving victim needs and market integrity. *Journal of Financial Crime, 17*(2), 251–264.
Kerik, B. B. (2015). *From jailer to jailed – My journey from correction and police commissioner to inmate #84888-054.* New York: Threshold Editions.
Koppen, M. V., Poot, C. J., & Blokland, A. A. J. (2010). Comparing criminal careers of organized crime offenders and general offenders. *European Journal of Criminology, 7*(5), 356–374.
Langton, L., & Piquero, N. L. (2007). Can general strain theory explain white-collar crime? A preliminary investigation of the relationship between strain and select white-collar offenses. *Journal of Criminal Justice, 35*, 1–15.
Merzagora, I., Pennati, A., & Travaini, G. V. (2014). Psychology and psychopathology of white collar crime. In S. Caneppele & F. Calderoni (Eds.), *Organized crime, corruption and crime prevention* (pp. 169–178). Heidelberg: Springer Verlag.
Michel, C., Cochran, J. K., & Heide, K. M. (2016). Public knowledge about white-collar crime: An exploratory study. *Crime, Law and Social Change, 65*, 67–91.
Onna, J. H. R., Geest, V. R., Huisman, W., & Denkers, J. M. (2014). Criminal trajectories of white-collar offenders. *Journal of Research in Crime and Delinquency, 51*, 759–784.
Piquero, N. L., & Benson, M. L. (2004). White collar crime and criminal careers: Specifying a trajectory of punctuated situational offending. *Journal of Contemporary Criminal Justice, 20*, 148–165.
Podgor, E. S. (2007). The challenge of white collar sentencing. *The Journal of Criminal Law and Criminology, 97*(3), 1–10.
Siponen, M., & Vance, A. (2010). Neutralization: New insights into the problem of employee information security policy violations. *MIS Quarterly, 34*(3), 487–502.
Sutherland, E. H. (1949). *White-Collar Crime*. New York: Holt, Rinehart and Winston Publishing.
Sykes, G., & Matza, D. (1957). Techniques of neutralization: A theory of delinquency. *American Sociological Review, 22*(6), 664–670.
Vaughan, D. (2007). Beyond macro- and micro-levels of analysis, organizations, and the cultural fix. In H. N. Pontell & G. L. Geis (Eds.), *International handbook of white-collar and corporate crime*. New York: Springer.

Chapter 2
Convenience Theory of White-Collar Crime

As suggested by Gottschalk (2016a, b), white-collar crime can be a convenient option to avoid threats and exploit opportunities. Convenience is a concept that was theoretically mainly associated with efficiency in time savings. Today, convenience is associated with a number of other characteristics, such as reduced effort and reduced pain. Convenience is associated with terms such as fast, easy, and safe. Convenience says something about attractiveness and accessibility. A convenient individual is not necessarily neither bad nor lazy. On the contrary, the person can be seen as smart and rational (Sundström and Radon 2015).

Convenience orientation is conceptualized as the value that individuals and organizations place on actions with inherent characteristics of saving time and effort. Convenience orientation can be considered a value-like construct that influences behavior and decision-making. Mai and Olsen (2016) measured convenience orientation in terms of a desire to spend as little time as possible on the task, in terms of an attitude that the less effort needed the better, as well as in terms of a consideration that it is a waste of time to spend a long time on the task. Convenience orientation toward illegal actions increases as negative attitudes toward legal actions increase. The basic elements in convenience orientation are the executive attitudes toward the saving of time, effort, and discomfort in the planning, action, and achievement of goals. Generally, convenience orientation is the degree to which an executive is inclined to save time and effort to reach goals. Convenience orientation refers to person's general preference for convenient maneuvers. A convenience-oriented person is one who seeks to accomplish a task in the shortest time with the least expenditure of human energy (Berry et al. 2002).

It is not the actual convenience that is important in convenience theory. Rather it is the perceived, expected, and assumed convenience that influences choice of action. Berry et al. (2002) make this distinction explicit by conceptualizing convenience as individuals time and effort perceptions related to an action. White-collar criminals probably vary in their perceived convenience of their actions. Low expected convenience can be one of the reasons why not more members of the elite commit white-collar offenses.

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Convenience in white-collar crime relates to savings in time and effort by privileged and trusted individuals to reach a goal. Convenience is here an attribute of an illegal action. Convenience comes at a potential cost to the offender in terms of the likelihood of detection and future punishment. In other words, reducing time and effort now entails a greater potential for future cost. “Paying for convenience” is a way of phrasing this proposition (Farquhar and Rowley 2009).

Convenience is the perceived savings in time and effort required to find and to facilitate the use of a solution to a problem or to exploit favorable circumstances. Convenience directly relates to the amount of time and effort that is required to accomplish a task. Convenience addresses the time and effort exerted before, during, and after an activity. Convenience represents a time and effort component related to the complete illegal transaction process or processes (Collier and Kimes 2012).

People differ in their temporal orientation, including perceived time scarcity, the degree to which they value time, and their sensitivity to time-related issues. Facing strain, greed, or other situations, an illegal activity can represent a convenient solution to a problem that the individual or the organization otherwise find difficult or even impossible to solve. The desire for convenience varies among people. Convenience orientation is a term that refers to a person’s general preference for convenient solutions to problems. A convenience-oriented individual is one who seeks to accomplish a task in the shortest time with the least expenditure of human energy (Farquhar and Rowley 2009).

Three main dimensions to explain white-collar crime have emerged. All of them link to convenience (Gottschalk 2016a, b). The first dimension is concerned with economic aspects, where convenience implies that the illegal financial gain is a convenient option for the decision-maker to cover needs. The second dimension is concerned with organizational aspects, where convenience implies that the offender has convenient access to premises and convenient ability to hide illegal transactions among legal transactions. The third dimension is concerned with behavioral aspects, where convenience implies that the offender finds convenient justification.

Strategic Crime Resources

White-collar offenders have access to resources that make financial crime convenient. In the rare case of crime suspicion, resources are available in terms of professional attorney work, control over internal investigations, and public relations support. Hiring private investigators at an early stage of potential crime disclosure enables the organization to control the investigation mandate and influence the investigation process and the investigation output. Getting an early start on reconstruction of the past in terms of a fraud examination makes it possible for the suspect and the organization to influence what facts are relevant and how facts might be assessed in terms of possible violations of the penal code. Convenience aspects of private investigations are discussed in terms of five internal investigations, two in

the United States (General Motors and Lehman Brothers) and three in Norway (Telenor VimpelCom, DNB Bank, and Norwegian Football Association).

White-collar offenders have access to resources that make financial crime convenient. Convenient individuals are not necessarily neither bad nor lazy. On the contrary, these persons can be seen as smart and rational (Sundström and Radon 2015). Convenience in white-collar crime relates to savings in time and effort by privileged and trusted individuals to reach goals, explore and exploit opportunities, avoid collapse and pain, and illegally benefit individuals and organizations. Convenience orientation is conceptualized as the value that individuals and organizations place on actions with inherent characteristics of saving time and effort. Mai and Olsen (2016) measured convenience orientation in terms of desire to spend as little time as possible on a task. Basic elements in convenience orientation at white-collar crime are offenders' attitudes toward the saving of time, effort, and discomfort in the planning, action, and achievement of goals. Generally, convenience orientation is the degree to which an offender is inclined to save time an effort to reach a goal. Examples of goals include obtaining contracts in corrupt countries, avoiding bankruptcy, and buying a private farm. A convenience-oriented person is one who seeks to accomplish a task in the shortest time with the least expenditure of human energy (Berry et al. 2002). Convenience comes at a potential cost to the offender in terms of the likelihood of detection and future punishment. Reducing time and effort today entails a greater potential for future cost. "Paying for convenience" is a way of phrasing this proposition (Farquhar and Rowley 2009).

Here we apply resource-based theory to discuss the extent of convenience in white-collar crime. We suggest that increased access to resources makes white-collar crime more convenient. The resource-based perspective is useful in law enforcement since reduced access to resources makes white-collar crime less convenient. This conceptual research is important, since white-collar crime can be detected and prevented to the extent members of the elite are precluded from resources.

This empirical research is concerned with private investigations by fraud examiners. In the organizational dimension of crime convenience, suspected white-collar offenders have access to resources. A resource available to suspects is fraud examiners who conduct internal private investigations.

White-collar offenders have access to resources to commit financial crime in convenient ways. Furthermore, they have access to resources to conceal crime as well as to prevent prosecution if they are detected. Resource-based theory postulates that differences in individuals' opportunities can be explained by the extent of resource access and the ability to combine and exploit resources. A resource is an enabler that is used to satisfy human needs. A resource has utility and limited availability.

Resource-based theory applied to white-collar crime implies that executives and other members of the elite are potential white-collar offenders that are able to commit financial crime to the extent that they have access to resources that can be applied to criminal actions. Strategic resources are characterized by being valuable,

unique, not imitable, not transferrable, combinable, exploitable, and not substitutable:

1. *Valuable resource*. Application of the resource provides a highly appreciated outcome. For example, a supplier can be a valuable resource if the vendor is willing to participate in fictitious invoicing.
2. *Unique resource*. Very few have access to this resource, because it is exceptional and rare. For example, an outstanding attorney can be a unique asset if the counterparty has inferior legal assistance.
3. *Not imitable resource*. It is not possible to imitate or copy this resource. For example, an accounting system for subsidy fraud is difficult to copy.
4. *Not transferrable resource*. The resource cannot be released from its context or be moved in any way. For example, price fixing in a cartel is difficult to move to a different industry.
5. *Combinable resource*. The resource can be combined with other resources in such a way that it results in an even more highly appreciated outcome. For example, a frayed property appraiser can be combined with a criminal property developer to commit bank fraud.
6. *Exploitable resource*. The white-collar individual is able to apply the resource in criminal activities. For example, a corrupt son of a government minister is possible to bribe to influence his father so that the business is successful in obtaining local licenses and contracts.
7. *Not substitutable resource*. The resource cannot be replaced by another resource to achieve a correspondingly high valued result. For example, only the corrupt son of a government minister and no one else is available for corruption to successfully obtain local licenses and contracts.

Organizational opportunity to commit economic crime depends on social capital that is available to white-collar offenders. The structure and quality of social relations in hierarchical and transaction-oriented relationships determine the degree of social capital that the offender can exploit. Social capital is the sum of the actual and potential social resources available in a hierarchy and in a network (Adler and Kwon 2002). Formal as well as informal power means influence over resources that can be used for crime.

Access to resources in the organizational dimension makes it more relevant and attractive to explore possibilities and avoid threats using financial crime. The willingness to exploit a resource possession for white-collar crime increases when it is perceived as convenient. The legal management of key personnel and other resources are important so that the white-collar offender has the ability to commit economic crime by virtue of position in a comfortable way. The resource-based theory implies that the difference between success and failure for white-collar offenders can be explained by the efficient or inefficient ability to leverage strategic resources.

As argued by Kouchaki and Desai (2015), perceived threat engenders self-protective defenses that cause people to focus narrowly on their own needs, which interfere with adherence to moral principles and encourage unethical acts. A threat

leads to mobilization of resources toward action to counter the threat. Self-interested unethical behavior is often a result of anxiety, nervousness, and worry.

Not only do white-collar offenders have access to resources to carry out financial crime, but they also have access to resources to cover criminal acts. Criminal acts are easily hidden in a multitude of legal transactions in different contexts in different locations performed by different people. The organizational affiliation makes crime look like ordinary business. Economic crime is easily concealed among apparently legal activity. Offenders leverage resources that make it convenient to conceal crime among regular business transactions. Especially businesses that practice secrecy enable convenient concealment of financial crime. For example, many multinational companies do not disclose what they pay in taxes in various countries. This kind of secrecy makes it easy to conceal economic crime such as corruption, since regular financial statements are not accessible. Secrecy combined with sloppy and opportunistic accounting can make financial crime even more attractive. Accounting is no mathematical discipline. Rather, the value of accounts receivable, business contracts, and warehouse stocks are subject to personal judgments. Auditors are often criticized in the aftermath when financial crime is disclosed.

Chasing profits leaves people more creative in finding ways to make more legal as well as illegal profits for themselves as well as the organization, and people become more creative in concealing crime in various ways (Füss and Hecker 2008). Crime is carried out so that the risk of detection is minimal and even microscopic (Pratt and Cullen 2005).

In the rare case of detection of potential crime, the possible offender has access to strategic resources like few others. Available resources include better defense, private investigations, and presentation in the media. The suspected offender can hire the best attorneys paid by the organization or personally. The best attorneys do not limit their efforts to substance defense, where legal issues are at stake. The best defense lawyers also conduct information control and symbolic defense. Information control is concerned with the flow of damaging information about the client. A defense attorney may attempt to prevent police from exploring and exploiting various sources of information collection. Information control implies taking control over information sources that are most likely to be contacted by the police. The police have many information sources when they investigate a case, and these sources can, to a varying extent, be influenced by a defense attorney.

Information is the raw material in all police work. The relative importance of and benefits from pieces of information are dependent on the relevance to a specific crime case, the quality of information, and the timeliness of information. Information value in police work is determined by information adaptability to police tasks in an investigation. A smart defense lawyer can reduce information value by lowering its fitness for policing purposes. Information quality can be reduced in terms of accuracy, relevance, completeness, conciseness, and lack of scope.

In addition to substance defense and information control, a white-collar defense lawyer is typically involved in symbolic defense as well. A symbol is an object or phrase that represents an idea, belief, or action. Symbols take the form of words, sounds, gestures, or visual images. Symbolic defense is concerned with activities

that represent defense, but in themselves they are no defense. It is an alternative and supplement to substance defense. Substance and symbolic defense are different arenas where the white-collar attorney can work actively to try to make the police close the case, to make the court dismiss the case, and to enable reopening of a case make the client plead not guilty. The purpose of symbolic defense is to communicate information and legal opinions by means of symbols. Examples of attorney opinions are concerns about unacceptable delays in police investigations, low-quality police work, or other issues related to police and prosecution work. Complaining about delays in police investigations is not substance defense, as the complaint is not expressing a meaning about the crime and possible punishment. Complaining is symbolic defense, where the objective is to mobilize sympathy for the white-collar client.

In the rare case of detection of possible crime, the potential offender has access not only to better defense as a strategic resources but also often access to an alternative avenue of private investigation. When suspicion of misconduct and crime emerges, then the organization may hire a fraud examiner to conduct a private investigation into the matter. The enterprise takes control of suspicions by implementing an internal investigation. An external law firm or auditing firm is engaged to reconstruct past events and sequence of events. Typically, the resulting investigation report points to misconduct while at the same time concluding that there have been no criminal offenses. The police will monitor the internal investigation and await its conclusion. When the conclusion states that there may be misconduct, but no crime, then the police and prosecution tend to settle down with it.

In addition to better defense and private investigation as available resources in case of detection of possible crime, the potential offender can also hire public relations consultants. These consultants help tell a story to the media where the potential offender is presented as a victim of unfortunate circumstances.

Furthermore, a white-collar defendant may behave in court so that he or she often gets more sympathy and milder sentence than other defendants, partly because the person belongs to the same segment in society as the judge, prosecutor, and attorney. Finally, a convicted offender has the expertise and network to hide criminal profits and protect himself against confiscation, so that the government will be unsuccessful in its attempts at asset recovery.

If a white-collar criminal should end up in jail, defense attorneys work hard to make prison life as easy as possible for the client. Attorneys argue that it is much worse for a member of the elite to end up in prison than for other people. After a short while, the white-collar offender typically gets most of his freedom back in an imprisonment setting to avoid too much damage. However, research indicates that it is easier for a white-collar criminal than for a street criminal to spend time in prison. White-collar offenders tend to find new friends more convenient, and they are able to sleep all night, while most other inmates may have trouble sleeping and making friends in prison (Dhami 2007; Stadler et al. 2013).

Nevertheless, defense lawyers apply the special sensitivity hypothesis, which claims that white-collar offenders are ill-equipped to adjust to the rigors of prison life (Stadler et al. 2013: 2):

> Termed the "special sensitivity hypothesis", the claim is made that white-collar offenders experience the pains of imprisonment to a greater degree than traditional street offenders. Upon incarceration, they enter a world that is foreign to them. In the society of captives, status hierarchies found in the larger community are upended, as those with more physical prowess and criminal connections "rule the joint". White-collar offenders discover that they are no longer in the majority in a domain populated largely by poor and minority group members – in fact, prison is a place that a researcher suggests is the functional equivalent of an urban ghetto.

Furthermore, Stadler et al. (2013) found that research investigating the sentencing of white-collar offenders has revealed that federal judges often base their decisions not to impose a prison sentence for white-collar offending on a belief that prison is both unnecessary for and unduly harsh on white-collar offenders.

The essence of resource-based theory lies in its emphasis on the internal resources available to privileged individuals in the elite, rather than on external forces. Resources are available to conveniently commit crime, conceal crime, and avoid consequences in case of detection. According to the resource-based theory, performance differences can be attributed to the variance in individuals' and firms' resources and capabilities. Firms are considered to be highly heterogeneous, and the bundles of resources available to each firm are different. This is both because firms have different initial resource endowments and because managerial decisions affect resource accumulation and the direction of firm development as well as resource utilization.

Resource-based theory rests on two key points. First, resources are the determinants of individual and firm performance. Second, resources are only available to a few. Individuals and firms must continually enhance their resources and capabilities to take advantage of changing conditions.

Increased access to resources makes white-collar crime more convenient. Opposite, reduced access to resources makes white-collar crime less convenient. In a law enforcement perspective, white-collar crime can be detected and prevented to the extent members of the elite are precluded from resources.

Organizational Crime Opportunities

Organizational opportunity is a distinct characteristic of white-collar crime that varies with the persons who are involved in crime (Michel 2008). An opportunity is attractive as a way to respond to needs (Bucy et al. 2008). It is the organizational dimension that gives white-collar criminals the opportunity to commit economic crime and hide it in seemingly legal activities in the business. White-collar crime is an offense based on specialized access.

The opportunity perspective holds that opportunity is a fundamental cause of crime. The perspective assumes that individuals make choices to engage or not engage in crime based on the availability and attractiveness of criminal opportunities. Situational crime prevention theory seeks to identify the factors that influence

the distribution and attractiveness of criminal opportunities and then to suggest ways in which attractiveness might be reduced. The theory predicts that reducing the attractiveness of criminal opportunities will lead to reductions in crime (Ceccato and Benson 2016).

Aguilera and Vadera (2008: 434) describe a criminal opportunity as "the presence of a favorable combination of circumstances that renders a possible course of action relevant." Opportunities for crime occur when individuals and groups can engage in illegal and unethical behavior and expect, with a certain confidence (Haines 2014), that they will avoid detection and punishment. Opportunity to commit white-collar crime can be found at the community level, the business level, and the individual level. At the community level, control regimes might be absent, and entire industries may be available for financial crime. An example here could be the construction industry, where one can find instances of both cartels and undeclared work. Another example could be tax collection authorities that are unable to trace and control accounting figures from businesses, thereby opening up for tax evasion with minimal risk of detection and punishment.

Huisman and Erp (2013) argue that a criminal opportunity has the following five characteristics: (i) the effort required to carry out the offense, (ii) the perceived risks of detection, (iii) the rewards to be gained from the offense, (iv) the situational conditions that may encourage criminal action, and (v) the excuse and neutralization of the offense.

At the business level, ethics and rules can be absent, while economic crime is a straightforward business practice. An example here is subsidy fraud, where ferry companies report lower traffic number to ensure greater government transfers. Another example is internal invoice fraud, where the accounting department lacks overview over who is allowed to approve what invoices.

At the individual level, greed can dominate, where the business does not have any relevant reaction to economic crime. An example here might be law firms where partners abuse money in client accounts. Another example is corruption, where the bribed person receives money from the bribing person, without anybody noticing on either side.

Benson and Simpson (2015) write that the organizational opportunity to commit white-collar manifests itself through the following three characteristics: (1) the offender has lawful and legitimate access to the premises and systems where crime is committed, (2) the offender is geographically separated from his victim, and (3) criminal acts appear to be legitimate business.

This is very different from street crime such as violence and burglary, where the offender has no legal access, the offender is at the same place as his victim, and the offense does not appear to be legal. A fundamental difference between white-collar crime and street crime is that while white-collar people conceal their crime but do not hide themselves, street criminals do not conceal their crime but hide themselves. Street crime is easily detected, while street criminals are not always easy to find. White-collar crime is hardly detected, but white-collar criminals are easy to find.

White-collar crime does not take place privately; it takes place on the job. The organization is the venue for crime. McKenndal and Wagner (1997) describe the

opportunity by context and environmental conditions that facilitate rather than prevent the carrying out of criminal activities. For example, in the case of corruption, both the briber and the bribed are linked to a job context. The briber typically uses company money to pay, while the bribed receives the money personally because his organization is attractive to the bribing company.

The organizational dimension through work represents the offender's scope for crime. By virtue of employment, ownership, position, relations, and knowledge, the offender can explore and exploit his association with the organization to commit financial crime. As sales executive, the person can pay bribes, and as procurement executive, the person can receive bribes. As finance executive, the person may safely commit embezzlement by fixing accounting figures, and as chief accountant, the person can manipulate accounting to providing tax evasion. As chief executive, the person can sign fake contracts or order fraudulent appraisals that open up for bank fraud by asking the bank to finance future income to be expected from contract partners and sale of real estate. There are ample opportunities for economic crime by executives and others linked to enterprises. Examples of others include administrative managers, attorneys, auditors, bank managers, board members, boat dealers, car dealers, concert organizers, councilmen, management consultants, district managers, entrepreneurs, investors, mayors, medical doctors, members of parliament, nursery owners, property developers, real estate agents, shipbrokers, stockbrokers, and surveyors.

White-collar crime opportunities occur through the three characteristics described by Benson and Simpson (2015). The opportunities are greatest for top executives and other members of the elite in society. In relation to convenience theory, the three characteristics make it comfortable, easy, and convenient to commit financial crime to solve a problem or answer to a challenge. It may be relatively simple and thus convenient for white-collar elite members to hide criminal activities in the stream of legal activities and thus give grime an outer semblance of credibility in a respectable business (Pickett and Pickett 2002).

Opportunity makes a thief, it is sometimes stated. If the availability of legal opportunities to solve problems and exploit possibilities deteriorates, while illegal opportunities flourish and are considered convenient, then white-collar individuals will become less law-abiding. If fraud, theft, manipulation, and corruption are easily docked in the enterprise, while law-abiding alternatives are invisible or hard to implement, then opportunity makes an offender.

Organizational opportunity for economic crime depends on intellectual and social capital that is available to the potential white-collar criminal. Intellectual capital is knowledge in terms of understanding, insight, reflection, ability, and skill. Social capital is relations in hierarchical and transactional exchanges. Social capital is the sum of actual and potential resources available for white-collar individuals by virtue of his or her position in formal and informal hierarchies, networks, and matrices (Adler and Kwon 2002). Formal as well as informal power means influence over resources that can be used for crime.

White-collar offenders are often not alone when committing financial crime. They may cooperate with people internally as well as with people externally. If

there is internal crime cooperation, then it may be more convenient for each individual to participate. An environment where crime is accepted strengthens the organizational opportunity. If there is external crime cooperation, then it may again be more convenient for each individual to participate. External actors, who, for example, submit fake invoices or receive bribes, enter into a relationship with the internal actor(s) with a code of silence.

The organizational dimension of white-collar offenses is particularly evident when crime is committed on behalf of the business. A distinction is often made between white-collar criminals who commit financial crime for personal gain and white-collar criminals who do it for their employer (Trahan 2011). The first is labeled occupational crime, while the second is labeled corporate crime. Examples of corporate crime include manipulation of financial figures for tax evasion and unjustified government subsidies, bribery to obtain contracts, false loan applications to obtain credit in banks, and money laundering in tax havens to recruit securities clients. The organizational anchoring of crime is evident in corporate offenses as crime takes place within the business and to the benefit of business (Bradshaw 2015).

While occupational crime is often hidden by the individual to enrich himself by abusing corporate resources (Hansen 2009), corporate crime is often hidden by a group of individuals to improve business conditions. In both cases, crime is committed by virtue of position and trust in the organization, which prevents monitoring, control, and accountability.

Heath (2008) found that individuals who are higher up on the ladder in the company tend to commit larger and more serious occupational crime. The same is probably the case also for corporate crime. Empirical studies by Gottschalk (2016a, b) show that corporate criminals are older, commit crime for a larger amount of money, and are connected to larger organizations than occupational criminals. The studies support the assumption that white-collar criminals at the top of the ladder commit financial crime for far larger amounts than white-collar offenders further down the hierarchical ladder. This finding applies both to occupational and corporate crime.

Corporate crime, often called organizational offenses or business crime (Reed and Yeager 1996), typically results from actions of several individuals in more or less rooted cooperation. If a business representative commits a crime on behalf of the organization, it is defined as corporate crime. If the same person commits crime for personal gain, it is defined as occupational crime. At criminal prosecution in the criminal justice system, both occupational crime and corporate crime are individualized, because a company cannot be sentenced to prison. A business can only be fined (Bookman 2008). The Norwegian database with 405 convicted white-collar criminals contains 68 offenders (17%) who committed financial crime on behalf of the organization (Gottschalk 2016b). Corporate crime represents violations of integrity as well as failure to comply with moral standards, as in the example of corruption managed by Siemens in Germany (Eberl et al. 2015).

The organizational dimension implies that the business is the basis for deviant acts. Sometimes the organization is also a victim of crime. In the Norwegian study, 28% of all convicted white-collar criminals victimized their own employers.

Nineteen percent caused damage to society at large, for example, by tax evasion. Eighteen percent caused harm to customers, 15% caused bank losses, 8% caused loss among shareholders, while 12% hurt others (Gottschalk 2016b).

The organizational dimension of white-collar crime becomes also evident when several from the same enterprise are involved in offenses (Ashforth et al. 2008), and when the organization is characterized by a criminal mindset (O'Connor 2005), whether it concerns occupational crime or corporate crime. A single, stand-alone white-collar criminal can be described as a rotten apple, but when several are involved in crime and corporate culture virtually stimulates offenses, then it is more appropriate to describe the phenomenon as a basket of rotten apples or as a rotten apple orchard, like Punch (2003: 172) define them:

> The metaphor of 'rotten orchards' indicate(s) that it is sometimes not the apple, or even the barrel that is rotten but the *system* (or significant parts of the system).

White-collar crime is characterized by opportunism. There must be an opportunity to commit elite crime. If opportunities are limited, there will be less crime. This is evident when looking at the gender distribution between women and men. There are far fewer women than men in positions of trust with privileges and little control. Therefore, it is not surprising that there are far fewer white-collar offenders among women than men. In Norway, women constitute only 7% of white-collar inmates, while the rest are men (Gottschalk 2016b).

Opportunity arises out of certain jobs. For example, the opportunity to engage in healthcare fraud is obviously facilitated if one has a job in the healthcare system. Individuals who are in key positions and involved in networks based on trust have increased access to criminal opportunities. The opportunity perspective is important, because these offenses usually require special business-related access to commit conspiracies, frauds, embezzlements, and other kinds of financial crime (Benson and Simpson 2015).

Offenders take advantage of their positions of power with almost unlimited authority in the opportunity structure (Kempa 2010), because they have legitimate and often privileged access to physical and virtual locations in which crime is committed, are totally in charge of resource allocations and transaction, and are successful in concealment based on key resources used to hide their crime. Offenders have an economic motivation and opportunity (Huisman and Erp 2013), linked to an organizational platform and availability and in a setting of people who do not know, do not care, or do not reveal the individual(s) with behavioral traits who commit crime. Opportunity includes people who are loyal to the criminal either as a follower or as a silent partner.

Cornish and Clarke (2003) argue that opportunity reduction is the main path to fight white-collar crime. Once ready to commit a crime, the potential offender makes the actual process of crime commission determined by instrumental considerations and opportunity factors alone. For the potential offender, situations are there to be utilized for crime-commission purposes, and the offender selects the situation for the opportunities it is likely to provide. Situations influence criminal decision-making by providing cues that alert the potential offender to the existence

of opportunities to carry out the offense that he or she is ready to commit. This process of alerting may occur whether the offender is specifically hunting or not on that particular occasion. Such cues are looked for signals or reminders providing the information that an offender needs in order to do something that the individual has already decided to do once the circumstances are right.

The decision to commit a crime is based on expected utility. People are assumed to assign probabilities and values to all the outcomes of an action and then make a rational choice. However, this kind of information processing is often dominated by highly flexible and contingent heuristics in decision-making (Johnson and Payne 1986).

Organizational crime opportunity manifests itself by the convenience to get to the target of crime. There is typically a shared activity space where offenders carry out their own routine activities in the same place as their illegal activities. The overlap helps the offender to find access. Offenders learn about crime targets through their personal networks, and they abuse their specialized organizational roles to gain information and access to victims.

Neutralization Techniques

In recent times, neutralization theory has been emphasized as an important explanation for deviant behavior. While the idea was presented some decades ago by Sykes and Matza (1957), its application to white-collar crime has been more recent. The theory explains why many white-collar offenders think it is quite okay what they will do, what they are doing, and what they have done. They deny responsibility, damage, and victim. They condemn their critics, and they claim loyalty to overriding considerations. White-collar offenders reduce and eliminate their feeling of guilt by claiming that everyone else does it, that it is a mistake that the act is criminalized, and that they made a trade-off where the offense turned out to be the best alternative. There are a total of 13 identified neutralization techniques that white-collar criminals apply to rationalize their deviant behavior (Gottschalk 2016a, b).

Damage denial and victim denial are two of the main neutralization techniques. These techniques find their foundation in the fact that white-collar crime is often both impersonal and general acts without stereotype characteristics found in street crime (Benson and Simpson 2015: 145):

> Many white-collar offenses fail to match this common-sense stereotype because the offenders do not set out intentionally to harm any specific individual. Rather, the consequences of their illegal acts fall upon impersonal organizations or a diffuse and unseen mass of people.

Some believe and it is often argued that white-collar offenses represent crime without victims. It is society at large that may suffer, but victims cannot be identified. However, it turns out that one can always identify a victim in any white-collar crime case. In the sample of 405 convicts in Norway, the most frequent victim

categories are as follows: (1) employer where the criminal worked, (2) government revenue service because of tax evasion, (3) customers who were cheated, and (4) banks suffering fraud (Gottschalk 2016a, b).

Rationalization of own deviant behavior and neutralization of guilt are evident when reading autobiographies written by convicted white-collar criminals. Examples include Bogen (2008), Eriksen (2010), and Fosse and Magnusson (2004) in Norway and Kerik (2015) in the United States. They tend to deny responsibility, they condemn their critics, and they think it is quite normal what they have done. They claim that most people would have done the same in similar situations.

Here are 13 neutralization techniques frequently applied by white-collar criminals to rationalize their deviant behaviors (Sykes and Matza 1957; Siponen and Vance 2010):

1. *Disclaim responsibility for crime: Not responsible for what happened*. The offender here claims that one or more of the conditions of responsible agency were not met. The person committing a deviant act defines himself or herself as lacking responsibility for his or her actions. In this technique, the person rationalizes that the action in question is beyond his or her control. The offender views himself as a billiard ball, helplessly propelled through different situations. He denies responsibility for the event or sequence of events.
2. *Refuse damage from crime: There is no visible harm from the action*. The offender seeks to minimize or deny the harm done. Denial of injury involves justifying an action by minimizing the harm it causes. The misbehavior is not really serious because no party suffers directly or visibly as a result of it.
3. *Refuse victim from crime: There is nobody suffering from the action*. The offender may acknowledge the injury but deny any existence of victims or claims that the victim(s) are unworthy of concern. Any blame for illegal actions are unjustified because the violated party deserves whatever injury they receive.
4. *Condemn those who criticize: Outsiders do not understand relevant behavior*. The offender tries to accuse his or her critics of questionable motives for criticizing him or her. According to this technique of condemning the condemners, one neutralizes own actions by blaming those who were the target of the misconduct. The offender deflects moral condemnation onto those ridiculing the misbehavior by pointing out that they engage in similar disapproved behavior. Also, the offender condemns procedures of the criminal justice system, especially police investigation with interrogation, as well as media coverage of the case.
5. *Justify crime by higher loyalties: It was according to expectations*. The offender denies the act was motivated by self-interest, claiming that it was instead done out of obedience to some moral obligation. The offender appeals to higher loyalties. This technique is employed by those who feel they are in a dilemma that must be resolved at the cost of violating a law or policy. In the context of an organization, an employee may appeal to organizational values or hierarchies. For example, an executive could argue that he or she has to violate a policy in order to get things done and achieve strategic objectives for the enterprise.

6. *Claim blunder quota: It was a necessary shortcut to get things done*. The offender argues that what he or she did is acceptable given the situation and given his or her position. The person feels that after having done so much good for so many for so long time, he should be excused for more wrongdoings than other people are normally excused for. The crime should be considered an acceptable mistake. This is in line with the metaphor of the ledger, which uses the idea of compensating bad acts by good acts. That is, the individual believes that he or she has previously performed a number of good acts and has accrued a surplus of good will and, as a result of this, can afford to commit some bad actions. Executives in corporate environments neutralize their actions through the metaphor of the ledger by rationalizing that their overall past good behavior justifies occasional rule-breaking.
7. *Claim legal mistake: This should never have been illegal*. The offender argues that the law is wrong, and what the person did should indeed not be illegal. One may therefore break the law since the law is unreasonable. The offender may argue that behaviors are sometimes criminalized and sometimes decriminalized more or less randomly over time. For example, money involved in bribing people were treated as legal expenses in accounting some decades ago, while corruption today is considered a misconduct and therefore criminalized.
8. *Claim normality of action: Everyone else does and would do the same*. The offender argues that it is so common to commit the offense, so that it can hardly be defined as an offense at all. The offense is no deviant behavior, since most people do it or would do it in the same situation. What should be defined as deviant behavior is when people in the same situation obey the law.
9. *Claim entitlement to action: It is sometimes a required behavior in this position*. The offender claims to be in his right to do what he did, perhaps because of a very stressful situation or because of some misdeed perpetrated by the victim. This is defense of necessity, which is based on the justification that if the rule-breaking is viewed as necessary, one should feel no guilt when carrying out the action.
10. *Claim solution to dilemma: The benefits of action outweigh costs*. The offender argues a dilemma arose whereby he or she made a reasonable trade-off before committing the act. Trade-off between many interests therefore resulted in the offense. Dilemma represents a state of mind where it is not obvious what is right and what is wrong to do. For example, the offense might be carried out to prevent a more serious offense from happening.
11. *Justify necessity of crime: It was necessary to carry out the offense*. The offender claims that the offense must be seen in a larger context, where the crime is an illegal element among many legal elements to ensure an important result. The offense was a required and necessary means to achieve an important goal. For example, a bribe represents nothing in dollar value compared to the potential income from a large contract abroad. Or a temporary misrepresentation of accounts could help save the company and thousands of jobs.
12. *Claim role in society: It is a natural maneuver among elite members*. The offender argues that being a minister in the government or a chief executive

officer in a global company is so time-consuming that little time can be spent on issues that are perceived as trivial. Shortcuts are part of the game. Some shortcuts may be illegal, but they are nevertheless necessary for the elite member to ensure progress. If someone is to blame, then it is subordinates who are supposed to provide advice and control what the elite member is doing.

13. *Perceive being victim of incident: Others have ruined my life*. The incident leads to police investigation, prosecution, and possible jail sentence. Media is printing pictures of the offender on the front page, and gains from crime are taken away from the offender. Previous colleagues and friends have left and so has the family. The offender perceives being a loser and made victim of those who reacted to his crime after disclosure.

Justifications are socially constructed accounts that individuals who engage in criminal acts adopt to legitimate their behavior. Justifications are beliefs that counteract negative interpretations by articulating why the acts are justifiable or excusable exceptions to the norms (Aguilera and Vadera 2008).

Personal neutralization of misconduct and crime is not limited to white-collar criminals. However, it seems that these techniques are applied to a very great extent by such criminals. An example is politically exposed persons. It is related to the role that the criminal or potential criminal occupies at that point in time. An example of a role theory is the theory of politically exposed persons. A politically exposed person (PEP) is an individual who is entrusted with prominent public functions. It is argued by Gilligan (2009) that, as such individuals pose a potential reputation risk to regulated entities, financial institutions must track them. Most of the high-profile media PEP-related coverage in recent years relates to persons such as former president of the Philippines, Ferdinand Marcos, and former president of Nigeria, Sani Abacha, who were accused of fostering corruption within their countries and transferring millions of dollars of public funds out of their home countries into bank accounts overseas.

Neutralization theory is linked to attribution theory, where criminals have a tendency to attribute causes of crime to everyone else but themselves. Attribution theory is about identifying causality predicated on internal and external circumstances (Eberly et al. 2011: 731):

> Identifying the locus of causality has been at the core of attribution theory since its inception and has generated an extensive research stream in the field of organizational behavior. But the question emerges whether the "internal" and "external" categories capture the entire conceptual space of this phenomenon.

Based on this argument, Eberly et al. (2011) suggest there is a third category in addition to internal explanation and external explanation, which is labeled relational explanation. These three categories of attributes can be explored to seek causal explanations regarding how persons react in criminal situations.

Attribution theory is a part of social psychology, which studies how humans spontaneously attribute reasons, guilt, and responsibility in situations that arise. The fundamental attribution error is a term used to designate overemphasis on person factors rather than situational factors in order to explain behavior.

Neutralization techniques enable perceptions of convenience among offenders. Convenience is both real in terms of crime opportunity and imaginary in terms of acceptable deviant behavior. Convenience in other crime areas, such as convenience for shoplifting, convenience for forcible rape, and convenience for burglary and auto theft are just a few examples. In the criminology literature, situational crime prevention, routine activity approach, problem-oriented policing, and offender decision-making are all perspectives that include convenience as an implicit explanation of deviant behavior based on crime opportunity and neutralization techniques.

References

Adler, P. S., & Kwon, S. W. (2002). Social capital. Prospects for a new concept. *Academy of Management Review, 27*(1), 17–40.

Aguilera, R. V., & Vadera, A. K. (2008). The dark side of authority: Antecedents, mechanisms, and outcomes of organizational corruption. *Journal of Business Ethics, 77*, 431–449.

Ashforth, B. E., Gioia, D. A., Robinson, S. L., & Trevino, L. K. (2008). Re-reviewing organizational corruption. *Academy of Management Review, 33*(3), 670–684.

Benson, M. L., & Simpson, S. S. (2015). *Understanding white-collar crime: An opportunity perspective*. New York: Routledge.

Berry, L. L., Seiders, K., & Grewal, D. (2002). Understanding service convenience. *Journal of Marketing, 66*, 1–17.

Bogen, T. (2008). *Hvor var du, historien om mitt liv (Where were you, the story of my life)*. Oslo: Schibsted Publishing.

Bookman, Z. (2008). Convergences and omissions in reporting corporate and white collar crime. *DePaul Business & Commercial Law Journal, 6*, 347–392.

Bradshaw, E. A. (2015). "Obviously, we're all oil industry": The criminogenic structure of the offshore oil industry. *Theoretical Criminology, 19*(3), 376–395.

Bucy, P. H., Formby, E. P., Raspanti, M. S., & Rooney, K. E. (2008). Why do they do it?: The motives, mores, and character of white collar criminals. *St. John's Law Review, 82*, 401–571.

Ceccato, V., & Benson, M. L. (2016). Tax evasion in Sweden 2002–2013: Interpreting changes in the rot/rut deduction system and predicting future trends. *Crime, Law and Social Change, 66*, 217–232.

Collier, J. E., & Kimes, S. E. (2012). Only if it is convenient: Understanding how convenience influences self-service technology evaluation. *Journal of Service Research, 16*(1), 39–51.

Cornish, D. B., & Clarke, R. V. (2003). Opportunities, precipitators and criminal decisions: A reply to Wortley's critique of situational crime prevention. *Crime Prevention Studies, 16*, 41–96.

Dhami, M. K. (2007). White-collar prisoners' perceptions of audience reaction. *Deviant Behavior, 28*, 57–77.

Eberl, P., Geiger, D., & Assländer, M. S. (2015). Repairing trust in an organization after integrity violations. The ambivalence of organizational rule adjustments. *Organization Studies, 36*(9), 1205–1235.

Eberly, M. B., Holley, E. C., Johnson, M. D., & Mitchell, T. R. (2011). Beyond internal and external: A dyadic theory of relational attributions. *Academy of Management Review, 36*(4), 731–753.

Eriksen, T. S. (2010). *Arven etter Ole Christian Bach – et justismord (The legacy of Ole Christian Bach – A miscarriage of justice)*. Oslo: Norgesforlaget Publishing.

Farquhar, J. D., & Rowley, J. (2009). Convenience: A services perspective. *Marketing Theory, 9*(4), 425–438.

Fosse, G., & Magnusson, G. (2004). *Mayday Mayday! – Kapteinene først i livbåtene! (Mayday Mayday! –The captains first in the lifeboats)*. Oslo: Kolofon Publishing.
Füss, R., & Hecker, A. (2008). Profiling white-collar crime. Evidence from German-speaking countries. *Corporate Ownership and Control, 5*(4), 149–161.
Gilligan, G. (2009). PEEPing at PEPs. *Journal of Financial Crime, 16*(2), 137–143.
Gottschalk, P. (2016a). Knowledge management in criminal investigations: The case of fraud examiners. *Journal of Information and Knowledge Management, 15*(4), 15 pages.
Gottschalk, P. (2016b). Private policing of financial crime: Fraud examiners in white-collar crime investigations. *International Journal of Police Science and Management, 18*(3), 173–183.
Haines, F. (2014). Corporate fraud as misplaced confidence? Exploring ambiguity in the accuracy of accounts and the materiality of money. *Theoretical Criminology, 18*(1), 20–37.
Hansen, L. L. (2009). Corporate financial crime: Social diagnosis and treatment. *Journal of Financial Crime, 16*(1), 28–40.
Heath, J. (2008). Business ethics and moral motivation: A criminological perspective. *Journal of Business Ethics, 83*, 595–614.
Huisman, W., & Erp, J. (2013). Opportunities for environmental crime. *British Journal of Criminology, 53*, 1178–1200.
Johnson, J. W., & Payne, J. (1986). The decision to commit a crime: An information-processing analysis. In D. Cornish & R. Clark (Eds.), *The reasoning criminal: Rational choice perspectives of offending* (pp. 170–185). New York: Springer Verlag.
Kempa, M. (2010). Combating white-collar crime in Canada: Serving victim needs and market integrity. *Journal of Financial Crime, 17*(2), 251–264.
Kerik, B. B. (2015). *From jailer to jailed – My journey from correction and police commissioner to inmate #84888-054.* New York: Threshold Editions.
Kouchaki, M., & Desai, S. D. (2015). Anxious, threatened, and also unethical: How anxiety makes individuals feel threatened and commit unethical acts. *Journal of Applied Psychology, 100*(2), 360–375.
Mai, H. T. X., & Olsen, S. O. (2016). Consumer participation in self-production: The role of control mechanisms, convenience orientation, and moral obligation. *Journal of Marketing Theory and Practice, 24*(2), 209–223.
McKenndal, M. A., & Wagner, J. A. (1997). Motive, opportunity, choice, and corporate illegality. *Organization Science, 8*, 624–647.
Michel, P. (2008). Financial crimes: The constant challenge of seeking effective prevention solutions. *Journal of Financial Crime, 15*(4), 383–397.
O'Connor, T. R. (2005). Police deviance and ethics. In *Part of web cited, megaLinks in criminal justice*. http://faculty.ncwc.edu/toconnor/205/205lect11.htm
Pickett, K. H. S., & Pickett, J. M. (2002). *Financial crime investigation and control*. New York: Wiley.
Pratt, T. C., & Cullen, F. T. (2005). Assessing macro-level predictors and theories of crime: A meta-analysis. *Crime and Justice, 32*, 373–450.
Punch, M. (2003). Rotten orchards. "Pestilence", police misconduct and system failure. *Policing and Society, 13*(2), 171–196.
Reed, G. E., & Yeager, P. C. (1996). Organizational offending and neoclassical criminology. Challenging the reach of a general theory of crime. *Criminology, 34*(3), 357–382.
Siponen, M., & Vance, A. (2010). Neutralization: New insights into the problem of employee information security policy violations. *MIS Quarterly, 34*(3), 487–502.
Stadler, W. A., Benson, M. L., & Cullen, E. T. (2013). Revisiting the special sensitivity hypothesis: The prison experience of white-collar inmates. *Justice Quarterly, 30*(6), 1090–1114.
Sundström, M., & Radon, A. (2015). Utilizing the concept of convenience as a business opportunity in emerging markets. *Organizations and Markets in Emerging Economies, 6*(2), 7–21.
Sykes, G., & Matza, D. (1957). Techniques of neutralization: A theory of delinquency. *American Sociological Review, 22*(6), 664–670.
Trahan, A. (2011). Filling in the gaps in culture-based theories of organizational crime. *Journal of Theoretical and Philosophical Criminology, 3*(1), 89–109.

Chapter 3
Detection of White-Collar Criminals

In Norway, 369 white-collar offenders were convicted to prison from 2009 to 2015. Table 3.1 lists how these criminals were detected. We find journalists to occupy the top position, followed by crime victims, bankruptcy lawyers, tax authorities, banks, and the police.

Sources of Crime Detection

A comparison of the white-collar crime cases detected by journalists, alongside those detected by others, is presented in the next table. There are some interesting differences that are statistically significant. First, the sum of money involved in crime is significantly larger in cases detected by journalists. The average amount for journalist-detected criminals is 110 million Norwegian kroner (approximately 18 million US dollars).

Strangely enough, criminals detected by journalists are registered with lower income, less tax, and fewer assets than white-collar criminals detected by others. Not so strange, however, is that the number of persons involved in criminal activity is larger in cases detected by journalists. Probably it is easier for external detection when more criminals are involved in the offense.

Some of the characteristics are not different. For example, criminals detected by journalists have the same age as criminals detected by others. Criminals detected by journalists are associated with organizations of about the same size as criminals detected by others (Table 3.2).

When we compare financial crime categories committed by white-collar criminals, in terms of detection, results indicate that journalists tend to detect fraud to a great extent but less of the other categories, as shown in Table 3.3.

Since a substantial fraction of white-collar criminals are detected by journalists, and very few are detected by traditional law enforcement agencies, there might be lessons to be learned from media working procedures. Journalists review information

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Table 3.1 Detection of white-collar crime

Rank	Crime detection source	Criminals	Fraction (%)
1	Journalists investigating tips from readers	97	26
2	Crime victims suffering financial loss	48	13
3	Internal controls of transactions in organization	44	12
4	Bankruptcy lawyers identifying misconduct	39	11
5	Tax authorities carrying out controls	24	7
6	Commercial banks controlling accounts	18	5
7	Accounting auditors controlling clients	18	5
8	Police investigations into financial crime	5	1
9	Stock exchange controls of transactions	4	1
10	Other detection sources	72	19
	Total	369	100

Table 3.2 Comparison of journalist and non-journalist-detected white-collar criminals

Total 369 white-collar criminals	97 detected by journalists	272 detected by others	T-statistic difference	Significance of t-statistic
Age convicted	48 years	48 years	−0.512	0.609
Age at time of crime	43 years	44 years	−0.893	0.372
Years in prison	2.5 years	2.2 years	1.659	0.098
Crime amount	110 m NOK	26 m NOK	4.783	0.000
Personal income	260,000 NOK	429,000 NOK	−2.058	0.040
Personal tax	113,000 NOK	201,000 NOK	−2.185	0.030
Personal wealth	1.6 m NOK	3.2 m NOK	−1.050	0.294
Involved persons	5.0 persons	2.8 persons	8.186	0.000
Business revenue	234 m NOK	214 m NOK	0.381	0.704
Business employees	136 persons	132 persons	0.094	0.925

Table 3.3 Financial crime categories by detection sources

Crime category	Total detected in each crime category	Journalist detection in each category	Journalist detection fraction (%)
Fraud	160	52	33
Theft	17	2	12
Manipulation	127	28	22
Corruption	65	13	20
Total	369	97	26

and information sources in established and developing networks of individuals located in key areas of the economy. Journalists study accounting reports and other information and receive documents from their network of sources. They interview lawyers, competitors, the police, and authorities. They set a case aside for weeks and months until new information emerges. In the meantime, they keep the information top secret, until publication for the first time.

Investigative journalists tend to develop hypotheses about phenomena and causality. They are very different from reporting journalists who only relate what they have heard or seen. Investigative journalists develop an idea via a study of potential offenders and their victims. They apply systematic analysis and treat their sources with care and professional concern.

In most criminal areas, it is expected that a combination of victim and police is the main source of criminal detection. After crime victims suffer an injury or a loss, they tend to report the incident to the police who investigate and hopefully find the offender(s). In cases of financial crime by white-collar criminals, it is often quite different. A victim is frequently not aware of the injury or loss. For example, accounting fraud resulting in tax evasion is not a harm or damage perceived by tax authorities.

A number of angles can be explored in the process of white-collar crime detection within news media. On the one hand, we have the news media (newspapers and online media) that have specialized and focused on financial information of all sorts and report on this regularly. For them, the sources of information can be traditional through tips, company reports, stock exchange information, and press conferences as well as other sources. For regular news media spread out over the country, the situation can be quite different. The detection of white-collar crime can come as a tip-off from a whistleblower or as official information if the police or an economic crime prosecutor performs a search locally. Whistleblowers in many cases alert journalists to serious crime and are sometimes the true detectors, not the journalists or media.

Additionally, the way the news is treated in the news media is dependent on many variables that occur at the same time: Do they have the right journalists in place at the time? Do they have an interest in the matter? Do they know anything or anyone related to this? There will also be a resource balance that takes place. The resource perspective in leading media houses is concerned with knowledge management.

Not many news media outside of the larger ones will have the possibility of setting aside journalists to work on an investigative white-collar crime for months. In the cases where they have done this, some experience among editors seems to be that there is an uncertainty as to whether this was worthwhile relative to the size and the complexity of the case. For a common, nonspecialist news media, there will always be the balance of resources against the newsworthiness of the matter at hand. If a major white-collar crime story had emerged in Norway in the weeks after the July 22 terrorist attacks in 2011, reasonable doubt can be raised if the matter would have caught much attention in the general public press.

General news media have a constant incoming flow of news on hand, and there is a constant daily priority of what is important and what should be published. For all news items, there are some general rules of journalism that comes into play: Is it important for many people? Is it really news? Is it possible to get reliable information on this? Is it possible to approach the right people with the right questions? Can both parties in a conflict be approached? And in addition to these questions, there will be a question as to whether the news organization at this point in time has the

resources to deal with it. If the journalist knowledgeable of economic matters is on holiday, doubt can be raised if the news media organization will come back to the same matter later. That will depend on the development and the newsworthiness of the case at the second point in time. If the news organization is the first to report on the crime and it is regarded as "hot," it will probably do whatever possible to handle the matter at hand, knowing that other media, and especially online media, can report on the same matter and as such "steal" the story. There is always an internal pride in a news organization when it can report on a matter of significant interest and be cited by other news organizations.

The organizational culture also has an influence on white-collar crime detection among journalists. If you have journalists that are driven by their own interest to win investigative journalist prizes (SKUP in Norway), there is a higher possibility for such stories to emerge in publication. But that will differ greatly among the news organizations. Øvrebø (2004) showed in a study of the Norwegian newspaper "Dagsavisen" after a change of editor in chief in 2001 that the news profile and priorities of the newspaper changed according to the principles laid down by the new editor when she took up her position. It can be argued that personal preferences of an editor can have influence on the priorities of news in the newspaper and that this will relate to all types of editorial material, whether it is general news, sports, culture, or financial news.

For a general news organization, white-collar crime is not a big story in itself unless it has repercussions on well-known persons locally or if something happens to the organization where the crime has taken place. Nationally it can be a big story if the person is a well-known profile or if the crime in itself is of an unusual nature. If a main employer locally has to file for bankruptcy because of a white-collar crime, then the story is more than just another white-collar crime case since it has wider consequences that turn the world upside down for ordinary people in this local area. Then the white-collar crime will take the form of another typical important news story and be followed and treated as such, and the white-collar crime element will be mixed with other elements and consequential stories, building on the starting point as a white-collar crime. Campbell (1997) studied the journalistic process of environmental news in Scotland and addressed the information sources which are used in the news process. The study showed the preference for human sources as opposed to library-based information and discussed the influence of pragmatic constraints like time and space on the production of news. It can be argued that this process is likewise in the news-gathering process for white-collar crime.

The argument of white-collar crime detection among journalists seems to be related to the story's importance in itself, and, as such, it will be treated as just another crime or news story and have the same internal process. For smaller news organizations without journalistic specialization in financial matters, the white-collar crime story will be treated according to the news prioritizing structure of that particular organization. For larger news organizations that typically have separate sections for financial and economic news, the story will be treated within the prioritizing of that particular section. And if the story is big enough in total, it will be

moved from the particular section for finance into the general news of the organization. The higher the profile of persons involved, the more likely it is that it will have a more centralized coverage, i.e., moved into what is often the first section of the newspaper or the prioritized areas of a website's front page.

As shown in the first table above, four of the ten categories made up 62% of the total crime detecting sources, and out of these the first two – journalists investigating tips from readers and crime victims suffering loss – made up 39%. It can be argued that these two categories are more susceptible to journalistic interest than the others, simply because it is easier to construct news stories based on these journalistic angles. Themes like manipulation and corruption are much more difficult to make into a story that is interesting for the readers simply because it is more complex and difficult to describe these matters in layman terms. A tip from readers that is given to a news medium is most of the time accompanied by a subjective story from the person giving the tip that in turn gives the journalist clues to work on and discuss internally to assign the right news priority and angle. This is also supported by the breakdown in a table showing that fraud is the category having the highest percentage of journalistic detection.

White-collar crime detection and follow-up seems to be related to a number of simultaneous journalistic procedures and cultural elements. For specialized publications in the financial information area, the white-collar crime news arena is closer at hand, and the organization will typically be able to go deeper into the matter. If white-collar crime is detected by general or local news organizations, the procedure involved will more often take the form of a general news story with the resource balance that follows from that. It can also be shown that white-collar crime is more often detected by journalists if it is based on a tip from readers or if it is reported as fraud. Underlying all these are the internal news preferences and editorial guidance that are part of the policies of the news medium.

Finally, the most obvious reason for the high detection fraction by journalists is the fact that one of the criteria for our sample is newspaper coverage of the case. Naturally, this will lead to a bias toward journalist detection.

Auditing Role in Crime Detection

The role of auditing in the detection of white-collar crime is an interesting topic, as it is not obvious that auditors are able to detect crime. This might have to do with the responsibilities of auditing functions as well as procedures and practices followed by auditors in their work. For example, Beasley (2003) is concerned with the fact that auditors seem to struggle with reducing occurrences of material misstatements due to fraud, even in the light of new standards for auditing. The focus of new standards remains on fraudulent activities that lead to intentional material misstatements due to fraud, and it expands the guidance and procedures to be performed in every audit. The expanded guidance might hopefully lead to improvements of auditor detection of material misstatements due to fraud, by strengthening the auditor's responses to identified high fraud risks.

One of the surprising results of this research is the lack of crime detection by auditors: only 18 (5%) of the 369 criminals in our sample were detected by auditors. Moyes and Baker (2003) asked external, internal, and governmental auditors to evaluate the effectiveness of various standard audit procedures in detecting fraud. Although external and internal auditors differed in the types of audit procedures they recommended, the authors conclude that "the audit procedures judged more effective in detecting fraud were those which provided evidence about the existence of internal controls and those which evaluated the strength of internal controls", and that "strategic use of standard audit procedures may help auditors fulfill their responsibilities under SAS No. 99" (Moyes and Baker 2003: 199). Furthermore, "the results of this study indicate that fraud detection might be improved through the strategic use of standard audit procedures earlier in the audit examination. … If these audit procedures were applied during the preliminary stages of the audit, they would be more likely to indicate the potential existence of fraud, in which case the auditor would have more time to revise the audit plan and conduct other necessary investigations" (Moyes and Baker 2003: 216).

Similarly, Albrecht et al. (2001) reviewed fraud detection aspects of current auditing standards and the empirical and other research that has been conducted on fraud detection. They concluded that "even though the red flag approach to detecting fraud has been endorsed by policy makers and written about widely by researchers, there is little empirical evidence that shows the red flag approach is an effective way to detect fraud, especially for fraud that has yet to be discovered" (Albrecht et al. 2001: 4). Their research review on the subject reveals that one of the major conclusions drawn from previous studies included the fact that only 18–20% of frauds appear to be detected by internal and external auditors and further that only about half of the perpetrators of frauds detected are duly prosecuted. The article also calls for further fraud detection research. These detection rates are loosely corroborated by Silverstone and Sheetz (2003), who estimate that approximately 12% of initial fraud detection is through external audit, and approximately 19% arises from internal audit. (Both of these estimations apply to the American context.)

An article dealing with the responsibilities for prevention and detection of white-collar crime refers to a study undertaken to map how members of the accounting profession viewed the changing role of the external auditor following the introduction of SAS No. 82 (Farrell and Healy 2000: 25):

> Most of those answering the questionnaire disagreed that they should be responsible for searching for fraud. … Clearly, this notion concerning the auditor's responsibility is not widely held by the public at large. … The general public and Congress certainly sided against the CPAs and was the reason for this legislation.

As to the question of whether the certified public accountants (CPAs) should act as police or detectives when performing the audit, the response was a resounding no (Farrell and Healy 2000: 25):

> This may also indicate that changes brought about with the implementation of the SAS No. 82 requiring a *policing component* clearly require added responsibility and may necessitate additional training and changes to job description requirements. Again, although the general

public may believe policing is within the auditors' duties, even SAS No. 82 does not require this.

Similarly, an investigation into fraud prevention and detection in the United States uncovered that the majority of CPAs that responded to the study believed the external auditor's responsibility for fraud detection extends only to assessing the probability of fraud and planning the audit accordingly. They ranked internal auditors as the group most effective in detecting fraud, followed by fraud examiners and client management (Johnson and Rudesill 2001).

Jones 2014: 12–13) presents a slightly more balanced view on auditor role in crime detection:

A persistent debate has dogged relationships between auditors and managers. This debate revolves around the precise roles and duties of each party in relation to fraud and corruption, and particularly who should take responsibility for investigation. Current legal and professional precedents leave little doubt that management bears the main responsibility for ensuring that reasonable measures are taken to prevent fraud and corruption. In any event it is common practice for managers to request assistance and advice from auditors upon suspicion or discovery of fraud. The final responsibility must lie with managers unless the auditor has given specific assurance regarding particular controls or the absence of error or fraud.

In a study in Norway by Warhuus, she found that 11% of her cases of white-collar crime were detected by auditing functions; this is lower than the 4% (according to our sample) reported above and also significantly lower than the results presented by Albrecht et al. (2001), Moyes and Baker (2003), and Silverstone and Sheetz (2003). The figures of 4% and 11% in Norway indicate that Norwegian auditing has an even less pronounced role in detection of white-collar crime than the measurements performed in the United States, for example.

Iver and Samociuk (2006) argue that fraud risks need to be recorded, monitored, and reported. Such recording includes the nature of each risk, likelihood and consequences, current and suggested controls, and the owner of the risk for follow-up action.

Within the extant accounting and auditing research, a great deal of attention is devoted to how the external auditor is a primary figure in detecting irregularities and corruption, and government and standard setters also stress the importance of the responsibilities of the auditing community in this respect. However, there seems to be limited faith and responsibility in the auditing function among some for this specific purpose: Only in very few cases does auditing in some form seem to be responsible for the detection, unraveling, and exposure of the offence. This opinion is backed up by the work of Drage and Olstad (2008), who analyzed the role of the auditing function in relation to both preventing and detecting white-collar crime. Although their study included a look at the perceived preventative power of the auditing function as well as actual detection of criminal offences, their findings were consistent with the abovementioned hypothesis: Many of their interviewees were skeptical regarding the auditing function having a central role in the detection of white-collar crime.

Olsen (2007) reminds us that the auditing standards that external auditors must act in compliance with also require them to uncover irregularities should they be present. However, the primary concern of the external auditor is to reduce the auditing risk (i.e., the risk that the financial statements may still contain material misstatements even after the auditor has given a positive auditor report), not the risk of irregularities. In spite of external auditors rarely being credited for the detection of financial crime, Olsen (2007) still believes that the auditing function contributes significantly to the prevention of such crime by reducing temptations and opportunities, thus corroborating the findings of Drage and Olstad (2008) on prevention.

Rendal and Westerby (2010) examined Norwegian auditors' expectations regarding their own abilities in detecting and preventing irregularities and compared these with the expectations other users of financial information have on this same issue. Their findings indicate certain gaps in terms of how the auditor is expected to perform. Auditors themselves answer that they sometimes do not act in accordance with laws and regulations, and both auditors and users of financial information feel that the auditing function should include more than what is required today through standards and regulations, for example, pertaining to companies' internal guidelines. They also uncover unrealistic expectations regarding the extent to which the auditing function is capable of uncovering irregularities. They conclude that, to a certain extent, auditors are too reserved and aloof when it comes to their responsibilities in the prevention and detection of irregularities and call for improvements.

Crime Signal Detection Theory

Signal detection theory may shed some light into why some actors discover and disclose more white-collar crime than others. Signal detection theory holds that the detection of a stimulus depends on both the intensity of the stimulus and the physical and psychological state of the individual. A detector's ability or likelihood to detect some stimulus is affected by the intensity of the stimulus (e.g., how loud a whistle-blowing is) and the detector's physical and psychological state (e.g., how alert the person is). Perceptual sensitivity depends upon the perceptual ability of the observer to detect a signal or target or to discriminate signal from non-signal events (Szalma and Hancock 2013).

Furthermore, detecting persons may have varying ability to discern between information-bearing recognition (called pattern) and random patterns that distract from information (called noise).

Under signal detection theory, some researchers found that people more frequently and incorrectly identify negative task-related words as having been presented originally than positive words, even when they were not present. Liu et al. (2010) found that people have lax decision criteria for negative words. In a different study, Huff and Bodner (2013) applied the signal detection approach to determine if changes in correct and false recognition following item-specific versus relational encoding were driven by a decrease in the encoding of memory information or by an increase in monitoring at test.

According to the theory, there are a number of determinants of how a person will detect a signal. In addition to signal intensity, signal alertness, and pattern recognition, there are other factors such as personal competence (including knowledge, skills, and attitude), experience, and expectations. These factors determine the threshold level. Low signal intensity, low signal alertness and limited pattern recognition, combined with low competence, lack of experience, and lack of expectations will lead to a high threshold level, meaning that the individual will not detect white-collar crime.

Competence of private investigators is a concern. For several decades, the public police have striven to achieve professional status, arguing that their work is a skilled activity requiring long and in-depth training. Private policing, which is not regulated by statue in countries such as the United Kingdom, the United States, or Norway, directly challenges this premise. People are not required to undergo any form of training in order to set up as private investigators (Gill and Hart 1997).

Signal detection theory implies that persons make decisions under conditions of uncertainty. The theory assumes that the decision-maker is not a passive receiver of information but an active decision-maker who makes difficult perceptual judgments under conditions of uncertainty. Whether a stimulus is present or absent, whether a stimulus is perceived or not perceived, and whether a perceived stimulus is ignored or not will influence the decision in terms of detecting or not detecting white-collar crime.

Signal detection theory characterizes the activity of an individual's discrimination as well as psychological factors that bias his or her judgment. The theory is concerned with the individual's discriminative capacity or sensitivity that is independent of the judgmental bias or decision criterion the individual may have had when the discrimination was made.

In Table 3.4, an attempt is made to describe signal detection features of observers who have noticed and discover white-collar crime. Signal intensity, signal alertness,

Table 3.4 Characteristics of stimulus in detection of white-collar crime

Rank	Crime detection source	Signal intensity	Signal alertness	Pattern recognition	Personal experience	Total score
1	Journalists	High	High	Low	Medium	9
2	Crime victims	High	Low	Medium	Low	7
3	Bankruptcy lawyers	Low	Low	Medium	Medium	6
4	Internal control	Low	Medium	Medium	Medium	7
5	Tax authorities	Low	Medium	Low	Medium	6
6	Commercial bank	Low	Medium	Low	Low	5
7	Accounting auditors	Low	Medium	Medium	Low	6
8	Police investigations	Low	Medium	High	Low	7
9	Stock exchange	Low	Low	Medium	Low	5
10	Other sources	–	–	–	–	–

pattern recognition, and personal experience are derived from signal detection theory as characteristics of detection ability.

Pattern recognition is a matter of sensemaking and contextualization. Contextualization captures the ongoing process of understanding and explaining relationships between information elements.

We argue that signal intensity for tips to journalists normally is high, as whistleblowers tend to be upset and want to get attention. Furthermore, we suggest that signal alertness is high among journalists, as they are dependent on tips in their daily work to cover news stories. The issue of pattern recognition is not obvious for journalists, since they often present fragments on a publishing basis, rather than a complete and consistent story of events. Personal experience will vary among journalists who may or may not have been writing about white-collar crime before, depending on the extent of specialization among journalists in the newspaper.

The idea of Table 3.4 is to apply four characteristics of signal detection theory to detection of white-collar crime. At this stage, the items and values represent exploratory research that need further study to be trustworthy. Both selections of characteristics as well as judgment along these characteristics for each crime detection source need multiple raters to enable inter-rater reliability to be computed.

However, it is an interesting personal experiment. For example, the police in Norway are a passive receiver on signals. Norwegian police is not undercover in financial markets and has no informants in business corporations. Therefore, police opportunity to receive signals is very limited.

Based on a sample of 369 convicted white-collar criminals in Norway from 2009 to 2014, where 97 offenders were detected by journalists and 272 were detected by others, we found some interesting differences between the two groups. In statistical terms, significant differences can be found in terms of the sum of money involved in crime and personal finances as registered by the internal revenue service.

There seems to be a lot to learn from investigative media and their journalists. Rather than formal procedures often applied on a routine basis by auditors and internal controllers, information sources in terms of persons in networks seem to be a more fruitful approach to detection of white-collar crime.

Szalma and Hancock (2013: 1741) argue that signal detection theory has provided perhaps the most useful analytical tool for evaluating human performance in detection domains:

> The theory permits the independent evaluation of perceptual sensitivity and response bias. Perceptual sensitivity depends upon the perceptual ability of the observer to detect a signal or target or to discriminate signal from nonsignal events. Response bias represents the operator's decision criterion as to their propensity to say yes or no given the evidence to be evaluated.

If there is a signal and a response, then the observer makes a hit. If there is no signal, but nevertheless a response, then the observer creates a false alarm. If there is a signal, but there is no response, then the observer makes a miss. If there is no signal and no response, then the observer creates a correct rejection. However, this absolute division may not always represent an accurate depiction of the true state of the world (Szalma and Hancock 2013: 1741):

> In many instances, events are sufficiently complex and/or perceptually ambiguous that they possess ongoing properties of both signal and nonsignal to varying degrees. It is important to note that this complexity does not result from low versus high signal strength (i.e., changes in the magnitude of the evidence variable) but rather a change in the nature of the evidence variable itself. That is, until absolute categorical identification has occurred (often after the fact), the signal itself may retain various nonsignal properties and vice versa. Indeed, it is such categorical (and often multidimensional) blending that induces at least some of the inherent stimulus-based uncertainty in decision-making in the first place. This circumstance is especially true of real-world operational settings.

In our context of crime detection, there can be a signal of crime or no signal of crime from an event or a stimulus. However, an event or a stimulus can send both a signal of crime and at the same time a signal of no crime. The signal of crime can be stronger or weaker than the no signal. A possible range for an event or a stimulus dimension might be from 0 (100% membership in the no signal category) to 1 (100%) membership in the signal category. These endpoints correspond to the dichotomous signal detection theory. Values between 0 and 1 reflect different degrees of membership in the two categories (Szalma and Hancock 2013: 1742):

> A signal value of .5 represents maximal uncertainty in the category membership status of the stimulus itself because a stimulus with a signal value of .5 has properties of both a non signal and a signal to an equal degree. Implicit in this model is the assumption that signal uncertainty exists not only within the observer but also in the state-of-the-world itself.

Szalma and Hancock (2013) suggest a fuzzy signal detection theory where stimuli do not fall into discrete, mutually exclusive categories. The fuzzy theory allows events to simultaneously be in more than one state category, e.g., both signal and nonsignal. In our context of crime detection, stimuli may be perceived in terms of signal probability, where a stimulus can be perceived as probably a signal or probably not a signal.

Crime signal detection is not only an individual issue. Team cognition may influence individual signal detection. Team cognition, defined as the cognitive activity that occurs within a team, is one of the key factors enhancing team performance (Wildman et al. 2014). When team members hold convergent perspectives and knowledge, developing team cognition can be a success. On the other hand, breakdown of team cognition concerning the situation can lead to failures in coordination and cause lack of signal detection.

Crime signal detection ability and skill link to general investigative professionalism that includes the ability to collect and evaluate information, the ability to make analysis, the ability to have specific knowledge of the field, the skill of being careful and meticulous, the skill to look at different angels, the ability to be intelligent and use intelligence, and the ability to perform a professional inquiry.

References

Albrecht, C. C., Albrecht, W. S., & Dunn, J. G. (2001). Can auditors detect fraud: A review of the research evidence. *Journal of Forensic Accounting, II*, 1–12.

Beasley, M. S. (2003). SAS No. 99: A new look at auditor detection of fraud. *Journal of Forensic Accounting, IV*, 1–20.

Campbell, F. (1997). Journalistic construction of news: Information gathering. *New Library World, 98*(2), 60–64.

Drage, K., & Olstad, T. (2008). *Ekstern revisor og økonomisk kriminalitet – En analyse av revisors ansvar og brukernes forventninger (External auditor and financial crime – An analysis of auditor responsibility and user expectations)*. Oslo: BI Norwegian School of Management.

Farrell, B. R., & Healy, P. (2000). White collar crime: A profile of the perpetrator and an evaluation of the responsibilities for its prevention and detection. *Journal of Forensic Accounting, I*, 17–34.

Gill, M., & Hart, J. (1997). Exploring investigative policing. *British Journal of Criminology, 37*(4), 549–567.

Huff, M. J., & Bodner, G. E. (2013). When does memory monitoring succeed versus fail? Comparing item-specific and relational encoding in the DRM paradigm. *Journal of Experimental Psychology: Learning, Memory, and Cognition, 39*(4), 1246–1256.

Iver, N., & Samociuk, M. (2006). *Fraud and corruption: Prevention and detection*. Farnham: Gower Publishing.

Johnson, G. G., & Rudesill, C. L. (2001). An investigation into fraud prevention and detection of small businesses in the United States: Responsibilities of auditors, managers, and business owners. *Accounting Forum, 25*(1), 56.

Jones, S. (2014). Internal report details GM ignition coverup, *World Socialist Web Site*, published June 14. http://www.wsws.org/en/articles/2014/06/14/genm-j14.html, downloaded December 2, 2014.

Liu, D., Ray, G., & Whinston, A. B. (2010). The interaction between knowledge codification and knowledge-sharing networks. *Information Systems Research, 21*(4), 892–906.

Moyes, G. D., & Baker, C. R. (2003). Auditor's beliefs about the fraud detection effectiveness of standard audit procedures. *Journal of Forensic Accounting, IV*, 199–216.

Olsen, A. B. (2007). *Økonomisk kriminalitet: avdekking, gransking og forebygging (Financial crime: Detection, investigation and prevention)*. Oslo: Universitetsforlaget.

Øvrebø, T. (2004). Nyhetsproduksjon – kjønn og makt. En studie av endring i Dagsavisen 2000–2003. (News production – sex and power. A study of change in Dagsavisen (Norwegian Daily Newspaper) 2000–2003). *Hovedoppgave i Medievitenskap* (Master thesis in Media Science). Universitetet i Oslo (University of Oslo).

Rendal, S., & Westerby, T. (2010). *Hvilke forventninger har revisor i forhold til brukere av finansiell informasjon når det gjelder revisors plikter til forebygging og avdekking av misligheter? (What expectations does the auditor have in relation to users av financial information concerning auditor responsibility for prevention and detection of misconduct?)*. Oslo: [S. Rendal].

Silverstone, H., & Sheetz, M. (2003). *Forensic accounting and fraud investigation for non-experts*. Hoboken: Wiley.

Szalma, J. L., & Hancock, P. A. (2013). A signal improvement to signal detection analysis: Fuzzy SDT on the ROCs. *Journal of Experimental Psychology: Human Perception and Performance, 39*(6), 1741–1762.

Wildman, J. L., Salas, E., & Scott, C. P. R. (2014). Measuring cognition in teams: A cross-domain review. *Human Factors, 56*(5), 911–941.

Chapter 4
Private Internal Investigations

The purpose of an internal investigation by fraud examiners is to reconstruct the past. The past may be an event or a series of events where, for example, someone did something to somebody. Events are typically negative and have caused some damage. The goal of an investigation is to uncover the facts in a particular situation. In doing so, the truth about the situation is the ultimate goal. A private investigation is mainly after the facts, with the goal of determining how a negative event occurred or the goal of determining whether the suspected action occurred at all. The goal may also be to prevent a situation from ever occurring in the first place or to prevent it from happening again.

Private fraud investigators are not in the business of law enforcement. They are not to find private settlements when penal laws are violated (Schneider 2006). Their task is to reconstruct the past as objectively and completely as possible. They are not in the blame game business (Gottschalk 2016).

Internal private investigations examine facts, sequence of events, and the causes of negative events as well as who are responsible for such events. Pending on what hiring parties ask for, private investigators can either look generally for possible corrupt or otherwise criminal activities within an agency or a company or look more specifically for those committing potential white-collar crime. In other situations, it is the job of the private investigators to look into potential opportunities for financial crime to occur so that the agency or company can fix those problems in order to avoid misconduct down the road.

Internal investigations include fact-finding, causality studies, change proposals, suspect identification, and assessment of financial irregularities. The form of inquiry aims to uncover unrestricted opportunities, failing internal controls, abuse of position, and any financial misconduct such as corruption, fraud, embezzlement, theft, manipulation, tax evasion, and other forms of economic crime.

Characteristics of a private investigation situation include a serious and unusual event and an extraordinary examination to find out what happened or why it did not happen, develop explanations, and suggest actions toward individuals and changes in systems and practices. A private investigator is someone hired by individuals or

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organizations to undertake investigatory services. A private investigator also goes under the titles of a private eye, private detective, inquiry agent, fraud examiner, private examiner, financial crime specialist, or PI (private investigator) for short. A private investigator does the detailed work to find the answers to misconduct and crime without playing the roles of a prosecutor or a judge. The PI stops the investigation before passing any judgment on criminal liability.

An internal investigation is a goal-oriented procedure for reconstructing past events. It is a procedure of creating an account of what has happened, how it happened, why it happened, and who did what to make it happen or let it happen. An internal investigation is a reconstruction of past events and sequence of events by collecting information, developing knowledge, and presenting evidence (Osterburg and Ward 2014).

Internal private investigations typically have the following characteristics:

- Extraordinary examination of suspicions of misconduct and crime.
- Goal-oriented data collection.
- Based on a mandate defined by and with the client.
- Clarify facts, analyze events, and identify reasons for incidents.
- Evaluate systems failure and personal misconduct.
- Independent, careful, and transparent work.
- Client is responsible for implementation of recommendations.

White-collar crime investigations are a specialized knowledge industry. Williams (2005) refers to it as the forensic accounting and criminal investigation industry. It is a unique industry, set apart from law enforcement, due to its ability to provide “direct and immediate responsiveness to client objectives, needs, and interests, unlike police who are bound to one specific legal regime” (Williams 2005). The industry provides flexibility and a customized plan of attack according to client needs.

Investigations take many forms and have many purposes. Carson (2013) argues that the core feature of every investigation involves what we reliably know. The field of evidence is no other than the field of knowledge. There is an issue of whether we can have confidence in knowledge. Confidence in knowledge occurs when knowledge is documented in terms of evidence. A private investigator accumulates knowledge about what happened.

Reasons for Private Investigations

Criminal investigation is initiated when there is a need to study negative incidents and events that happened in the past. Contrary to the police, regulators, and other investigative agencies, forensic accounting and corporate investigation firms are able to conduct their investigations under a cloak of secrecy providing resolutions that are largely private in nature and which help to safeguard the client from embarrassment and unwanted publicity. Many companies want to deal with misconduct

internally by resolving the matter by themselves. They want no publicity. They want to avoid courts, for example, because they do not want their shareholders, customers, or suppliers to see that misconduct and crime have occurred. Cases are resolved through informal means such as negotiated settlements and termination of an offending employee (Williams 2014).

Corporations and other organizations value the possibility of secrecy, discretion, and control that private specialists bring to investigations. Openness could lead to problems such as reputational loss, which can have economic repercussions. While private investigations can consider secrecy, openness is a key characteristic of a public criminal justice procedure. Meerts (2014) argues that the reluctance of victim companies to report crime to the police because of fear of reputational damage is a well-researched subject. Reputational damage provides a motivation for a company to avoid publicity (Dupont 2014: 272):

> The reputation of a company represents a valuable asset that can quickly become a liability when the erosion of customers' and suppliers' trust provokes a loss of competitiveness. Shareholders are also very receptive to such signals and several security managers explained how their performance was indirectly tied to their company's public valuation. The ambiguity that characterizes this risk category explains why contract security firms providing investigative and consulting services of all sorts are routinely called in before the police – when the police are involved at all – in order to minimize external scrutiny and to maximize procedural control.

An important advantage of private investigations is legal flexibility. After an internal investigation, the client can choose from an array of legal alternatives and can decide which is best for the current case. Law enforcement however is more limited, generally working toward a criminal prosecution or taking no further action by dismissing the case. Minimizing and repairing damage is often the focus of private investigations, and thus other legal possibilities than those provided by criminal law are attractive. Employers often have nothing to gain by triggering a criminal justice procedure (Meerts 2014).

Another advantage of private investigations is private examiners' role in the deterrence of fraud. The principle of deterrence is important in the perspective of convenience theory as described below. However, poor investigations do not deter people from committing fraud.

Private sector investigative consultants conduct inquiries for their clients in cases of suspected corporate crime. Recent developments internationally when it comes to corporate criminal liability have led many business and government organizations to recruit consultants to develop internal compliance systems because the function of such systems is increasingly taken into account by prosecution authorities.

While public police are bound to the legal definitions of criminal conduct, corporate security is more flexible and can adapt to the definitions provided by their clients. Private investigators can focus exclusively on the occurrences pointed out as problematic by their clients. This means that private investigators can examine behavior harmful to their clients that is not criminal and, conversely, that they can ignore behavior that is criminal but not damaging to their client (Meerts 2014).

Internal investigations in private and public organizations serve important functions in society. They allow entities to discover misbehavior within management, make corrections, and define future conduct to assure compliance with laws, regulations, policies, and guidelines. Private investigations offer organizational solutions to organizational problems, while providing an incentive to corporations and public authorities to unmask misconduct. Internal investigations also allow corporations as well as other organizations to quietly examine allegations that may later prove to be wrong, without fear that disclosure will hurt the organization's or an individual's reputation (Green and Podgor 2014).

Another reason for private internal investigations is that white-collar crime often is a difficult crime for police to handle. Police forces and their resources are frequently stretched thin and mainly focused on potential terrorism, physical violence, and threats to the health of citizens. Successful prosecutions of white-collar crime are frequently knowledge and labor intensive, and a decision has to be made as to where people and man-hours are going to be allocated (Brooks and Button 2011).

The main purpose of an investigation is to establish if, how, where, when, why, and by whom misconduct or crime was committed. To do this, detectives must discover, collect, check, and consider clues from various sources of information and try to construct a coherent account of the event. In some cases this is straightforward, but in others the challenge is considerable (Fahsing 2016). An inquiry is a process that has the aim of augmenting knowledge, resolving doubts, or solving a problem.

According to Fahsing (2016), an investigation can be perceived as sensemaking and abductive logic or as hypothesis testing. In abducting reasoning, an investigator tries to presume potential facts by using supporting facts. In hypothesis testing, an investigator tries to collect evidence that can be both in favor of and in disfavor of a hypothesis.

Private Fraud Examinations

Fraud investigations into individuals and organizations by private investigators have increased in intensity. No amount of legislation can protect against dishonesty (Coburn 2006). When an organization wants to investigate facts, causes, and responsibilities for an incident, the investigation can be carried out by financial crime specialists and fraud examiners. Fraud examination has elements of intelligence, investigation, as well as analysis, like we know it from police work. Characteristics of inquiries where the term fraud examination is used include fact-finding, causality study, change proposals, and suspect identification.

Fraud examination as intelligence emphasizes the systematic and goal-oriented collection of information that is transformed and analyzed according to a rigid procedure to detect suspects' capacity, dispositions, and intentions. The purpose is to improve both prevention and detection of crime. Risk-based techniques can be applied to survey environments and persons in order to collect information on their

moves. Intelligence can also be defined as the result of information collection about possible offenses and potential suspects to make conclusions about threats, point out problems, and identify criminal activity with an intention to follow the case.

Fraud examination as investigation is systematic and goal-oriented collection of information to confirm or disconfirm that an action is crime and that the actor is a criminal. Investigation is to prepare evidence for court proceedings. An investigation occurs only when something wrong has happened, while intelligence occurs when something wrong might happen.

Fraud examination as analysis is the process of breaking down a complex material or subject into smaller pieces to improve understanding and insight into the case. Analysis is to create meaning based on data by manipulating, interpreting, and reorganizing the structure of collected evidence. To analyze is to ask questions such as what, where, how, who, when, and why. What happened? How did it happen? Why did it happen? Elements of know-what, know-how, and know-why are created through analysis.

While fraud examination has elements of intelligence, investigation, and analysis as we know it from police work, it is something different. For intelligence, something might happen. For investigation, something has happened. For analysis, evidence is to be produced. In fraud examinations, something might happen or something has happened. Fraud examiners do not know when they start their work.

Wikipedia applies the following definition of a private investigator:

> A private investigator (often abbreviated to PI and informally called a private eye), a private detective or inquiry agent, is a person who can be hired by individuals or groups to undertake investigatory law services. Private detectives/investigators often work for attorneys in civil cases. A handful of very skilled private detectives/investigators work with defense attorneys on capital punishment and criminal defense cases. Many work for insurance companies to investigate suspicious claims. Before the advent of no-fault divorce, many private investigators were hired to search out evidence of adultery or other conduct within marriage to establish grounds for a divorce. Despite the lack of legal necessity for such evidence in many jurisdictions, according to press reports collecting evidence of adultery or other "bad behavior" by spouses and partners is still one of the most profitable activities investigators undertake, as the stakes being fought over now are child custody, alimony, or marital property disputes.
>
> Private investigators can also be used to perform due diligence for an investor who may be considering investing money with an investment group, fund manager or other high-risk business or investment venture. This could serve to help the prospective investor avoid being the victim of a fraud or Ponzi scheme. By hiring a licensed and experienced investigator, they could unearth information that the investment is risky and or that the investor has suspicious red flags in his or her background. This is called investigative due diligence, and is becoming much more prevalent in the 21st century with the public reports of large-scale Ponzi schemes and fraudulent investment vehicles such as Madoff, Stanford, Petters, Rothstein and the hundreds of others reported by the SEC and other law-enforcement agencies.

Wells (2003) argues that becoming a fraud examiner – a kind of a financial detective – is not for everyone. Detectives – either in law enforcement or in the private sector – typically have distinct personality traits. They need to be as good with

people as they are with numbers, and they need to be inclined to be aggressive rather than shy and retiring.

Gill and Hart (1997) found that the market for private fraud examinations is growing; because client companies are rarely keen to involve the police in fraud investigations, a prosecution may expose them to speculation about their internal procedures. Corporate clients tend to take the greatest care to ensure the confidentiality of the investigations they commission. Private investigators receive instructions to examine various kinds of fraud.

Financial Crime Specialists

The Association of Certified Financial Crime Specialists (ACFCS) was created to respond to a growing need for documented, verifiable, and certifiable knowledge and skill in the financial crime field and to meet the career development needs of the diverse and growing number of specialists in the private and public sectors who work in this field (CFCS 2013).

ACFCS is a member organization that provides training, news, analysis, and networking to a worldwide membership of professionals in financial crime field. ACFCS awards the Certified Financial Crime Specialist (CFCS) certification to persons who meet certain qualifications and pass a rigorous examination offered at 700 authorized testing centers worldwide. It is a credential that tests competence and skill across the financial crime spectrum, including money laundering, corruption, tax evasion, compliance, investigations, and other fields.

A private investigation is conducted by a variety of private sector financial crime specialists who can be investigators, forensic accountants, or lawyers, all whom may be supported by investigative analysts, who the government usually calls intelligence analysts.

ACFCS stresses the importance of the following topics for financial crime specialists:

1. The challenge of financial crime
2. Financial crime overview, commonalities, and convergence
3. Money laundering
4. Understanding and preventing fraud
5. Global anti-corruption compliance and enforcement
6. Tax evasion and enforcement
7. Asset recovery
8. Financial crime investigations
9. Interpreting financial documents
10. Money and commodities flow
11. Compliance programs and controls
12. Data security and privacy
13. Ethical responsibility and best practices

14. International agreements and standards

In the United Kingdom, it is expected that companies contribute to detection of law violations in terms of self-reports. For a self-report to be taken into account as a public interest factor tending against prosecution, it must form part of a genuinely proactive approach adopted by the corporate management team. Prosecutors will consider whether it has provided sufficient information, including making witnesses available and disclosing the details of any internal investigation, about the operation of the corporate body in its entirety. This is according with the UK serious fraud office guidance on corporate prosecutions.

According to the UK serious fraud office guidance on corporate prosecutions:

1. Initial contact, and all subsequent communication, must be made through the SFO's Intelligence Unit. The Intelligence Unit is the only business area within the SFO authorized to handle self-reports.
2. Hard copy reports setting out the nature and scope of any internal investigation must be provided to the SFO's Intelligence Unit as part of the self-reporting process.
3. All supporting evidence including but not limited to emails, banking evidence, and witness accounts must be provided to the SFO's Intelligence Unit as part of the self-reporting process.
4. Further supporting evidence may be provided during the course of any ongoing internal investigation.

ACFCS – www.acfcs.org – offers the CFCS certification exam from its headquarters in Miami, Florida. This is the CFCS examination outline:

- Understanding financial crime: Financial crime commonalities, money laundering controls and investigation, ethical responsibility, and best practices
- Investigating financial crime: Financial crime investigation, fraud detection and investigation, money and commodities flow
- Enforcement actions and mechanisms: Tax evasion and enforcement, asset recovery
- Compliance: Programs and controls, global anti-corruption compliance and enforcement, international regulations and standards, data security and privacy

The University of New Haven and the Association of Certified Financial Crime Specialists (ACFCS.org) announced in 2013 that the Department of Criminal Justice at the University of New Haven was the first to offer a course leading ACFCS certification. Students enrolled in the course on Investigating Financial Crimes were to learn the legal, ethical, and practical aptitudes necessary to become financial crime specialists. The course was to use the 340-page CFCS Certification Exam Study Manual and online, on-demand preparation course from ACFCS as its educational materials (www.newhaven.edu).

Certified Fraud Examiners

The Association of Certified Fraud Examiners (ACFE) was created for similar reasons as the ACFCS. Becoming a certified fraud examiner requires documented academic and professional qualifications. Formal education in the fraud examination field is new and limited (Wells 2003). The ACFE website (www.acfe.com) addresses the needs of ACFE members and also provides free resources to general public (Anders 2006). Certified fraud examiners have ample career opportunities, since the CFE certification was created in response to the demand for expertise in fraud prevention and detection (Morgan and Nix 2003).

Perhaps Debbie Cutler was born to be a fraud examiner (Wells 2003: 77):

> "When I was young, my family referred to me as Perry Mason," she said. "I was a very inquisitive child who wouldn't give up until I got the answers." It was happenstance that led her to combine her natural talents with her accounting degree. "I'd spent 10 years in public accounting performing traditional audit work," Cutler said. "One day a partner invited me to help investigate an accounting malpractice case that included fraud allegations against a U.S. senator. I jumped at the chance, and as it turned out, I loved the work."

Like in other countries, investigators in the United States have a variety of backgrounds. It is not only lawyers, accountants, and business consultants who are investigators. Sociologists and criminologists may also undertake tasks relating to the investigation. Examples are mentioned by Kennedy (2013), who writes about forensic sociology and criminology. Investigation by sociologists and criminologists might be concerned about people who have neglected responsibility, people who have abused their positions, or organizations where training and guidelines have been missing.

Thus, fraud examiners encompass a wide array of professions, including auditors, accountants, fraud investigators, loss prevention specialists, attorneys, educators, sociologists, and criminologists. While fraud examiners in the United States can work independently, many are also member of the ACFE. Fraud examiners provide a broad range of services to businesses and governmental agencies as either employees or independent consultants (ACFE 2008). A fraud examiner may assist in a fraud investigation by procuring evidence, taking statements, and writing reports (Machen and Richards 2004).

When hiring a fraud examiner, a company should seek an evaluation that is both disinterested and reliable (Machen and Richards 2004: 68):

> These objectives, however, can occasionally conflict. Where employees within the organization conduct the fraud investigation, the results of such an investigation may be considered suspect because they are obtained by parties who are or at least appear to be biased. Thus, while the company may prefer to use examiners with historical knowledge and details about the company, personnel, and accounting systems, their retention may raise issues of credibility. On the other hand, while the investigation of a fraud examiner who has no prior connection with the company may be unbiased, the resulting evaluation may also exhibit the examiner's inexperience with the particular organization and its business practices.

In balancing the twin goals of disinterestedness and reliability, Machen and Richards (2004) suggest that a company should consider the purpose of the investigation. Where the results are to be used in-house or where the company is simply establishing a fraud prevention system, there is less concern regarding credibility. Thus, a fraud examiner who has knowledge of the business may be a smarter choice in that instance because of such examiner's familiarity with the company. In contrast, where information from the fraud investigation may be subject to scrutiny by those outside the company, the appearance of disinterestedness becomes more critical, and the company should consider hiring an independent fraud examiner.

Within the broad category of fraud examiners are forensic accountants who specialize in a unique brand of accounting that departs from the traditional methods employed in the accounting field (Machen and Richards 2004).

Similar to the situation in the United Kingdom, where companies are expected to contribute to detection of law violations in terms of self-reports, companies in the United States are expected to make disclosures. Prosecutors in the United States consider whether the company made a voluntary and timely disclosure as well as the company's willingness to provide relevant information and evidence and identify relevant actors inside and outside the company, including senior executives. This is according to a resource guide to the US foreign corrupt practices act.

In their report to the nations on occupational fraud and abuse, ACFE (2014) analyzes more than a thousand cases of occupational fraud. The majority of cases reported (61%) were referred to law enforcement for criminal prosecution. The median loss for cases referred to prosecution was $200.000, while cases that were not referred had a median loss of $75.000.

The Association of Certified Fraud Examiners is not a US-only organization. The CFE designation is an international designation, and the ACFE has reported approximately 40% of its membership is outside of the United States. These are all fraud fighters. Rumors tell that there are at least 16 CFEs in Norway. Some of these individuals work at the large accounting firms and may have been involved in fraud examination reports presented later in this book.

Police Versus Internal Investigations

An investigation is an investigation, regardless of whether the investigator belongs to a police agency or a private firm. The goal is to uncover the facts in a particular situation. In doing so, the truth of the situation is the ultimate objective. However, an investigation by the police is going to start with a crime, or a suspected crime, and the end goal is going to arrest and successfully prosecute the guilty person(s) or, alternatively, dismiss the case because of innocence or lack of evidence. A private investigation is mainly after the facts, with the goal of determining how a negative event occurred or with the goal of determining whether the suspected action occurred at all. The goal might also be to prevent a situation from ever occurring in the first place or to prevent it happening again. Of course, if there was no event,

there is nothing to investigate. Fraud awareness as prevention and fraud investigations can be carried out separately and have different objectives.

The purpose of an internal investigation is to define the points to prove and then collect documentary, interview-based, and other evidence which either confirms these or finds that there is no case to answer. These conclusions and the evidence, on which they are based, are set out in a report which should then considered by a person or people external to, and independent from, the investigation process.

Police investigations differ from private investigations because they aim to convict a person of a crime or dismiss a person from the case, while internal investigations are used more to evaluate potential for economic crime to occur and to get rid of the issue internally rather than through the involvement of the police.

Private investigators tend to be offence focused, while police investigators tend to be suspect focused. However, despite these differences there is sufficient commonality between the two types of investigation so as to make cooperation and joint working between the two possible. For example, they each gather intelligence on accepted cases, interview suspects in accordance with defined procedures, and preserve evidential continuity. In addition, both separate intelligence from investigation, employ trained and qualified staff, use credit reference and other publically available data, record their investigations in a computerized case management system, and utilize interview rooms and evidence storage.

The roles of police officers and private investigators are different in the fact that they do not have the same powers. Police officers have strict rules that they have to follow within their department. They are responsible for following the rules and guidelines set before them by their law enforcement unit. Private investigators have more freedom to explore and conduct inquiries into suspected crime and criminals. However, the police officers' advantage is their ability to seize documents and subpoena the guilty party. The police have formal power in terms of law enforcement on behalf of society. While private police have less power in their work, they enjoy more freedom in how they do their work. Private investigators do not have the same powers as the police, and neither has to work according to strict guidelines such as the police.

The government allows the police to conduct special investigation activities such intrusive inquiry, covert human operations, infiltration, surveillance, and covert recording of communications. The police may set up undercover enterprises, institutions, organizations, and units. During undercover questioning, law enforcement officers can mask their identity or purpose of the questioning.

The criticism that comes with white-collar crime is the cost of policing fraud. When dealing with small internal frauds, "police would be called but often they did not offer help" (Brooks and Button 2011: 307). The lack or number of limited resources has constrained the police force in dealing with fraud. The private sector have criticized the police for their lack of willingness to tackle the issue of investigating fraud, but it is sometimes out of their control when resources are not available to confront the issue. It is sometimes also a question of whether the police view fraud as a serious crime or if they have the capabilities in education and training to tackle economic crime (Button et al. 2007a, b).

Organizations may feel that the police lack commitment to their cases and not report it. Their next step might be to report it to the private investigation sector. This can result in problems in which fraud may be seen as a private matter and "can downgrade the seriousness of the offence as it does not require a public 'state' sanction, censure and condemnation and is hidden, and dealt with in-house in a secretive manner" (Brooks and Button 2011: 310). People go to private investigators when they feel that the police will not take their issues seriously. However, the police still hold power when preparing an arrest and identifying whether or not a place is relevant for search of evidence. The police must be present when an unwanted search occurs on business premises or homes.

Gill and Hart (1997) argue that distinctions between public and private forms of policing are becoming increasingly blurred, and a number of hybrid organizations have materialized as gray policing. The two sectors overlap in different ways. While the public police have traditionally expressed skepticism about the caliber of their private sector counterparts, there are number of examples of effective cooperation as well. In some instances, public police have benefited from an additional source of relevant information.

Private investigators have the criticism of whether or not they have a bias toward the client that hires them to investigate the organization. They are the ones usually paid to do the investigation by the client to find something out of the ordinary. This can cause a bias when conducting their research. The private investigator might report in the client's favor because they are the ones paying for the investigation. The investigator might not want to go against the client that is paying for their service. This will result in a negative effect toward the other parties involved. Clients "may themselves attempt to influence investigations in order to limit lines of responsibility and produce narrow interpretations of incidents" (Williams 2005: 199). There will then be "a constant tension between commercial imperatives and professional standards" in white-collar crime investigations (Williams 2005: 199).

A private investigator can potentially challenge the rule of law by taking on all three roles of police investigator, public prosecutor, and court judge. This kind of privatization of law enforcement can represent a threat to the criminal justice system in democratic societies (Gottschalk 2016).

Private investigators may work alongside police detectives in order to collect evidence. Direct evidence is physical proof of an illegal act such as forensic samples such as hair, clothing fibers, or computer documents. Indirect evidence is collected through interviewing witnesses or potential accomplices or through someone identifying the offender, for example, in a photograph (Carson 2013).

Witness intimidation should be minimized or completely avoided in interviews. Certain witnesses to an investigation might feel intimidated by the alleged wrongdoer, even by the simple fact that the alleged wrongdoer is in the workplace. Even worse, the alleged wrongdoer (and even the complainant) might intimidate, harass, or retaliate against witnesses in an attempt to influence the outcome of an investigation. Extreme circumstances might require removing the suspect, the complainant, or witnesses from the workplace via paid suspension.

Implications from Convenience

Convenience theory has implications for investigations of white-collar crime. Convenience theory suggests that white-collar crime can be explained by economical motive, organizational opportunity, and deviant behavior. Economical motives can be both for personal profit by occupational crime and organizational profit by corporate crime. Investigating illegal personal profit will typically be concerned with embezzlement from employers, receipt of bribes from suppliers, or other activities where an individual abuses his or her position for personal gain. The investigation will focus on transactions initiated by suspected individuals. Investigating illegal corporate profit will typically be concerned with financial manipulation, provision of bribes to customers, or other activities where a corporate executive abuses his or her position to improve business performance. The investigation will focus on activities to reach business goals.

Organizational opportunity can be found in power and influence that individuals enjoy in inter-organizational relationships as well as intraorganizational relationships. Investigating organizational opportunities will typically be concerned with power structures as well as formal and informal decision-making in the business. Degrees of freedom for top executives should be examined to determine the extent to which their activities are monitored by others in the organization. Goal achievements should be studied in terms of means that were applied.

Deviant behavior can be found in the culture where individuals are allowed to determine for themselves how they do their job, while others determine what they should achieve. Given a description of what performance outcome should be, it is left to key personnel discretion how performance outcome emerges. If traditional as well as nontraditional behaviors are allowed as long as outcomes match goals, and if transparency is lacking, then investigations should focus on incidents of deviant behavior reported by whistle-blowers and other sources of information.

Lee and Fargher (2013) studied variation in the extent of whistle-blowing disclosures. As a measure of whistle-blowing implementation, they examined the provision of a hotline channel. Their results suggest that the extent of whistle-blowing disclosures is positively associated with the permissibility of anonymous reporting and organizational support for whistle-blowing, the number of external directors on the audit committee, and the existence of concentrated shareholdings. The findings also indicate a greater likelihood of the provision of hotlines when companies are larger in size, have a higher level of current inventory, and permit anonymous reporting. A standard reporting policy may lack credibility. Mere disclosures within a whistle-blowing policy do not guarantee that a good whistle-blowing system is in place. Therefore, reporting hotlines seem more effective in detecting fraud.

References

ACFE. (2008). *2008 Report to the nation – On occupational fraud & abuse*. Austin: Association of Certified Fraud Examiners.

ACFE. (2014). *Report to the nations on occupational fraud and abuse, 2014 global fraud study*. Austin: Association of Certified Fraud Examiners.

Anders, S. B. (2006, August). Website of the month: Association of Certified Fraud Examiners. *The CPA Journal, 76*(8), 71.

Brooks, G., & Button, M. (2011). The police and fraud investigation and the case for a nationalized solution in the United Kingdom. *The Police Journal, 84*, 305–319.

Button, M., Frimpong, K., Smith, G., & Johnston, L. (2007a). Professionalizing counter fraud specialists in the UK: Assessing progress and recommendations for reform. *Crime Prevention and Community Safety, 9*, 92–101.

Button, M., Johnston, L., Frimpong, K., & Smith, G. (2007b). New directions in policing fraud: The emergence of the counter fraud specialists in the United Kingdom. *International Journal of the Sociology of Law, 35*, 192–208.

Carson, D. (2013). Investigations: What could, and should, be taught? *The Police Journal, 86*(3), 249–275.

CFCS. (2013). *CFCS Certification Examination Study Manual* (4th ed.). Miami: Certified Financial Crime Specialist, Association of Certified Financial Crime Specialists.

Coburn, N. F. (2006). Corporate investigations. *Journal of Financial Crime, 13*(3), 348–368.

Dupont, B. (2014). Private security regimes: Conceptualizing the forces that shape the private delivery of security. *Theoretical Criminology, 18*(3), 263–281.

Fahsing, I. A. (2016). *The making of an expert detective: Thinking and decising in criminal investigations*. Gothenburg: Department of Psychology. University of Gothenburg.

Gill, M., & Hart, J. (1997). Exploring investigative policing. *British Journal of Criminology, 37*(4), 549–567.

Gottschalk, P. (2016). *Understanding white-collar crime: A convenience perspective*. Boca Raton: CRC Press, Taylor & Francis.

Green, B. A., & Podgor, E. (2014). Unregulated internal investigations: Achieving fairness for corporate constituents. *Boston College Law Review, 54*(1), 73–126.

Kennedy, D. B. (2013). Applications of forensic sociology and criminology to civil litigation. *Journal of Applied Social Science, 7*(2), 233–247.

Lee, G., & Fargher, N. (2013). Companies' use of whistle-blowing to detect fraud: An examination of corporate whistle-blowing policies. *Journal of Business Ethics, 114*, 283–295.

Machen, M. J., & Richards, R. E. (2004). The use of fraud examiners in the battle against occupational fraud and abuse. *The Journal of Investment Compliance*, Winter, 67–71.

Meerts, C. (2014). Empirical case studies of corporate security in international perspective. In K. Walby & R. K. Lippert (Eds.), *Corporate security in the 21st century – Theory and practice in international perspective* (pp. 97–115). Hampshire: Palgrave Macmillan.

Morgan, M., & Nix, W. (2003). CPA perceptions of the marketability, career enhancements and quality of services of certified fraud examiners. *The Southern Business and Economic Journal, 3*, 31–50.

Osterburg, J. W., & Ward, R. H. (2014). *Criminal investigation: A method for reconstructing the past* (7th ed.). Waltham: Anderson Publishing.

Schneider, S. (2006). Privatizing economic crime enforcement: Exploring the role of private sector investigative agencies in combating money laundering. *Policing and Society, 16*(3), 285–312.

Wells, J. T. (2003). The fraud examiners. *Journal of Accountancy*, October, 76–80.

Williams, J. W. (2005). Governability matters: The private policing of economic crime and the challenge of democratic governance. *Policing and Society, 15*(2), 187–211.

Williams, J. W. (2014). The private eyes of corporate culture: The forensic accounting and corporate investigation industry and the production of corporate financial security. In K. Walby & R. K. Lippert (Eds.), *Corporate security in the 21st century – Theory and practice in international perspective* (pp. 56–77). Houndmills: Palgrave Macmillan.

Chapter 5
Internal Investigation Approaches

Distinctions can be made between person-oriented investigation, place-oriented investigation, archive-oriented investigation, and technology-oriented investigation.

Person-Oriented Investigation

Traditionally, crime suspicion is handled by talking to people who may have some relevant information. This approach is called person-oriented investigation, where suspects and witnesses are interviewed.

Financial crime investigators take testimony of witnesses. Testimony may explain records and transactions, clarify relationships, identify leads, and establish organizational structures. Records and documents do not speak for themselves and are often created to mislead. Interviewing skills are critical.

Informants usually request anonymity, which may make their information inadmissible, but a source of excellent leads and intelligence.

As argued by Williams (2005), there are many sides to every question and many questions for every accusation in white-collar crime investigations. The issues in dispute are seldom simple or easily understood, and each questionable issue may be inescapably intertwined with other equally ambiguous issues.

Nevertheless, it remains the duty of the investigator to seek the truth by identifying relevant facts about events (Williams 2005: 142):

> During any investigation, facts will appear from many sources, but the spoken word remains the most important source of all the forms of evidence available to the investigator.

Thus, few skills are as important to the white-collar crime investigator as having command of the techniques for interview and interrogation. In financial investigations, evidence often develops in small bits and pieces (Williams 2005).

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Law enforcement agencies have clear powers to interview suspects after appropriate warnings and notices are issued. However, in conducting private investigations, fraud examiners may be required to interview persons with their consent. The purpose of such an interview is to obtain information, not to judge anyone. If witnesses are interviewed, the investigator should have prepared a list of questions. These should be wide enough to be flexible, but should have a structure of questioning that sets out to establish the required evidence (Coburn 2006).

In person-oriented investigation, the most important rule is to listen and let the interviewee do the talking. The second most important rule, according to Coburn (2006), is to be organized and for the investigator to control the process. The interviewee may be asked to attend a private office at a time and place in an area controlled by the investigative team. Interviewees should be asked if they consent to the conversation being recorded. It should be explained to the interviewee what the investigation is about. This is helpful to both parties because it helps prevent interpretations being placed on information.

Place-Oriented Investigation

Forensic accountants may perform a variety of fieldwork such as inspecting company facilities to investigate whether goods and equipment are in accordance with company records (Machen and Richards 2004).

There are almost no limits to the evidence that can be obtained by a well-drafted and properly executed search on relevant sites. The seizure may be financial information, videotapes, transaction records, and many other things.

It is important that data losses are prevented during an investigation. An investigation should look for any item that could be utilized in a computer forensic analysis. Then, the investigator should look around the possible suspects' work area for any type of digital equipment such as sync cables for cell phones or digital music devices which could be utilized to carry off numerous documents in digital format. Investigators may also look for Internet access cards, and care should be taken to match employee's HR record as to devices assigned to the employee with the devices found in the work area (McMahon et al. 2016).

McMahon et al. (2016) argue that there can be two schools of thought in regard to whether an investigator should shut down the computer to save data or make an attempt to save the computer's temporary data. Some professionals prefer shutting down or pulling the plug. The decision made on how to shut down the computer in order to save the most data would depend upon the configuration of the computer. There could be malicious software on the computer hindering data-saving techniques if the computer is not configured with standard tools and programs that technology staff normally will install on all computers. After the data is preserved, investigators can utilize a program such as Access Data Forensic Toolkit or Guidance Software Encase so that the computer data can be investigated without destroying it.

Archive-Oriented Investigation

Forensic accounting is the application of financial skills and investigative mentality to unresolved issues, conducted within the context of the rules of evidence. As a method, it encompasses financial expertise, fraud knowledge, and a strong knowledge and understanding of business reality and the working of the legal system. Expertise as part of the method represents skillful execution of knowledge and skill to achieve effective investigation results (Taylor et al. 2013). Forensic accountants turn traditional accounting principles on their head by questioning and investigating the accounting methods and financial practices of a company (Machen and Richards 2004: 68):

> Unlike traditional accountants who assume honesty and integrity in the examination of a corporation's finances, a forensic accountant typically will question figures and numbers until they are validated. For example, while the traditional accountant may examine a company's records to determine whether they are accurate, the forensic accountant will search for badges of fraud in financial statements, balance sheets, and underlying corporate documents. Furthermore, as part of their investigations, forensic accountants may perform a variety of fieldwork from inspecting company facilities to participating in witness interviews. Accordingly, a forensic accountant may be useful not just in assisting an organization create a fraud prevention program, but may also detect and identify instances and responsible parties once the organization has determined that fraud has in fact occurred.

A financial crime specialist needs to interpret and handle financial documents as if they will be used in a legal case. During the investigation it may be hard to know what will be relevant, so all documents must be treated with an assumed degree of relevance. For the financial crime investigator, financial statements are viewed as a source of leads to specific financial transactions that could form the basis of violations of criminal and civil law and regulations. The financial specialist's job is to discover the story behind the numbers. Chain of custody procedures includes a documented chronology of the handling of the document or physical evidence. Important chain of custody documentation may include where the item was initially located, who collected it, where it was filed, and documentation of each person who handled it.

Technology-Oriented Investigation

One method of detecting improper activities in corporations where financial crime is suspected is through the use of information technology. Most organizational information is usually created and managed electronically. Computer forensics allows private investigators to uncover more of the facts, support otherwise unsubstantiated information, confirm or refute allegations, and analyze competing theories in relation to those facts. Computer forensics involves identifying, collecting, analyzing, and protecting large amounts of data and peripheral evidence (Newman 2009).

Computer forensics is defined as a scientific, systematic inspection of the computer system and its contents for evidence or supportive evidence of a crime or other computer use that is being inspected. It includes the art and science of applying computer systems to aid the inquiry process. Additionally, analytical and investigative techniques are used to examine this evidence and data that is magnetically stored or encoded using the binary number system. The computer might have been the target of some illegal activity, the medium through which the illegal activity is committed, incidental to the commission of the illegal activity, or a combination of the previous three (Newman 2009).

Data mining is about extracting information from large databases (Srinivasa et al. 2007, s. 4295):

> Data mining is a process of extracting nontrivial, valid, novel and useful information from large databases. Hence, data mining can be viewed as a kind of search for meaningful patterns or rules from a large search space that is the database.

Forensic Toolkit tells about their products in this way (http://www.accessdata.com/products/digital-forensics/ftk):

> FTK is a court-accepted digital investigations platform built for speed, stability and ease of use. It provides comprehensive processing and indexing up front, so filtering and searching is faster than with any other product. This means you can zero in on the relevant evidence quickly, dramatically increasing your analysis speed. The database-driven, enterprise-class architecture allows you to handle massive data sets, as it provides stability and processing speeds not possible with other tools. Furthermore, because of this architecture, FTK can be upgraded easily to expand distributed processing and incorporate web-based case management and collaborative analysis.

Some caution is needed before getting too excited about data mining, according to Lind et al. (2007):

> Whenever huge masses of personal data are stored at one place, and especially when tied to a system with the intelligence to tailor this data, there is enormous privacy risk. The idea is that strict access control surrounds the data. Will that be the case? We can only hope. We see a risk of abuse from corrupted personnel and from hackers or other intruders. Also, there is a risk that data be overly interpreted as true, and that end users be wrongly accused. With the ease in accessing and perhaps performing data mining on huge amounts of personal data, the risk that a police investigation might take the wrong turn is much greater.

Kroll Ontrack is a UK firm specializing in data recovery, information management, and computer forensics (http://www.krollontrack.co). Data stored on hard drives, mobile devices, and other damaged electronic media can be recovered. Specialized software can read files from damaged devices. Information management is combining documents, email, and other private investigation material. Computer forensics represents a shift away from paper files to an increased reliance on computers and other electronic devices to enhance efficiency. This shift has created new challenges for companies as they safeguard intellectual property, investigate fraud within their organizations, and protect their reputations from external threats.

Similarity is a concept applied in digital investigations. As humans we are used to apply similarity by visualization. For example, a picture in color is similar – in

fact identical – to the same picture in black and white. Information is carried in different colors versus shades of gray. Unfortunately, a computer is blind and cannot see. Similarity is applied by humans in content analysis, where word phrases are analyzed in terms of their meaning, for example, as positive or negative statements.

In digital investigations, Bjelland et al. (2014) define similarity in terms of syntactic versus semantic similarity. Syntactic similarity is from the perspective of a computer, while semantic similarity is from the perspective of a human. Two documents are semantically similar if they communicate the same meaning, while they are semantically identical if they communicate the same information.

In their article, Bjelland et al. (2014) suggest the application of approximate hash-based matching, also known as fuzzy matching, to identify data that might have similarity. Hatch-based algorithms are mathematical computer programs designed to match binary data by comparing sets of data from different files. Content-based matching computes the extent of difference between files.

A similar concept to data mining is process mining in auditing. Process mining aims to extract knowledge from the event logs maintained by a company's systems such as the enterprise resource planning (ERP) system. Jans et al. (2013) argue that the capabilities of process mining include (i) analysis of the entire population of data and not just a sample, (ii) data that can be entered independent of the actions of auditee, (iii) process mining that allows the auditor to have a way of implementing the audit risk model in terms of walkthroughs of processes and analytic procedures, and (iv) identifying social relationships between individuals. The latter capability is important, as crime is always committed by criminals and not by systems. Even when a malfunction in a system is programmed, the programmer is an individual.

Process mining is concerned with business processes, which is defined as a set of business activities that represent the steps required to achieve a business objective. The identification and analysis of processes is central to process mining. Event logs can be studied by forensic accountants. Event log data are captured from operating systems in the organization (Jans et al. 2013).

In a data mining case study by Jans et al. (2010), internal fraud detection is exemplified. As a first step, the business process most worthwhile investigating is selected. A characteristic that can counter high risk is the employment of senior managers with sophisticated IT experience. Second, the stored data is collected, manipulated, and enriched. Manipulation involves organizing the data in the structure and format that is needed for processing. Enrichment is the creation of extra attributes by combining or transforming attributes, e.g., computing ratios and averages. During step three, the technical data are translated into behavioral data. This translation builds upon domain knowledge and is not just a technical transformation. The core of the methodology, step four, is to apply descriptive data mining to obtain more insights into the behavioral data. The last step is to have domain experts audit observations.

Process mining diagnoses processes by mining event logs. This way one can expose opportunities to commit fraud in the followed process. A process with high risk of fraud is the procurement process (Jans et al. 2011).

Hypotheses Testing

Theory enables private investigators to create an overview over complexities in the real world by offering a verbal tool to organize a common and consistent understanding of reality (Colquitt and Zapata-Phelan 2007): A theory might be a prediction or explanation, a set of interrelated constructs, definitions, and propositions that presents a systematic view of phenomena by specifying relations among variables, with the purpose of explaining natural phenomena.

Investigators formulate hypotheses about what might have happened. Hypotheses represent assumptions about occurrences and assumptions about connections and cause-and-effect relationships. A hypothesis is an untested view of reality, a possible explanation of a phenomenon.

Did investigators, in case studies presented toward the end of this book, formulate and discuss competing hypothesis in their reports? As suggested by Brightman (2009), competing hypotheses represent analysis characterized by thorough examination of alternatives, identification of key bits of data that carry the most diagnostic weight, and painstaking attention to refuting hypotheses.

In an investigation of the Norwegian Football Association conducted by Lynx (2013), the following alternative hypotheses for crime categories might be formulated:

1. Risks of misconduct in terms of abuse of funds in football clubs
2. Risks of criminal behavior by participation in corruption when buying players
3. Risks of criminal behavior by participation in corruption when selling players
4. Risks of embezzlement, kickbacks, and abuse of funds
5. Risks of misleading accounting of costs when buying players
6. Risks of misleading accounting and taxation of income for foreign players
7. Risks of breaching rules when compensating trainers and reporting trainers' compensation

These seven hypotheses are alternatives for evidence collected in the investigation. Significant evidence and arguments include not only the facts known but also the opinions and points of view from analysts on the case and other experts. This type of evidence may result in further critical questioning about what one might expect to be seeing if, in fact, the evidence or opinion presented is indeed true (Brightman 2009).

Competing hypotheses are subject to key bits of data that carry the most diagnostic weight. Throughout the duration of this step two, it is important to look beyond the obvious and attempt to discover what is actually missing (Brightman 2009).

Investigative Thinking Styles

Financial crime specialists and fraud examiners might be compared to police detectives in their thinking styles and investigative approaches. As argued by Wells (2003), becoming a fraud examiner – a kind of a financial detective – is not for everyone. Detectives – either in law enforcement or in the private sector – typically have distinct personality traits. They are as good with people as they are with numbers and documents, and they are inclined to be curious, creative, and aggressive, rather than shy, isolated, and retiring.

Dean (2005) developed a set of four thinking styles, which later were enhanced by Staines (2013), as illustrated in Fig. 5.1:

- *Thinking style 1: Investigation as method*. Detectives describe this way of thinking as following a "method" that is driven by a set of basic procedural steps and conceptual processes for legally gathering information and building evidence. The method style is underpinned by a preference for following established rules and procedures, such as standard operating procedures, in order to gather information and build evidence in investigation.
- The investigator is trained in procedural steps of investigation and takes an evidence-focused rather than suspect-focused approach. According to Tong (2009b), the science of investigation exists in direct opposition to the conception of the art of investigation, which is related to the risk thinking style. The science of investigation is taught in classrooms and documented in manuals and

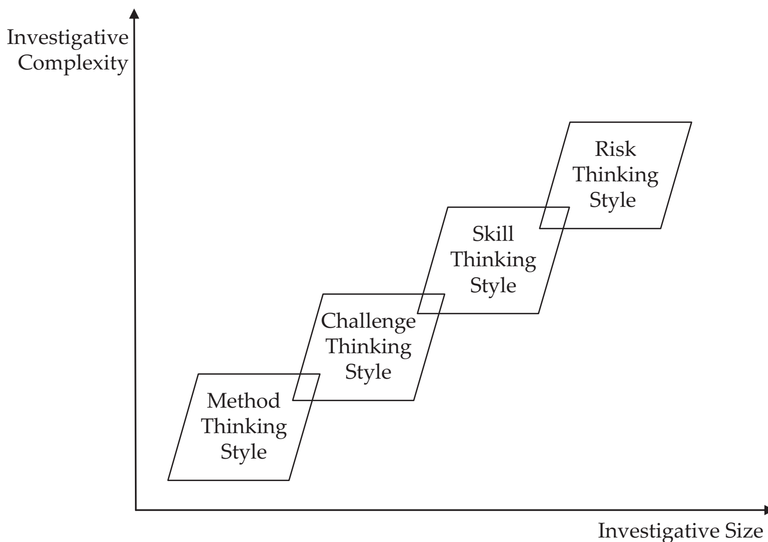

Fig 5.1 Contingent approach to investigative thinking styles

handbooks, while the art of investigation is stimulated by creativity as well as innovative and untraditional approaches.

- Method thinkers are characterized by the desire to avoid confusion, a rigidity of thought, and a reluctance to consider alternative views as long as they are not along the main lines of investigation. They process information extensively and carefully and focus their attention on a few critical hypotheses. They work within existing rules and frameworks. They are checking all the boxes on a check list. They apply a structured approach to investigative procedures.
- *Thinking style 2: Investigation as challenge.* Detectives describe this way of thinking as a "challenge" driven by the intensity that is generated by the four key processes of the job, the victim, the criminal, and the crime. The challenge style is underpinned by an intense motivation, and the job is perceived by the challenge thinker as an opportunity to fight crime and make community safe.
- There is also a perceived need to seek justice for the victim. The stimulating nature of whether or not a crime has occurred provides motivation for the challenge thinker, and generally, the more interesting the possible crime, the more challenged and motivated the detective becomes. Because the challenge thinking style often involves deep emotional involvement by the detective, it can lead to extreme feelings of sympathy and antipathy as well as immense satisfaction if the case is successfully solved. Alternatively, failure to solve the case can result in feelings of being a looser and extreme frustration.
- At the extreme, the challenge style can lead to the fragmentation of other aspects of the detective's life in such a way that often the price to be paid for this addiction to the investigative challenge is marriage problems, financial problems, and unstable private personality. The challenge thinker is really a crime fighter, as discussed by Siegel (2009). The challenge thinker is vulnerable to problematic outcomes in life if he or she is not able to mediate personal enthusiasm or passion for the job. Some level of drive and enthusiasm is of course necessary to maintain commitment to the job. However, it is more desirable for detectives to subscribe to the challenge style only to the extent that it keeps them interested and committed to their job and not to the extent they become overwhelmed and experience burnout. This is also important when considering the possibility of the challenge style acting as a force that can potentially motivate police honesty as well as private investigator honesty in an impatient search for answers (Goldschmidt and Anonymous 2008).
- Goldschmidt and Anonymous (2008) reviewed the circumstances that may lead police officers to act dishonestly. One reason was to see a case won, the suspect convicted and sent to prison, and justice seemingly served. Another reason was to respond to a system they perceive to be overly sympathetic toward offenders, while neglectful of victims, and which ignores the common sense and the expected guilt of offenders. These two circumstances are conceptually related to the challenge style, where the detective is motivated by the need to seek justice for the victim and rid the organization or the community of offenders.

- *Thinking style 3: Investigation as skill.* Detectives describe this way of thinking as a "skill" that requires a set of personal qualities and abilities that revolve around the central skill of relating effectively to a diversity of people at a number of different levels throughout an investigation. A detective who employs the skill style is successful at relating to and building relationships with others in order to ensure successful prosecution of a suspect.
- Relationships are built with witnesses, whistle-blowers, victims, suspects, and managers. In the case of police investigations, relationships are built with people in the criminal justice system, such as magistrates, judges, and juries. In the case of private investigations, relationships are built with the client, various internal and external information sources, as well as others involved in the investigation. In order to relate to the various individuals, the detective is required to master several abilities, such as communication, personal flexibility, investigative focus, and emotional detachment. The skill style is grounded by the notion of information as the lifeblood of an investigation, and the presumption is that most of the important investigative information comes from communicating with others.
- A detective has to be able to share and trade information with individuals who might be useful to the investigation. Sometimes there is a need to turn a blind eye in order to gather important case-related information. It is important to be persistent, yet fair. The detective needs to approach investigative interviewing with an open mind. Sometimes a detective needs to display a certain level of warmth, flexibility, and emotion in order to successfully communicate and retrieve important information. In this regard Tong (2009b) discussed the craft of detective work, which emphasizes the importance of understanding and being able to relate to others. It is important to be able to deal with individuals from a range of backgrounds, and it is also critical when questioning individuals who are suspected of having some form of mental illness, intellectual disability, or personality disorder (Herrington and Roberts 2012).
- *Thinking style 4: Investigation as risk.* Detectives describe this way of thinking as taking a "risk," which must be legally justifiable, in order to be proactive through the use of creativity in discovering and developing information into evidence. By taking proactive risks, the detective aims to create new leads. This proactivity revolves around three investigative processes: creativity (the creation of new/different ideas), discovery (of relevant and important information), and development (of information into knowledge and evidence). The risk style is particularly useful in protracted and complex investigations, whereby strict adherence to the method style has been unfruitful.

- The risk thinking style is underpinned by the notion of taking justified risk. Risks taken by detectives must be legally justifiable, logical (make sense as pertaining to the rest of the investigation), and laterally justified (that is, be economically and conceptually practicable). By taking proactive risks, the detective aims to create new leads. This proactivity revolves around three investigative processes: creativity (the creation of new and different ideas), discovery (of relevant and

important information), and development (of information into knowledge and evidence).

- Risk thinkers demonstrate creativity in their investigative approaches. Creativity and intuition are perceived as essential qualities of any criminal investigator. Fictional characters such as Sherlock Holmes have worked to further entrench these notions of the "born detective" who is naturally creative and intuitive. Detectives can be creative in their job by generating new ways of performing their work, by coming up with novel procedures and innovative ideas, and by reconfiguring known approaches into new alternatives.
- Detectives emphasizing the risk style tend to be entrepreneurs, who are characterized to see possibilities and openings where others see problems and locked doors, based on their intuition (Tong 2009a). Generally, an entrepreneur is a person who operates a new unit or venture and assumes some accountability for the inherent risk. It is a person who takes the risks involved to undertake a procedural venture. Entrepreneurship is the practice of starting new investigative steps or revitalizing mature procedures in response to identified opportunities.

Sometimes investigation can remind of a production line, where cases are investigated after each other, in a routine fashion (Corsianos 2003: 305):

> Detective work tends to parallel an assembly line; that is, detectives routinely process one case after the other with little or no difference in officers' investigative approaches and/or attitudes towards cases. But, police decision making and officers' overall treatment of cases are significantly influenced in specific situations. Specific factors such as the time and energy dedicated to solving the crime, the number of officers, technology, budget, and police attitudes towards the accused and officers' perception as to the seriousness of the case affect the investigation.

In the production line, experienced detectives are able to discern good from bad information intuitively and at the same time be creative in their approach to investigation. Historically, investigation has been thought of an art form resembling thinking style 4, because it is difficult to articulate and exists beyond procedures and protocols taught to recruits and novice detectives. The qualities that make a good investigator go beyond academic degrees, specialized training, or book learning, because all the theory in the world means nothing if the detective cannot read an organization in search of white-collar crime. In this respect, Tong (2009a) highlights the need to capture and articulate the qualities of the artistic and intuitive investigator so that they may be passed on.

Thinking styles can be viewed in a hierarchical continuum as illustrated in the figure.

Investigative complexity and time taken to complete investigation require more advanced thinking styles. This does not necessarily reflect the idea that one thinking style is better than another style. Instead, thinking styles are more or less appropriate depending upon complexity and time for investigation. While a less complex and new investigation might be solved using only the method style, a more complex and/or a more time-consuming investigation will require the challenge, skill or risk

styles, or a combination of these. This represents a contingent approach to investigative thinking styles, where the appropriateness of a thinking style is dependent on the investigative situation.

Investigative instinct is very important in conducting complex fraud examinations. Coburn (2006) argues that investigators tend to ignore other possibilities because there is no evidence, rather than using instinct to lead them to evidence. It is important to think outside the square.

The Case of Kelly Paxton

Kelly Paxton is a licensed private investigator. She has the web site www.pinkcollarcrime.com, where she presents herself:

> Everyone knows the saying White Collar Criminal (think Bernie Madoff and Martha Stewart), but when I say Pink Collar Criminal they get a blank look. Most people don't realize it but they probably are neighbors, co-workers, friends or acquaintances with either a Pink Collar Criminal or someone who has been embezzled by a Pink Collar Criminal. A Pink Collar Criminal can be a PTA mom, your dentist's office manager, and yes even someone's grandma. The statistics on Pink Collar Criminals are alarming. According to the FBI, male embezzlers have increased only 4% since 1990 while Pink Collar Criminals have increased over 40% during that time period.
>
> The term pink-collar crime was coined by Kathleen Daly during the 1980s to describe embezzlement type crimes that typically were committed by females based on limited opportunity. In this context, women were more likely to have committed low level crimes such as check kiting and book-keeping fraud from positions of less power compared to men who had engaged in acts of white-collar crime.
>
> In 2010 the Association of Certified Fraud Examiners Report to the Nations on Occupational Fraud and Abuse found that men were responsible for stealing larger amounts of money (median = $232,000) compared to women (median = $100,000). A handful of embezzlement studies, though dated, have focused on female offenders and have confirmed trends that women tend to commit embezzlement at a higher rate, steal less money. Women also invoke different rationalizations for their actions compared to men. The glass ceiling as we know it today represents women making about .81 on the dollar compared to men. However, when they steal they only steal about .43 on the dollar.
>
> Why did I become interested in Pink Collar Crime? When I started working at the Sheriff's Office I became intimately involved in seeing the devastation caused by small business embezzlements. What I did not know was the perp committing these crimes. When I was a federal agent most of my targets were typical White Collar Criminals—in other words men. Now I was seeing women who had violated the trust of their employers. Out of all the cases I worked at the Sheriff's Office there was only one male embezzler we came across. The rest were women. And all kinds of women: old, young and middle aged. Some gambled and some just wanted to keep up with the Jones'. Whatever their motivation, however, they did have two things in common–trust and opportunity.

Kelly Paxton works as a certified fraud examiner at Financial CaseWorks LLC which is a boutique investigative firm located in the Portland, Oregon area. The firm was established to assist in the detection and discovery of fraud-related matters. Embezzlement by trusted employees, background investigations of employees, due diligence on possible business relationships, and civil matters involving litigation

support are all types of cases with which Financial CaseWorks LLC can provide assistance.

Financial CaseWorks LLC specializes in the following areas of fraud detection (www.financialcaseworks.com):

- *Embezzlement.* A longtime-trusted employee is discovered to have embezzled funds from her employer. What does the employer do upon discovery? Financial CaseWorks LLC works with the victim to immediately start the civil and/or criminal processes. Most victims are reluctant to ask for advice from friends and business associates when this happens. We work with you to put together a strategy to best recover funds. Kelly's background in law enforcement allows her to prepare your case for prosecution. Identifying assets for recovery/restitution, preparing documents for presentation to law enforcement, and assisting the victim in putting the records back together are just some of the services we provide to you.
- *Elder Abuse.* What happens when a parent starts to lose control over their finances? Elder financial abuse happens by a family member in approximately 60% of all cases. An example of this is when a family member has a power of attorney. Do the other family members start to question the accounting of the parent's finances? We work with you to assist in the documentation of the funds. This type of work is provided to assist in civil and/or criminal proceedings.
- *Asset Tracing.* Do you need to locate assets from a dishonest employee, ex-spouse, or vendor who won't pay a judgment? We work with you to identify assets that have been stolen or misappropriated. Through analysis of bank records, interviews of associates, and searching through commercial databases and the Internet, we assist you with locating assets.
- *Fraud Prevention.* We provide fraud prevention consulting to private and public companies and nonprofits. With Kelly's background in law enforcement and financial services, we can show you how to put antifraud measures into place. We are also able to do a fraud assessment and help you identify areas of weakness. If you have been a victim of fraud, we can assist in making sure your business puts into place the right preventive measures so it won't happen again.
- *Background Investigations.* Do you know who your employees really are or what they were doing at their previous employers? Background investigations are one of the tools an employer has the ability to use to get a better picture of their potential employees.
- *Due Diligence.* Information is knowledge. Having due diligence performed prior to negotiations is even more important with all the information on the Internet these days. Can you afford to not know what a possible vendor/business partner is doing in their business? We work with multiple web sources, commercial databases, and interviewing to be able to get a more complete picture of a potential strategic alliance.
- *Litigation Support.* Financial CaseWorks LLC works with your legal team to assist in quantifying economic losses and providing documentation of monies.

Kelly Paxton is a certified fraud examiner and licensed private investigator. She was educated at the University of Oregon, the University of Southern California, and the Federal Law Enforcement Training Center. Prior to starting Financial CaseWorks, she worked as an analyst for the Washington County Sheriff's Office Fraud Identity Theft Enforcement Team. Before joining the team, she performed background investigations for the Sheriff's Office. She also has 7 years of experience as a contract special investigator for the Office of Personnel Management and the Department of Homeland Security.

Kelly Paxton was a special agent for US Customs Office of Investigations from 1993 to 1998. During this time she was assigned to the money laundering and white-collar crime unit. She has prior financial industry experience which included stock broker's license and commodity broker's license.

Markopolos in the Madoff Case

Harry Markopolos was a portfolio manager for an equity derivatives asset management firm in Boston when he was asked to conduct a fraud examination of Bernard Madoff's money-making methods in 2000. He discovered Madoff was running a Ponzi fraud scheme (Carozza 2009).

The fraud examination was caused by an event in 1999. Frank Casey, a marketing senior vice president for the Boston firm, returned from New York with marketing materials for a high-performing, derivative-based hedge fund managed by Madoff. In early 2000, Markopolos was asked by firm partners to reverse-engineer the strategy of Madoff. After he modeled the strategy, Markopolos determined that the returns could only be coming from illegal front-running of the Madoff broker and dealer arm's client orders or from fictional returns that were the result of a Ponzi scheme (Carozza 2009).

When Markopolos was examining the materials that Casey brought with him from New York, he discovered that Madoff's name was never on it (Carozza 2009):

> That was clue no. 1. I've never seen a product offering where the manager's name wasn't listed up front. The marketing literature describes a derivatives-based strategy with 37 moving parts, but I was very familiar with the math, and the strategy as described shouldn't have been able to earn a positive return after fees. He made some very simple portfolio construction errors in that he foolishly retained single-stock price risk that would have led to a lot more down months than he reported to investors.
>
> If he had designed the product correctly, he could have avoided this single-stock risk, so I knew that Madoff didn't know the first thing about portfolio construction mathematics. Literally, it took five minutes after reading his strategy paragraph to determine that he wasn't really using the described strategy to earn the returns he said he was. Under existing securities law, if you tell clients that you are using Strategy A to invest their money but, in fact, you use an undisclosed Strategy B to really invest their money, you've committed fraud.

Markopolos submitted his evidence to the Securities and Exchange Commission first time in 2001 and updated again in 2005, 2007, and 2008. In 2008, the stock market crumbled, investors rushed to redeem their investments, and Madoff ran out of cash (Carozza 2009).

The Federal Bureau of Investigation (FBI) arrested Bernard L. Madoff on a rainy morning in December 2008, based on tips from his two sons. They confiscated dozens of checks, totaling $ 173 million that were made out by him to his close friends, key employees, and family members. Madoff was charged with multiple felonies, including securities fraud, investment advisor fraud, mail fraud, and wire fraud. The US District Court Judge in New York City released him on a $ 10 million bond, gave orders to put electronic bracelets on him, and confined him to his Manhattan apartment. It was a disappointment for the prosecutors, who wanted him jailed. However, the prosecutors got their wishes when the judge also ordered Madoff and his immediate family members to not sell or transfer any personal assets. The FBI confiscated the passports of Madoff and his wife, Ruth. A federal judge froze the assets of Madoff Investment Securities (Ragothaman 2014).

After his high school graduation in 1956, Madoff attended the University of Alabama for a year, where he was a member of a Jewish fraternity. He transferred to Hofstra University in 1957 and graduated with a degree in political science from Hofstra in 1960. Madoff and his wife held several small jobs, in the early years, including installing sprinklers, babysitting, and performing lifeguard duties in Manhattan. He started his investment business in 1968 with a capital of $5,000, which he and his wife had saved during the previous 6 years (Ragothaman 2014).

Madoff's business grew slowly in the initial years. When he got a chance to become a market maker on the National Association of Securities Dealers Automated Quotations (NASDAQ) in 1984, he grabbed the opportunity. His eldest son, Mark, had just finished his MBA at Columbia University and was eager to enter the family business. While Madoff looked after his investment management and advisory business, he put Mark in charge of the market maker end of the business. Madoff Investment Securities directly executed orders from retail brokers. About the same time, Madoff invested in computer equipment and software to automate the order system. Peter Madoff, his brother, spearheaded the computerization project and successfully developed a fast, automated system to handle customer orders. This automated trading system brought fame to the investment firm, which by 2008 was the sixth largest marked maker on the NASDAQ (Ragothaman 2014).

Madoff was esteemed by friends, investors, regulators, and the securities industry. He was perceived as instrumental in NASDAQ's rise as a major competitor to the New York Stock Exchange (NYSE) because he was on the forefront of embracing technology in the securities industry, which allowed him to be one of the first actors to take part in payment for order flow (Nichols 2011). Madoff targeted thousands of wealthy investors, Jewish charities, celebrities, and retirees. The scam unraveled in 2008 when the economic crisis led to more withdrawals than he could afford to pay.

Madoff Investment Securities was governed by a small, closely knit board of directors. Madoff was the founding chairman and retained that position until his

arrest in 2008. Brother Peter Madoff was the managing director. Peter's daughter, Shana Madoff, served as the compliance attorney for the investment firm. In addition, Madoff's two sons, Mark and Andrew, served as the lead officers in the market maker division of the firm. The chief financial officer, Frank DiPascali, was a long-term associate of Madoff. In short, the management of Madoff Investment Securities was dominated by family members and friends (Ragothaman 2014).

Madoff created false trading reports based on the returns that customers liked to see. He used his firm to conduct an international Ponzi scheme. A Ponzi scheme is a fraudulent investment scheme that pays returns to investors from their own money or money paid by subsequent investors rather than form any actual profit earned (Nolasco et al. 2013). Madoff used a network of feeder funds to access the global financial market and to grow his hedge fund fraud into billions of dollars. Madoff's control of all service providers to his hedge fund business allowed his fraud to continue undetected by regulators (Nichols 2011).

Bernard Madoff pled guilty to 11 felony charges (securities fraud, investment advisor fraud, mail fraud, money laundering, false statements, and others) in March 2009. He was awarded the maximum possible prison sentence of 150 years in July 2009 and was asked to pay a restitution of $170 billion. Mark Madoff, the oldest son, committed suicide in December 2010. Brother Peter Madoff was sentenced to 10 years in jail for his role in the Madoff fraud in December 2012. Frank DiPascali pled guilty to ten felony charges and was awaiting sentencing in 2013 (Ragothaman 2014).

Madoff's financial crime became a symbol for the greediness and immorality of a financial meltdown he did not necessarily cause. Some victims felt that Madoff was somehow responsible for the economic downturn generally in the United States. Some victims believed that Madoff's fraud proves him to be of unparalleled evil (Ionescu 2010).

In 2014, five former employees of Bernard L. Madoff Investment Securities were found guilty in Manhattan Federal Court on all counts. They were Daniel Bonventre, Annette Bongiorno, Joann Crupi, Jerome O'Hara, and George Perez who were all found guilty of 31 counts in connection with their longtime employment at Madoff's. The verdict was announced in March 2014 after a more than 5-month trial (FBI 2014).

Bonventre was employed at Madoff Securities for 40 years and served as its director of operations. Bongiorno managed hundreds of investment advisory accounts. Crupi handled the receipt of funds sent to Madoff Securities by its clients for investment. O'Hara and Perez were employed as computer programmers. They were responsible for developing and maintaining computer programs that supported the operations. For example, they developed special programs that created books and records to help hide the scope and nature of the business. Names of account holders were changed in the programs, and the programs altered details about the number of shares, execution times, and transaction numbers for trades by employing algorithms that produced false and random results (FBI 2014).

Madoff's last surviving son, Andrew, who insisted he had nothing to do with his father's massive Ponzi scheme, died at the age of 48 in 2014. Both sons denied

knowing about the fraud and were never charged criminally in connection with the scheme. They turned their father in to authorities in December 2008.

Bernard Madoff was an inmate in Butner Medium prison in 2014. According to the Federal Bureau of Prisons, www.bop.gov, Madoff's release date is November 14, 2139!

Harry Markopolos discovered Madoff's Ponzi scheme in 2000 based on his team's fraud examination, and he submitted evidence to the SEC in the following years. He tried to encourage others to look into this in order to protect investors (Carozza 2009).

But the starting point in his Boston firm was quite different. There were no fraud suspicions. When Casey in his firm returned from New York with marketing materials from Madoff, his idea was to try to copy it so that their Boston firm could offer this successful product to the firm's customers. It was Markopolos' discovery that turned his work into a fraud examination. He went to the firm's partners and jokingly asked if they really wanted to get into that business. They hastily replied, "No way, if that' what he's doing then we don't want to compete in that space" (Carozza 2009).

Harry Markopolos (born 1956) was a securities industry executive, an independent forensic accountant, and a financial fraud investigator. Markopolos discovered evidence over 9 years suggesting that Bernard Madoff's wealth management business, Madoff Investment Securities, was actually a massive Ponzi scheme (Nolasco et al. 2013). Madoff was sentenced in 2009 to 150 years in prison. In 2010, Markopolos's book on uncovering the Madoff fraud was published titled *No One Would Listen: A True Financial Thriller*.

The Markopolos (2010) book tells the story how his investigative team uncovered Madoff's scam years before it made the headlines and how they tried to warn the government, the industry, and the financial press. The book describes Markopolos' pursuit of the criminal. Markopolos presents himself as a whistleblower. The book became a New York Times bestseller.

Fraud examiner Harry Markopolos is a member of the Boston Chapter of the Association of Certified Fraud Examiners (ACFE). He worked in 2014 as a forensic accountant and analyst for attorneys. His educational background includes a bachelor degree in business administration from Loyola College in Maryland and a master degree from Boston College.

Chapter 6
Evaluation of Internal Investigations

Previous chapters have presented a number of internal investigation reports. It will be interesting to evaluate these reports. Here are some characteristics of an evaluation:

- Evaluation is a systematic study of work done or work in progress.
- Evaluation is an objective assessment of activities.
- Evaluation implies assessing or estimating the value of something.
- Evaluation involves analyzing to determine if the investigation did what it was intended to do and if the investigation had expected impact.
- Evaluation is a planned process where the goal is to develop knowledge that is sufficient to judge a completed fraud examination.
- Evaluation applies predefined and explicit criteria.
- Evaluation follows in the aftermath of activities.
- Evaluation can be formative versus summative, goal-oriented versus process-oriented, self-performed versus stranger-performed, etc.

It is certainly interesting to study the quality of investigations and investigation results. The solving of cases – meaning that examiners really found out what had happened and were able to document it – is an interesting issue to study. The extent to which witnessing evidence supports answers varies greatly depending on methodology, experience, and personal qualities including thinking styles among private investigators. One hypothesis might be that many of the investigations could have had a completely different outcome with another and perhaps more qualitative investigation method-based advanced styles of thought. Some investigations seem to be carried out almost as a judicial process with witnesses similar to a main hearing in court. Often, a lot of documents are reviewed without any clear purpose of evidence production. Such a process is not at all suitable for solving most internal investigation cases. There are rarely new facts appearing during the main hearing in a criminal court case. It is the professionally qualified investigation that has brought forward facts and evidence that eventually may be presented to a court.

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Investigation Evaluation Criteria

Evaluation is the systematic inquiry into a completed investigation involving data collection, analysis, and assessment of work carried out in completed investigation work. It is an objective assessment of activities. Evaluations are always carried out subsequently. It is all about to describe and assess activities that have taken place. The assessment involves that the evaluator appreciates findings resulting from data analysis based on specific criteria. The assessment can be done by comparing the findings with an ideal or goal, such as the mandate and the problem formulation, as well as with criteria for good investigative practice. It should be considered whether the investigation has been successful in finding the truth and clarifying the facts. It should also be considered whether the investigation has been going on in a professional manner. Furthermore, it should be considered whether the investigation has added value in terms of benefits exceeding costs.

An evaluation should meet certain quality requirements, such as openness about sources, triangulation of information (confirmed by several sources), documentation, and conclusion. The design (starting point), implementation (work process), conclusions (work result), workload (resource consumption), as well as investigation impact (consequences) should become subject to evaluation.

Evaluation is about judging the conducted investigation. An evaluator has to ask the critical question of whether or not the investigation was useless and worthless and whether the investigation was improper and unprofessional. An evaluator has to ask whether the investigation was biased as a commission.

An evaluator must make a clear distinction between evaluation criteria and evaluation, for which criteria apply. An evaluation starts by developing criteria for evaluation of the work performed, where both general criteria concerning private internal investigations as well as specific criteria concerning this particular situation are introduced.

Colloquially, the term evaluation is used to describe assessment and estimation of the value of something. In the literature, an evaluation is a systematic process, it is planned and purposeful, and the purpose is to develop knowledge for assessment. To evaluate is to describe and assess. The description occurs within a framework that specifies procedures for data collection, analysis, and drawing conclusions from the data. The assessment involves appreciating findings from data analysis based on predefined criteria.

An evaluation is both about goal and process. Measuring goal achievement is an inquiry into whether or not one or more objectives have been reached. Goals are defined in the investigation mandate and in expectations from stakeholders. Measuring process performance is a matter of assessing activities that have been carried out from start to finish. The process involves, among others, honesty, openness, integrity, professionalism, responsibility, and accountability.

The typical overall purpose of evaluation of an investigation is to find out whether the project was successful.

Evaluation of an investigation is concerned with application of many of the same sources of information and methods that were used in the investigation itself. For example, informants for investigators may also be useful for evaluators.

Typically, evaluation of internal investigation reports will apply criteria such as:

- Empirical evidence due to forensic analysis that indeed points to a certain person/group within the company
- Organization of investigative process with level of detailed description of every step
- Extent of unbiased conclusions at every point of investigation
- Extent of clearly stated goals
- Extent of strong methodology that is stated in detail
- Statement of conclusions: detail in explanation of how they came to that conclusion
- Lack of ambiguity in contract and mandate
- Results in line with mandate
- Proof of findings
- Thoroughness in documentation of actions taken during investigation
- Identifying potential conflicts of interest (i.e., does mandate restrict investigation from pursuing leads?)
- Sources: how many different sources did investigators use to evaluate the same information? How many different types of sources (letters, interviews, financial statements, etc.)
- Evidence of preconception: does the report contain clues to the fact that the investigator had a specific theory or end result in mind when he/she started the investigation?
- Extent of independence between data gathering and data analysis, or different groups doing both
- Extent to which investigators were building up a solid case where previous history of that specific company is detailed
- Ability to link all suspected individuals from the past with the current ones

An evaluation of internal investigations will typically emphasize the starting point, the work process, the process result, the resource consumption, the investigation mandate, the investigative strategies, the work frame, the follow-up actions, and the social responsibility.

The Starting Point How well and suited was the starting point for the investigation? Was the mandate clearly articulated? Was the mandate focused rather than diffuse? Was the mandate appropriate to clarify the matter? Were activities in the investigation clearly defined in the mandate? Were targets of the investigation clearly defined in the mandate or elsewhere? How might the starting point have been improved? Was there anyone who had a hidden agenda? Was the assignment rooted in a dynamic principal, who was willing and ready to take the consequences of the investigation?

The Work Process How well was the investigation conducted? How well did the chosen strategies work: information strategy, knowledge strategy, methodology strategy, configuration strategy, and system strategy? How well was contradiction safeguarded and self-incrimination avoided? How might the work process have been improved? Was impartiality considered and avoided? Was confidentiality handled in a proper manner? Have investigators received confidential information and handled it accordingly?

The Process Result What is the quality of results from the investigation? Is there any news in the investigation report? Did investigators discover what had actually happened? Who had done what and how and why? Did investigators answer all questions? Is everything in the mandate performed? Are all targets in the mandate reached? Is the investigation report understandable and useful to the principal? Are mentioned persons in agreement with presentations of themselves in the report? How might work results become even better? Are recommendations from the investigation possible to implement? Are recommendations followed up? Did the investigation have consequences for something or someone? What value can be assigned to this investigation? What effects did this investigation have? How successful was the investigation project? Does the investigation report contain errors and inaccuracies? Does the investigation report contain discussion of possible crime matters for which the suspect was never charged? To increase the credibility and transparency of an investigation report, it is important to describe explicitly the choice of methods and procedures, is it done? Credibility is created when a different investigators is able to arrive at the same result when following the same procedure with the same documentation – is this possible with the current investigation report?

The Resource Consumption How big was the consumption of resources by the investigation? Was the project kept within agreed cost limit and time frame? Were relevant skills used in the investigation? Resource is a term that implies making something possible. A resource is an enabler. What resources were applied in the form of knowledge? What resources should have been applied in the form of knowledge? How might the consumption of resources have been reduced?

The Investigation Mandate Does the mandate seem suitable for the situation without any traces of bias or blame game? Is the mandate formulation clear, understandable, focused, and verifiable? Does the client seem really interested in the investigation and eager to learn about results? Are tasks in the investigation carried out in line with the mandate? Have all questions and issues in the mandate been answered?

The Investigative Strategies Did investigators select appropriate information strategy, knowledge strategy, methodology strategy, configuration strategy, and systems strategy?

The Work Frame Have investigators enjoyed a reasonable work frame in the client organization? Have issues such as the right of contradiction, the protection against self-incrimination, and written proceedings been addressed?

The Follow-Up Actions Has the client followed up on conclusions presented in the investigation report? Why or why not? Did the investigation result in relevant consequences for activities and people?

The Social Responsibility Do investigators take on social responsibility? Social responsibility is to share information with authorities, to compensate for own adverse effects (e.g., accused someone of something which later turned out to be wrong), to compensate for the client's adverse effects (e.g., such as baseless suspicions), to show transparent operations (which others can gain insights into), and to demonstrate professionalism (accountability, objectivity, and integrity).

Integrity in Private Investigations

Integrity is the quality of being honest and morally upright. Integrity implies the absence of misconduct. Misconduct is an attempt to deceive others by making false statements or omitting important information concerning the work performed, in the results obtained by or the sources of the ideas or words used in a work process. Lack of integrity occurs, for example, when investigators lie to witnesses and suspects in interview.

Integrity is the normative inclination to resist temptations to abuse the rights and privileges of an occupation in an assignment. Integrity is a firm adherence to a code of moral values. It is the habit of doing right where there is no one to make him or her do it but himself or herself. Investigators integrity represents a strong influence on confidence in the internal investigation. Practices that impugn the integrity of investigations range from obtaining or maintaining information without following proper and transparent procedure to violating rights of suspects. This includes the coercion of confessions, plating and fabricating evidence, or giving false testimony to clients. This latter situation can arise where an otherwise conscientious investigator loses faith or trust in the organization's ability to provide relevant information and acts through a misplaced sense of duty or zeal in seeking to secure a conclusion and possible consequence based on the investigation.

An important element of integrity is the consistency between actions and words, which can be thought of as the basis of trust in people (Turhani 2015). The term integrity derives from the Latin adjective "integer," which means to be complete or whole. A moral wholeness can be thought of as the consistency to a set of moral principles in all actions. This means that a person with integrity must be able to see all conflicting variables in a situation while resisting the temptation to focus narrowly on information that fits own experiences, views, or self-interest (Killinger 2010).

Integrity in private internal investigations is a concept that can refer to a number of elements, such as:

1. Acting in accordance with principles and procedure described as methodology for the investigation (Baxter et al. 2012).

2. No conflicts of interest with clients or other investigation stakeholders (ACFE 2016).
3. Independence from the client who pays for the investigation (Singleton et al. 2006). The client is unable to steer or manipulate investigators through high fees or biased mandates.
4. Honest, open, and fair investigation (Vargas-Hernandez et al. 2013). Investigators are honest and trustworthy (Yukl and Fleet 1992).

Integrity can be thought of as doing the right things for the right reasons. To do the right thing is a choice, and it develops from conscious effort and willpower (Killinger 2010). This does not necessarily mean that to possess integrity one must claim only to do ethical things (Becker 1998). Rather, integrity is about consistency in terms of walking the talk by following own guidelines and values.

Integrity is a commitment in action to a morally justifiable set of principles and values, where the criterion for moral justification is reality and not merely the acceptance of values (Becker 1998). This implies that integrity is closely related to the character of an individual (Duggar 2009).

An important task of private investigators is protection against self-incrimination. A witness or suspect has no obligation to pass on information that may reveal that he or she was involved in crime. Investigators should provide interviewees a complete protection against disclosure of information that could reveal own offenses. However, lack of integrity on the part of the investigator may cause a breach of this protection mechanism.

Generally, there are two steps of looking for causal explanations in internal investigations where integrity is at stake. The first step is concerned with the mandate, where examiners define and develop the investigative focus. The second step is concerned with findings, where reconstruction of the past leads to potential suspects. Individuals suspected of financial crime can often perceive this as a blame game. Suspects tell investigators: “You should not blame me for what happened!”

Table 6.1 lists 17 issues representing a survey instrument to measure private investigator integrity.

Integrity demands open and transparent decision-making and clarity about the primacy of a private detective’s duty to serve the objective interest above all else. Conflict between this duty and a person’s individual interests cannot always be avoided but must always be identified, declared, and managed in a way that stands up to scrutiny. This particularly applies to private investigators that in many secret assignments have de facto wide authorization and powers in the client organization.

Professional investigators are not only concerned with finding facts and reconstructing the past. They are also concerned with how they do it. If they successfully get to the bottom of a case, they may still be criticized for how they did it. There are many consideration related to information sources, suspects, and witnesses.

Reports of investigations by fraud examiners are typically written at the final stage of private inquiries. Reports are handed over to clients who pay for the work. Reports should be disclosed to the police and to the public to avoid privatization of law enforcement. Law enforcement belongs in the criminal justice system in society,

Table 6.1 Survey instrument for measurement of private investigator integrity

#	Problem	Not serious				Very serious
1	*Mandate bias*. The mandate for the investigation points in a certain direction and excludes other directions for scrutiny	**1**	**2**	**3**	**4**	**5**
2	*Report bias*. The investigation report has selected a partial perspective and not presented the complete picture from the investigation	**1**	**2**	**3**	**4**	**5**
3	*Lack of contradiction*. The investigator did not provide suspects and witnesses with an opportunity to contradict statements in the report	**1**	**2**	**3**	**4**	**5**
4	*Self-incrimination*. The investigator did not provide interviewed persons required protection against self-incrimination	**1**	**2**	**3**	**4**	**5**
5	*Secrecy toward the public*. While the findings are relevant and interesting for the media and the public, the client chose not to disclose the investigation report	**1**	**2**	**3**	**4**	**5**
6	*Secrecy toward the police*. While the findings are relevant for law enforcement, the client chose not to disclose the investigation report to the police	**1**	**2**	**3**	**4**	**5**
7	*Privatization of law enforcement*. Investigators documented white-collar crime, which lead the client to settle the matter with the criminal	**1**	**2**	**3**	**4**	**5**
8	*Client-attorney privilege*. Client and investigators defined the internal investigation as legal advice to benefit from the client-attorney privilege	**1**	**2**	**3**	**4**	**5**
9	*Blame game*. The investigation concluded by blaming individual(s) that the client would like to see blamed for misconduct and crime	**1**	**2**	**3**	**4**	**5**
10	*Rotten apple*. The investigation concluded by identifying a rotten apple rather than systems or management failure, as expected by the client	**1**	**2**	**3**	**4**	**5**
11	*New leads*. The investigator did not pursue new leads since the mandate did not describe them and later the client did not approve them	**1**	**2**	**3**	**4**	**5**
12	*Resources*. It was obvious to the investigator that the client budget for the investigation was much too small, but the investigator accepted the assignment anyway	**1**	**2**	**3**	**4**	**5**
13	*Lack of evidence*. Despite the lack of evidence, the investigator draws conclusions in the investigation report to please the client	**1**	**2**	**3**	**4**	**5**
14	*Conclusions*. The investigator wrote conclusions into the investigation report as specified by the client, despite disagreement	**1**	**2**	**3**	**4**	**5**
15	*Recommendations*. The investigator wrote recommendations into the investigation report as specified by the client, despite disagreement	**1**	**2**	**3**	**4**	**5**
16	*Client*. The investigation report does not criticize the client representative that pays for the investigation, although it is obvious that the person was involved	**1**	**2**	**3**	**4**	**5**
17	*Roles*. The investigator took on the roles of police, prosecutor, as well as judge in scrutinizing, accusing, and sentencing suspected white-collar criminal	**1**	**2**	**3**	**4**	**5**

not in secret procedures where it may be more or less random who loses the blame game. There should be an open and transparent outcome of internal investigations, where suspicions of white-collar crime are handed over to the police to be investigated and possibly prosecuted in court.

Unfortunately, secrecy toward the public (5) and the police (6) – often combined with privatization of law enforcement (7) – seems to be the rule rather than the exception. When the Kongsberg Group – a Norwegian manufacturer of defense material – hired PwC to conduct an internal investigation, corruption in Rumania was revealed. The responsible sales manager was fired, and then the report of investigation from PwC was put on the shelf. Neither the police nor the public learned about it until someone leaked the report to the police (Bakken et al. 2016).

Reports of investigation should not be protected by the attorney-client privilege (Williams 2005), since fraud examinations should not be defined as legal work. Fraud examinations are consulting work that can be carried out by lawyers, accountants, auditors, and other professionals.

Objectivity in Private Investigations

An investigation is designed to answer questions such as when, where, what, how, who, and why, as such questions relate to negative events in the past. To reconstruct the past successfully in a professional manner, there is a need for knowledge management, information management, systems management, configuration management, and ethics management.

Objectivity as well as integrity is important in fraud investigations. Objectivity is undeniable knowledge of facts, capability to extract true knowledge, as well as judgment without prejudice, partiality, and prefixed notions (Zagorin 2001). Objectivity is a state of mind in which biases do not inappropriately affect understanding and assessment (Mutchler 2003).

Table 6.2 summarizes a literature review on objectivity. Some of the characteristics of objectivity can also be found as characteristics of integrity in Table 7.1. However, it is the combination of all characteristics that enable research to distinguish between integrity and objectivity. Table 6.2 indicates how each characteristic can be assessed and how evidence of that characteristic can be found in a specific investigation.

Objectivity is not only the true and undeniable knowledge of an object, property, or situation. Objectivity is also a method of investigation intended to and capable of extracting true knowledge and understanding of an object, property, or situation. Also, objectivity represents a type of judgment made by professionals who are able to set aside prejudice, partiality, and predetermined notions in any process they do in order to find their results (Zagorin 2001).

Table 6.2 Characteristics of objectivity in private investigator integrity

#	Characteristic	Reference	Assessment	Evidence
1	Absence of mandate bias	Gottschalk (2016b)	No signs of blame game or other kind of bias in formulation	Mandate formulation
2	State of mind not inappropriately affect assessment, judgments, and decisions	Mutchler (2003)	No signs of inappropriate influences	Report of investigation
3	Fairness and impartiality	Porter (1996)	No signs of unfairness or partiality	Report of investigation
4	Absence of prejudice	Porter (1996)	No signs of prejudice	Report of investigation
5	True and undeniable knowledge	Zagorin (2001)	No untrue or deniable knowledge	Report of investigation
6	Investigation extracting true knowledge	Zagorin (2001)	No signs of rumors or other untrue knowledge	Report of investigation
7	Professionals' judgment	Zagorin (2001)	No amateurs involved in the investigation	Investigator CV
8	Perfect knowledge by realism and facts	Sismondo (2010) Nagel (1989)	Everything is true, no assumptions or reservations	Report of investigation
9	Consensus	Megill (1994) Leiter (1993)	No contradictions occurred	Report of investigation
10	Existing experiences and conceptions	Megill (1994) Nietzsche (1997) Fabian (2001) Leiter (1993) Singleton et al. (2006)	No investigators without competence in the field	Investigator CV
11	Professional procedure	Megill (1994) Sismondo (2010) Albrecht et al. (2011)	No signs of misconduct during investigation	Participants in the investigation
12	Standardization of procedure	Sismondo (2010)	Description of how investigation was performed	Report of investigation
13	Judgments built up from concepts	Peacocke (2009)	Plausible reasoning	Report of investigation
14	Value neutrality	Douglas (2004)	No value judgments	Report of investigation
15	Information independently verified	Albrecht et al. (2011)	There is no evidence of short circuit	Report of investigation

Absolute objectivity is defined as perfect knowledge about an object, where the knowledge is true regardless of perspective (Sismondo 2010). It should always be the ambition of investigators to reach absolute objectivity where everyone sees things as they truly were. Objectivity is therefore similar to realism based on facts.

Accountability in Private Investigations

Accountability refers to situations in which someone is required or expected to justify actions or decision. Accountability implies individual responsibility for decisions and actions. Accountability depends on the explanation and justification of investigator actions. For example, an investigator may be held accountable for not giving suspects sufficient time to contradict description of his or her role in a negative event in the past. Lack of accountability occurs, for example, when investigators blame client deadlines for not providing sufficient time for contradiction.

Accountability is a situational concept that refers to six elements to explain the accountability process (Smith 2009):

1. Who is accountable? Identification of practitioners.
2. To whom are they accountable? Identification of overseers.
3. For what are they accountable? Clarification of responsibilities.
4. By what standards of appraisal? Agreement and prior knowledge of standards of assessment.
5. Through what processes are they held accountable? Prearranged procedures for fact-finding and enforcement.
6. What consequences might follow? Awareness of the consequences for success or failure in meeting expected standards.

Accountability is the individual responsibility of financial crime specialists to justify actions or decisions. Accountability means that mechanisms are in place to determine who took responsible actions and who is responsible for the investigation. Accountability is the acknowledgment and assumption of responsibility for initiatives and procedures within the scope of their role as private investigators. In accountability processes, sanctions generally function to punish failure, while rewards and awards generally function to commend successful performance. Accountability is a feature of systems, social institutions, as well as individuals.

In addition to integrity, objectivity, and accountability, a fourth challenge for private investigators is legitimacy. Legitimacy means lawful, appropriate, and just. Private investigations may be legitimate if they meet certain standards of the right and good. Contexts of legitimacy are always contingent upon the situation. Contexts of legitimacy are shaped by the demographical and historical developments of particular jurisdictions (Lord 2016).

Private policing is directly accountable to the paying customer rather than democratically elected bodies and tight legalistic procedures and constraints. This raises concerns about its legitimacy. There can be serious implications for society of a

policing service that is only available to those who can pay. The secret relationship between service users and providers in private investigations offers plenty of options for abuse by harming third parties (Gill and Hart 1997).

Investigation Blame Game Hypothesis

The following description of the blame game hypothesis is based on my research article in the *Journal of Investigative Psychology and Offender Profiling*, where the blame game hypothesis as well as the rotten apple hypothesis was applied to the private investigation in a utility company (Gottschalk 2016b).

The blame game hypothesis suggests that suspected individuals do not necessarily become subject to a fair investigation by private examiners and financial crime specialists. In police investigations, it is equally important to prove innocence as to prove guilt. In the charter for Norwegian criminal investigations, it is stated that police officers should put just as much effort into proving innocence as into proving guilt. Even when victims and others expect public prosecution, only individuals where police investigations have found sufficient convincing evidence will be prosecuted in court.

This may be different in private investigations. Financial crime specialists claim to have found the facts and the responsible person(s) for a negative event or incident. They may not have practiced an open mind. They may have been pointed in a specific direction by the client, and they may have only one lead which was to be verified in the investigation. The client pays sometimes for a desired result. The client defines a mandate, and the investigation has to be carried out according to the mandate. To make a contribution in the investigation report, investigators have to describe some findings related to facts and causes.

There are two steps of looking for causal explanations in private investigations. The first step is concerned with the mandate, where investigative focus is defined. The second step is concerned with findings, where potential suspects are identified. Often, it can be perceived as a blame game by individuals who are suspected of financial crime. Investigators are told by suspects: “You should not blame me for what happened!”

Research on organizational justice and social accounts focuses on how explanations of negative events are publicly communicated to others. Explanations affect outcomes such as trust in the organization, feelings of anger, dissatisfaction, frustration, and stress. Suspects find it unfair, especially when suspicions develop into more or less grounded accusations. Of course, this can happen in police investigations as well.

The term blame game is often used to describe a phenomenon which happens in groups of people when something goes wrong. Essentially, all members of the group attempt to pass the blame on, absolving themselves of responsibility for the issue. Lack of causal accounts increases disapproval ratings of the harm done by placing the blame for harmful acts on others. For example, by attributing corruption

to an executive in the organization as a rotten apple, the suspect will feel betrayed by other executives who, in his opinion, belong to the rotten apple basket.

External attributions place the cause of a negative event on external factors, absolving the account giver and investigation client from personal responsibility. However, unstable attributions suggest that the cause of the negative event is unlikely to persist over time and as such mitigate the severity of the predicament. Uncontrollable attributions suggest that the cause of the event is not within the control of the attributor, further removing any blame or responsibility for the unjust act from the account giver (Lee and Robinson 2000).

According to Sonnier et al. (2015: 10), affective reactions influence blame attribution directly and indirectly by altering private investigators' structural linkage assessments:

> For example, a negative effective reaction can influence the assessment of causation by reducing the evidential standards required to attribute blame or by increasing the standards of care by which an act is judged.

In addition to requiring less evidence of intention, negligence, or causality, an internal investigator may exaggerate the evidence regarding the foreseeability of an act's consequence, may disregard the justification or explanation for the act, or search for information to support a desired blame attribution. Thus, negative affective reactions of investigators tend to influence their evaluations. By focusing on personal control by attribution of blame, Sonnier et al. (2015) argue that assessing causation includes the notion of effective causal control which highlights the fact that investigators are attuned not only to actual consequences of behavior but also to the consequences that could have occurred.

According to Sonnier et al. (2015), the notion of potential consequences is related to counterfactual reasoning research on blame attribution. Counterfactual reasoning assumes that surprising outcomes motivate thoughts about alternatives, whereas control assumes that effective causal control is inherent in assessing structural linkages. Counterfactual reasoning provides that investigators will respond emotionally to unfortunate events and will seek to explain such events based on alternative courses of action that could have averted the negative outcome.

Pontell et al. (2014) point out that some people are too powerful to blame. Status-related factors such as influential positions, upper-class family ties, and community roles often preclude perceptions of blameworthiness (Slyke and Bales 2012).

The blame game hypothesis can be derived from attribution theory (Eberly et al. 2011) as well as behavioral decision-making theory, which posits that decision-makers are predictably biased by the interaction of the context and specific cognitive mechanisms (Hammond et al. 1998; Kahneman 2011). Behavioral decision-making has identified an array of cognitive mechanisms that may disturb investigators' judgment. A bias can occur among private investigators based on client mandate and available resources in fraud investigations, where anchoring of suspicion can be misplaced. Furthermore, the primacy effect is a tendency for the first items presented in a series to be remembered better or more easily, while affirmation bias means to interpret information in a way consistent with existing beliefs. If

the client has strong beliefs in one way or the other, this will manifest itself both in the mandate and in expectations. Similarly, the tunnel view sometimes experienced in police investigations imply that detectives go for the light at the end of the tunnel, rather than to look at what is outside the tunnel.

In his book entitled *The Blame Game*, Farber (2010) takes a humoristic view of the rules, techniques, and advanced strategies applied to the play and how to quit. The target of blame becomes a scapegoat, a stooge, and a donkey. The blame game is a competition in which participants try intensely to find fault in others. After pronouncing liability, through several techniques such as the responsibility shift, the blamers falsely receive self-accolades. The blamers in our context are the private investigators, who benefit clients paying investigation bills.

Blame avoidance is possible when investigators are subject to influence both from the mandate and from the client. Valukas (2010, 2014) investigated both General Motors' ignition switch failure and Lehman Brothers' bank collapse and concluded that chief executives were not to blame. Blame avoidance strategies are the instruments most likely to be used by potential offenders in their attempt to discount charges of irreparable damage and loss (Rajao and Georgiadou 2014).

Investigation Blame Game Contents

The blame game content varies from case to case and can be concerned with explanations for negative events, accountability, or causality. The contents can be concerned with an action or a lack of action. The contents can be concerned with information disclosure or lack of information flow. Blame games often evolve differently than expected (Resodihardjo et al. 2015), and blame attribution may vary by many factors (Xie and Keh 2016). People may be "blamed and shamed" in the deficit view of information communication (Hurrell 2015).

The reasons for private investigations include lack of facts and lack of accountability. Nobody will blame oneself for the negative event. The account giver, the private investigator, absolves others from the blame and responsibility for the negative event. Even in cases of self-blame, investigations are required to ensure that the self-blame is justified. Self-blame is attributing a negative event to one's behavior or disposition (Lee and Robinson 2000).

An example of a blame game occurred during court hearings in Norway in 2016. The fertilizer company Yara had been involved in corruption in Libya while Gadaffi was the country's ruler. After the collapse of his regime, FBI and other government agencies detected a number of corruption cases. One of the cases involved Yara. Norwegian police investigated executives at Yara, and four former executives (CEO, CFO, CLO, and COO) became defendants in court. The current CEO decided to blame those executives for all wrongdoings, although the current CEO had potentially been involved as well. In court, the former chief compliance officer, Mr. Tormod Tingstad, said that for the current CEO it was all about blaming previous executives and protect current executives (Ånestad 2016: 10).

> The purpose was to hit and blame the old management team. The current management team was to be protected. We wanted an internal investigation that blamed the previous management team.

People blame individuals not only for intentional violations such as taking bribes or embezzlement but also for unintentional consequences. This means that good intentions alone will not protect suspects from blame. Individuals are regularly blamed for events they clearly did not intend (DeScioli and Bokemper 2014).

Sonnier et al. (2015) conceptualize blame in terms of personal control. The assessment of an actor's control over a harmful event is influenced by the desire to blame someone whose behavior, reputation, or social category has aroused negative reactions. Blaming implies to form affective reactions to aspects of negative events and people involved. Private investigators judge how much control the actor exerted by analyzing the structural linkages of volition, causation, and foresight while also spontaneously, relatively, and unconsciously forming affective reactions. The central question in assessing control and blame attribution is whether the actor desired, caused, or foresaw the harmful outcome. Attribution is affected by the investigators beliefs about what other actors would do in the same situation. When investigators feel that the actor should have foreseen or anticipated the negative consequences of own acts, then they are more likely to lay blame on the actor. The need to lay blame arises out of the need to feel that similar occurrences can be avoided in the future.

In a principal-agent perspective, attributions for negative events may deflect blame away from the real perpetrators. Investigators are motivated to assume power and to project control over causal relationships. This motivation to appear in control might lead the account giver to use internal and controllable attributions in their accounts. Such motivation might also lead the investigator to use controllable attributions in their accounts by deflecting blame. To blame others is simply attractive when a negative event has occurred.

Agency theory suggests that external governance mechanisms can deter managers from acting opportunistically. Examples of such mechanisms include activist owners, securities analysts, and external auditing functions.

According to attribution theory, parties involved in a conflict or suspicion will naturally wonder "Why is this happening?" in the hope that if they understand the negative event, they might be able to predict its cause. The cause can either be individual behavior (personal attribution) or organizational behavior (system attribution). Attribution theory suggests that, all else being equal, the odds are in favor of making a personal attribution (Keaveney 2008).

The blame game includes not only internal and external attributions. Also relations can be blamed. Eberly et al. (2011) found that an employee does not solely blame his or her own abilities and skills for the negative event, nor does the person attribute blame solely to own supervisor. Instead, he or she attributes the failure to the poor interaction one had with one's supervisor – a feature of their relationship. Furthermore, the employee may blame being passed over a promotion on a lack of connections with key constituents in the organization or on low network centrality. In the blame game, relational attribution is problematic, as investigators will find it

inconvenient to blame an individual as self in relation to other. Responsibility for a negative event is assigned to an individual or individuals and not to a relationship or relationships.

Shepherd et al. (2011) argue that the building blocks of an informed culture are encouraging members to report errors and near misses; to apportion blame justly when something goes wrong; and to flexibly and swiftly learn by reconfiguring assumptions, frameworks, and actions. However, to protect themselves from criticism, executives and other individuals in an organization often engage in impression management that deflects blame to others.

The blame game can be explained in terms of negative events that are attributed to individuals who account givers would like to blame. People have a tendency to make sense of events by acting as naïve psychologists. When confronted with events, people seek to determine their causes. For example, couples in marriages sometimes play the blame game by determining the other spouse as the cause. Causality in terms of cause-and-effect relationships seems easy to conclude when events occur.

Keaveney (2008) applied attribution theory to explain the blame game in marketer-engineer conflicts in high-technology companies. She found that personal attribution of negative events is common if: (i) the person is perceived to have had a choice about how to act, (ii) the behavior goes against generally accepted social norms, (iii) the behavior seems individualistic rather than role-related, (iv) the person's behavior had a personal impact on the observer, and (5) the observer was an active participant in the event rather than a distant or passive observer. The observer is more likely to attribute the behavior to personality factors rather than to the situation.

The purpose of a blame game can be an excuse for a negative event, displacement of guilt, and gaining social capital. Hood (2011) argues in his book that individuals working in organizations spend time blaming others rather than working to solve issues that arise. The reason for this type of behavior is that individuals working within organizations are consumed with fear of reprimand. Furthermore, progress is only modestly noted, while reprimand is viewed as a lifelong blemish. In his book with the same title, Datner (2011) argues that the skewed allocation of blame and credit is the worst problem in work environments.

Blaming can be a self-defense mechanism for the investigation client, who pays investigators to look another way. People react (personally, in a group, or as a corporation) when they are under pressure, when they make mistakes, when they are put into uncomfortable situations, or when they are attacked. Blaming is used to deflect a problem, incident, situation, and/or attention away from oneself (Hein 2014). Blaming by a blamer such as the investigator can have varying degrees of impact on the blamed person who is attributed guilt for a negative event. In the extreme it can cause considerable harm, such as miscarriage of justice, public prosecution without evidence, humiliation in the media, and job loss.

Sometimes financial crime specialists as private investigators blame the auditor for not detecting misconduct and financial crime. Sonnier et al. (2015) studied attri-

bution of blame on auditors. In the event of audit failure, auditors are blamed because they are supposed to be industry specialists.

Maturity Model for Investigations

An internal private investigation can be evaluated by application of the following maturity model. A maturity model represents theorizing about how the investigation could be improved through a management-controlled or random development. A model has the same function as a theory, because the model provides a simplified picture of reality. The steps, stages, or levels of the model are (1) sequential in nature, (2) growing in a hierarchical progression that is difficult or impossible to reverse, and (3) involving a wide range of organizational activities and structures.

Figure 6.1 illustrates a potential maturity model for private investigations consisting of four stages, steps, or levels.

Level 1 Activity Investigation is focused on activities that may have been performed in a reprehensible way. Examiners are looking for activities in past events and prepare a reconstruction of sequences of events. Thereafter, examiners form an opinion about the activities in terms of whether or not they are reprehensible. At level 1, there are often auditors and others with accounting and financial transaction knowledge that examine and assess activities in terms of management of assets. An investigation at level 1 is usually passive, fruitless, and characterized by unnecessary use of resources, for example, because examiners tend to dig into too many details. At this lowest level, investigators attempt to find answers to the question: *What happened?*

Level 2 Problem Investigation is focused on problems and issues that must be solved and clarified. Examiners are looking for answers. When answers are found, the investigation is terminated. It is important to minimize the use of resources in an investigation, which should take the shortest possible time for involved persons. The

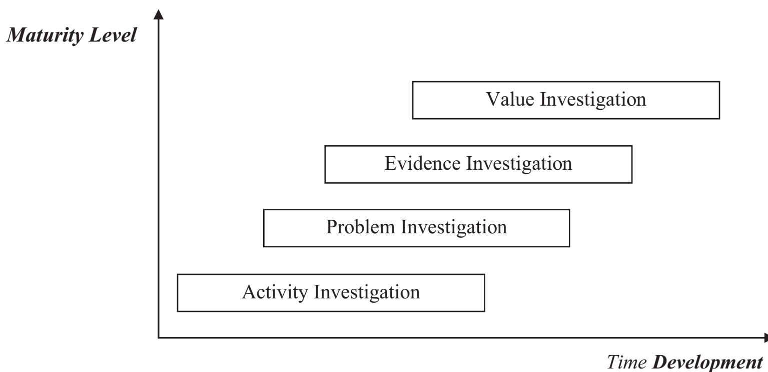

Fig. 6.1 Maturity model for internal private investigations

appraisal and management is essential for success. The client was faced with an unresolved problem, and the client defines premises for problem solving. At level 2, there is no room for investigators to pursue other tracks than those that target the predefined problem. At this level, there are lawyers and others with knowledge of rules and regulations that will identify the facts. Investigations at level 2 are usually passive with trifling results within an agreed cost boundary. At this second level, investigators attempt to find answers to the question: *How did it happen?*

Level 3 Evidence Investigation is focused on revealing something that is kept hidden. Examiners will choose their tactics for success in disclosure of possible misconduct and white-collar crime. They are going for the unknown. Investigation steps are adapted to the terrain, where different information sources and methods are used to get the most facts on the table. At level 3, there are detectives, psychologists, and other knowledge workers to uncover possible crime. While levels 1 and 2 are focused on predefined suspicions of financial crime, level 3 is focused on suspicions of financial criminals. The focus has shifted from offense to offender. There are always criminals who commit crime. Level 3 has a personnel focus, while levels 1 and 2 have an activity and legal focus. Level 3 is characterized by the pursuit of responsible individuals, typically executives, who may have abused their positions for personal or organizational illegal gain. This is a more intensive investigation, because suspicions and suspects should be handled in a responsible manner with respect to the rule of law and human rights. Investigations at level 3 are active with significant breakthroughs in the investigations. New knowledge emerges that was not present in advance of the investigation. The investigation project is conducted in a professional and efficient manner. At this third level, investigators attempt to find answers to the question: *Why did it happen?*

Level 4 Value Investigation is focused on the value for the client being created through the investigation. The purpose of the investigation is to create something that is of value for the client. It may be valuable new knowledge, valuable settling of disagreements about past events, valuable external opinions, and valuable input to change management processes. The investigation's ambition is that the result will be valuable for the client. The value may lie in the cleanup, modification, simplification, innovation, and other measures for the future. The investigation takes into account that it should be prudent. A number of explicit considerations are identified and practiced throughout the examination. The examination is based on explicit choices regarding information strategy (sources), knowledge strategy (categories), methodology strategy (procedures), configuration strategy (value shop), and system strategy (technology). Explicit strategic choices make the investigation transparent and understandable to all involved and interested parties. Here it is often investigators in interdisciplinary environments who create value for the client. Investigations at level 4 are characterized by active use of strategies, with substantial and decisive breakthroughs in the examination. The investigation lays the foundation for learning and value creation in the client's organization. Detection of deviations and termination of such deviations create value for the client organization. At level 4, detection, disclosure, clarification, analysis, and resolution are seen in context. There will be less to uncover in the future if current prevention is strengthened. It will be better in

the future if matters are resolved completely. Investigators will create value through proper scrutiny. The investigation creates value before, during, and after the examination. Before the investigation, an understanding of risks and priorities develops. During the investigation, an understanding of methods and procedures develops. After the investigation, barriers are constructed, holes are sealed, work flows are developed, and continuous evaluations are established. At this fourth and final level, investigators attempt to find answers to the question: *How to prevent it from happening again?*

Convenient Internal Investigations

In the organizational dimension of convenience theory (Gottschalk 2016a), suspected white-collar offenders have access to resources. A resource available to suspects is fraud examiners who conduct internal private investigations. Hiring private investigators at an early stage of potential crime disclosure enables the organization to control the investigation mandate and influence the investigation process and the investigation output. Getting an early start on reconstruction of the past in terms of an investigation makes it possible for the suspect and the organization to influence what facts are relevant and how facts might be assessed in terms of possible violations of the penal code.

Since law enforcement has scarce resources, they sometimes welcome private investigations as a source for fact-finding. While the internal investigation is going on, many police departments will be reluctant to look into the matter. When an internal investigation concludes that no penal code has been violated, many police departments are reluctant to open a criminal case. They trust private investigators both out of necessity and professionalism.

Therefore, the theory of strategic resources in the economical dimension of convenience theory can shed light on the role of fraud examiners in private internal investigations. This chapter presents some investigation cases in the United States and Norway that demonstrate the role of internal investigations as strategic resources.

It is important to emphasize that none of the cases described in this chapter involve white-collar crime prosecution or conviction. There were only suspicions of misconduct and crime. The convenience of internal investigations can be found in an attempt to prevent law enforcement to get interested in the cases. The convenience can be found in preventing police investigations.

Investigation Evaluation Reports

Just like internal examinations result in investigation reports, so do external inquiries result in evaluation reports. While investigation reports describe findings and conclusions, evaluation reports describe assessment and appreciation.

A typical evaluation report has the following contents:

1. *Introduction* with description of the subject of investigation, how the suspicion arose, why the investigation was initiated, and what was investigators' mandate. Discussion of the suspected economic crime using convenience theory and other theoretical perspectives.
2. *Presentation of criteria* to evaluate the investigation, including evaluation criteria for the investigators' choice of strategies (knowledge strategy, information strategy, methodology strategy, system strategy, and configuration strategy). Evaluation criteria should include motives for the investigation, follow-up after the investigation, and resource consumption by the investigation. The right of contradiction, the protection against self-incrimination, as well as written procedures are important considerations in an investigation and thus relevant for the evaluation.
3. *Discussion of procedure* to collect information on the investigation for the evaluation. Internal investigation processes are often very secret activities for everyone other than those directly affected. To the extent media coverage occurs, journalists tend to receive and communicate only biased and selected data from investigation clients. Much of what is referred in the media about an investigation can be misleading. Media and other data sources should thus be scrutinized in terms of their credibility and quality of information. Often it is only the investigation report that is available for evaluation.
4. *Description of investigation* that is evaluated, how the investigation was conducted, including considerations that were taken into account, and what mindset may have dominated the investigation. Description of individuals who commissioned the investigation, their positions, and perspectives. Description of individuals who conducted the investigation, their qualifications, and track record. Description of persons who were subject to investigation, their positions, and suspected behaviors. The investigation can be discussed in terms of principal-agent theory and other theoretical perspectives.
5. *Evaluation of investigation* by applying criteria for evaluating the investigation (2) on how the investigation was actually conducted (4). The investigation report quality should be assessed as well. The extent of social responsibility by investigators can be assessed, that is, being accountable (business responsibility to society), compensating for own negative impacts (business responsibility for society), compensating for others' negative impacts (business responsibility for society), contributing to societal welfare (business responsibility for society), operating their business in an ethically, responsible and sustainable way (business responsible conduct), taking responsibility for society and the environment in broad terms, and managing by business its relationships with society. When detecting serious white-collar crime and not telling law enforcement because of the client-attorney privilege, it is an example of lack of social responsibility on the part of investigators and should be criticized by evaluators. Cost-benefit for the investigation is important to evaluate, as the added value contributed by the investigation should be assessed.

6. *Maturity model* to assign the investigation to a stage or level of maturity. A maturity model consists of several stages, where the number of stages can be determined by evaluators. The stages are sequential in nature, occur as a hierarchical progression that is not easily reversed, and involve a broad range of organizational structures and activities. A maturity model for evaluation with four stages, for example, might consist of the following stages: activity-based investigation, problem-oriented investigation, detection-oriented investigation, and value-oriented investigation. Such stages have to be clearly defined to enable allocation of the investigation to one of them.
7. *Conclusion* with recommendations what investigators can learn from the evaluation. Description of how similar investigations should be carried out in the future.

References

ACFE. (2016). *CFE code of professional standard*. Association of Certified Fraud Examiners. www.acfe.com/standards/

Albrecht, W., Albrecht, C., Albrecht, C., & Zimbelman, M. (2011). *Fraud examination.* Cengage Learning. www.cengage.com

Ånestad, M. (2016). Formålet var å ramme gammel ledelse (The purpose was to harm the previous management), daily Norwegian newspaper *Dagens Næringsliv*, Monday, November 7, p. 10.

Bakken, J. B., Eriksen, M. R., & Hoemsnes, A. (2016). Ba om juridiske råd (Asked for legal advice), daily Norwegian business newspaper. *Dagens Næringsliv*, Wednesday, August 17, p. 10.

Baxter, J., Dempsey, J., Megone, C., & Lee, J. (2012). *Practical solutions for organisations seeking to promote and encourage integrity.* University of Leeds. icaew.com/academic

Becker, T. E. (1998). Integrity in organizations: Beyond honesty and conscientiousness. *Academy of Management Review, 23*(1), 154–161.

Datner, B. (2011). *The blame game – How the hidden rules of credit and blame determine our success or failure*. New York: Free Press.

DeScioli, P., & Bokemper, S. (2014). Voting as a counter-strategy in the blame game. *Psychological Inquiry, 25*, 206–214.

Douglas, H. (2004). The irreducible complexity of objectivity. *Synthese, 138*(3), 453–473.

Duggar, J. W. (2009). The role of integrity in individual and effective corporate leadership. *Journal of Academic & Business Ethics*, Holy Family University. www.aabri.com

Eberly, M. B., Holley, E. C., Johnson, M. D., & Mitchell, T. R. (2011). Beyond internal and external: A dyadic theory of relational attributions. *Academy of Management Review, 36*(4), 731–753.

Fabian, J. (2001). *Ethnographic objectivity revisited: From rigor to vigor, Anthropology with an attitude: Critical essays* (pp. 11–32). Stanford, CA: Stanford University Press.

Farber, N. E. (2010). *The blame game – The complete guide to blaming – How to play and how to quit*. Minneapolis: Bascom Hill Publishing Group.

Gill, M., & Hart, J. (1997). Exploring investigative policing. *British Journal of Criminology, 37*(4), 549–567.

Gottschalk, P. (2016a). Private policing of financial crime: Fraud examiners in white-collar crime investigations. *International Journal of Police Science and Management, 18*(3), 173–183.

Gottschalk, P. (2016b). *Understanding white-collar crime: A convenience perspective*. Boca Raton: CRC Press, Taylor & Francis.

Hammond, J. S., Keeney, R. L., & Raiffa, H. (1998). The hidden traps in decision making. *Harvard Business Review, 76*(5), 47–58.

Hein, M. (2014). *The blame game.* www.heinsights.com/.../theblamegamev2.doc

Hood, C. (2011). *The blame game – Spin, bureaucracy, and self-preservation in government*. Princeton: Princeton University Press.

Hurrell, S. A. (2015). Rethinking the soft skills deficit blame game: Employers, skills withdrawal and the reporting of soft skills gaps. *Human Relations, 69*(3), 605–628.

Kahneman, D. (2011). *Thinking fast and slow*. New York: Farrar, Straus and Giroux Publishing.

Keaveney, S. M. (2008). The blame game: An attribution theory approach to marketer-engineer conflict in high-technology companies. *Industrial Marketing Management, 37*, 653–663.

Killinger, B. (2010). *Integrity: Doing the right thing for the right reason*. Montreal: McGill-Queen's University Press.

Lee, F., & Robinson, R. J. (2000). An attributional analysis of social accounts: Implications of playing the blame game. *Journal of Applied Social Psychology, 30*(9), 1853–1879.

Leiter, B. (1993). Objectivity and problems of jurisprudence. *Texas Law Review, 72*, 186–209.

Lord, N. (2016). Establishing enforcement legitimacy in the pursuit of rule-breaking 'global elites': The case of transnational corporate bribery. *Theoretical Criminology, 20*(3), 376–399.

Megill, A. (1994). Introduction: Four senses of objectivity. In A. Megill (Ed.), *Rethinking objectivity* (pp. 1–21). Durham: Duke University Press.

Mutchler, J. (2003). Independence and objectivity: A framework for research opportunities in internal auditing. *Research Opportunities in Internal Auditing*, 231–268.

Nagel, T. (1989). *The view from nowhere*. Oxford: Oxford University Press.

Nietzsche, F. (1997). On the uses and disadvantages of history of life. In D. Breazeale (Ed.), *Untimely meditations*. Cambridge: Cambridge University Press.

Peacocke, C. (2009). Objectivity. *Mind, 118*(471), 739–769.

Pontell, H. N., Black, W. K., & Geis, G. (2014). Too big to fail, too powerful to jail? On the absence of criminal prosecutions after the 2008 financial meltdown. *Crime, Law and Social Change, 61*, 1–13.

Porter, T. M. (1996). *Trust in numbers: The pursuit of objectivity in science and public life*. Princeton: Princeton University Press.

Rajao, R., & Georgiadou, Y. (2014). Blame games in the Amazon: Environmental crises and the emergence of a transparency regime in Brazil. *Global Environmental Politics, 14*(4), 97–115.

Resodihardjo, S. L., Carroll, B. J., Eijk, C. J. A., & Maris, S. (2015). Why traditional responses to blame games fail: The importance of context, rituals, and sub-blame games in the face of raves gone wrong. *Public Administration, 94*(2), 350–363.

Shepherd, D. A., Patzelt, H., & Wolfe, M. (2011). Moving forward from project failure: Negative emotions, affective commitment, and learning from the experience. *Academy of Management Journal, 54*(6), 1229–1259.

Singleton, T. W., Singleton, A. J., Bologna, G. J., & Lindquist, R. J. (2006). *Fraud auditing and forensic accounting*. Wiley.

Sismondo, S. (2010). *An introduction to science and technology studies*. New York: John Wiley & Sons.

Slyke, S. V., & Bales, W. D. (2012). A contemporary study of the decision to incarcerate white-collar and street property offenders. *Punishment & Society, 14*(2), 217–246.

Smith, G. (2009). Citizen oversight of independent police services: Bifurcated accountability, regulation creep, and lessons learning. *Regulation & Governance, 3*, 421–441.

Sonnier, B. M., Lassar, W. M., & Lassar, S. S. (2015). The influence of source credibility and attribution of blame on Juror Evaluation of liability of industry specialist auditors. *Journal of Forensic & Investigative Accounting, 7*(1), 1–37.

Turhani, A. (2015). Management education for professional integrity: The case of economics faculty. *Journal of International Academic Research for Multidisciplinary, 3*(3), 353–378.

Valukas, A. R. (2010). *In regard Lehman Brothers Holdings Inc. to United States Bankruptcy Court in Southern District of New York*, Jenner & Block, March 11, 239 pages. http://www.nysb.uscourts.gov/sites/default/files/opinions/188162_61_opinion.pdf

Valukas, A.R. (2014, May 29). *Report to board of directors of General Motors Company regarding ignition switch recalls*, law firm Jenner & Block, 325 pages, http://www.beasleyallen.com/webfiles/valukas-report-on-gm-redacted.pdf.

Vargas-Hernandez, J., Leon-Arias, A., & Valdez-Zepeda, A. (2013). Enhancing leadership integrity effectiveness strategy through the institutionalization of an organizational management integrity capacity system. *Contemporary Legal and Economic Issues, 4*, 293–332.

Williams, J. W. (2005). Governability matters: The private policing of economic crime and the challenge of democratic governance. *Policing and Society, 15*(2), 187–211.

Xie, Y., & Keh, H. T. (2016). Taming the blame game: Using promotion programs to counter product-harm crises. *Journal of Advertising, 45*(2), 211–226.

Yukl, G. A., & Fleet, D. D. (1992). Theory and research on leadership in organizations. In M. D. Dunnett & L. M. Hough (Eds.), *Handbook of industrial and organizational psychology* (pp. 147–197). Palo Alto: Consulting Psychologist Press.

Zagorin, P. (2001). Francis Bacon's concept of objectivity and the idols of the mind. *British Journal of Historical Science, 34*(4), 379–393.

Chapter 7
Sample of US Investigation Reports

Many internal investigation reports are kept secret. Reports are the property of clients who often do not want to damage their reputation or leak business secrets. In 2015, it was possible to identify and obtain a total of 13 publicly available investigation reports. These 13 investigations are presented in this chapter.

Case 1: Acar Investigated by Sidley

On March 12, 2009, Yusuf Acar, a mid-level manager at the District of Columbia's office of the chief technology officer (CTO) was arrested and charged with bribery, conspiracy, money laundering, and conflict of interest related to procurement improprieties. A few weeks later on April 9, the council of the district authorized an investigation into the nature and causes of the Acar fraud. The committee retained Sidley (2010) to conduct the investigation.

The Sidley (2010) investigation had three questions in its mandate. First, how did the fraud occur? Second, how did it go undetected for nearly 4 years? Third, what vulnerabilities existed in the procurement process that facilitated this fraud, and how can those vulnerabilities best be addressed to reduce the risk of recurrence of this type of fraudulent activity in the future?

The investigation consisted of data collection, data analysis, and witness interviews. Investigators study district procurement policies, transaction data involving vendors receiving the most contracts, local supply schedule, and employees who made a procurement request or oversaw contract fulfillment. Investigators interviewed more than 30 individuals, including current and former technology employees (Sidley 2010).

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FBI published on its website (http://www.fbi.gov/washingtondc/press-releases/2010/wfo081210a.htm):

> WASHINGTON—Yusuf Acar, the former acting Chief of Security Officer for the District of Columbia's Office of the Chief Technology Officer (OCTO), was sentenced today to two concurrent terms of 27 months in prison for his role in a bribery and kickback scheme. The sentence, in U.S. District Court for the District of Columbia, was announced by U.S. Attorney Ronald C. Machen Jr., Shawn Henry, Assistant Director in Charge of the FBI's Washington Field Office, and Charles J. Willoughby, inspector general for the District of Columbia.
>
> Acar, 41, of Washington, D.C., pled guilty on December 18, 2009 before the Honorable Henry H. Kennedy, Jr. to a two-count information that charged him with bribery and engaging in monetary transactions in property derived from specified unlawful activity.
>
> During his guilty plea, Acar admitted that, between September 2005 and March 12, 2009, he accepted bribes on at least 59 occasions from Sushil Bansal, who owned a company called Advanced Integrated Technologies Corporation (AITC). Bansal paid Acar a total of $558,978.50 in bribe payments during this time. Acar also admitted to engaging in 17 transactions, each over $10,000, that involved the bribe money and which utilized financial institutions.
>
> In addition to the 27-month prison term, Judge Kennedy ordered Acar to pay $558,978.50 in restitution. He will be on supervised release for three years after serving his sentence.
>
> "The residents of the District of Columbia deserve an ethical government with ethical employees, and have the right to know that their money is being spent honestly and for the public good," said U.S. Attorney Machen. "The prison sentence in this case should send a strong message to any public official who may be tempted to accept a bribe or kickback that we will not tolerate corruption."
>
> Acar has been held without bond since March 2009.
>
> Bansal, 43, of Dunn Loring, Virginia, pled guilty in April 2010 to federal charges, as did his company. He was sentenced August 6, 2010 to two concurrent 20-month prison terms. He and his company were ordered to pay $844,765.50 in restitution to the District of Columbia government. He will be on three years of supervised release once he gets out of prison.
>
> Earlier today, a second OCTO employee was sentenced to prison for his role in the scheme. Farrukh Awan, 38, of South Riding, Virginia, was sentenced to 14 months in prison and ordered to pay $156,807 in restitution. He also must forfeit $46,647.50 as part of the sentence. He will be placed on three years of supervised release once his prison sentence is completed. Awan pleaded guilty in November 2009 to conspiracy to commit wire fraud.
>
> In announcing the sentence, U.S. Attorney Machen, FBI Assistant Director in Charge Henry, and D.C. Inspector General Willoughby commended the outstanding investigative work of the Special Agents from the FBI's Washington Field Office, and Special Agent Teddy Clark and the late Special Agent Lloyd Hodge of the D.C. Office of the Inspector General. They also acknowledged the efforts of U.S. Attorney's Office paralegals Diane Hayes, Tasha Harris and Maggie McCabe, former legal assistant Lisa Robinson, as well as Assistant U.S. Attorneys Thomas Hibarger and Glenn Leon, who prosecuted this case.

Case 2: Coatesville Investigated by BDO

Auditing firm BDO was hired to investigate the Coatesville Area School District in Pennsylvania. Pratt at BDO (2014d) wrote the report. In addition, investigative reports about the school district were written by Haverstick et al. (2014a, b) at law firm Conrad O'Brien as well as by the Chester Grand Jury (2014), who investigated possible criminal charges. Issues included fiscal mismanagement, lack of accountability, abuse of power, and the misappropriation, including theft, of school district funds.

For the initial report by Haverstick et al. (2014a), investigators interviewed 93 current and former employees of the Coatesville Area School District, and the report makes a point of specifying that all of their interviews were completely voluntary. Investigators also interviewed individuals from vendors and contractors of Coatesville Area School District whose work crossed paths with the investigation. The Haverstick et al. (2014a) report states that there were a number of individuals that they wished to speak with but were refused or in one case blocked from speaking with by the board of school directors. Particularly interesting is that in the supplemental report by Haverstick et al. (2014b), investigators state that they feel that the individual that they were blocked from interviewing is important enough to that they are willing to do so without charging the Coatesville Area School District for their time.

The forensic audit was performed by BDO at the request of Conrad O'Brien law firm (Haverstick et al. 2014a). The BDO investigator spoke with a number of district employees and made use of the school district's financial statements and accounting records. BDO (2014a, b, c, d: 8) described the scope of the report for Coatesville Area School District (CASD) as follows:

> The scope of our report is specifically limited to the application of forensic accounting procedures and an analysis of the issues identified by CASD and its outside legal counsel. The issues identified include certain transactions involving former Superintendent Richard Como and former Athletic Director James Donato, specifically related to CASD Athletic Department revenue, Athletic Department expenses, and other particular issues. These other issues analyzed during our engagement include overall budgeting and financial reporting, purchasing, budget transfers, transfers between funds, bank account reconciliations, financial controls over Student Activities' Funds and the sale of delinquent tax liens.

The individuals that the reports primarily focus on are Richard Como, the superintendent of Coatesville Area School District; James Donato, the athletic director for Coatesville Area School District; and James Ellison, Coatesville Area School District solicitor. Other individuals that played a significant role in the events that triggered the investigation and the findings of the investigation included Abdallah Hawa, the Coatesville Area School District director of technology, and Teresa Powell, Coatesville Area School District director of middle school education. Members of the board of school directors and others also played important roles.

The misconduct was initially detected based on a cell phone. In the late spring or early summer of 2013, Donato requested a new cell phone from Hawa, the district

director of technology. Hawa obtained the new cell phone and transferred Donato's information to the new device. Donato's old phone was put into storage to be reissued to another employee. On August 15, 2013, Hawa pulled the phone with the intention of wiping it so that it could be reissued and discovered that there were "numerous racist, sexist, and bigoted messages" on the phone, "primarily between Mr. Donato and Mr. Como" (Haverstick et al. 2014a). Given the individuals that were involved, Hawa chose to go to Powell, specifically because he felt that she was not beholden to Como.

The major issue in the reports by Haverstick et al. (2014a, b) is the financial irregularities surrounding both Donato and Como. Irregularities were found in sales of football game tickets as admission revenues had dropped sharply. The estimated total discrepancy in admission revenues during Donato's tenure was 60,000 dollars.

The major issue in the report by BDO (2014a, b, c, d) was the unusual and improper expenses of almost 20,000 dollars. Some of this money was claimed to be paid for fundraisers, but there was no corresponding deposits made that was indicated to be money raised for these fundraisers.

In total, Haverstick et al. (2014a, b) and BDO (2014a, b, c, d) discovered a discrepancy of 80,000 dollars. Both Como and Donato resigned from their posts, but they faced no criminal charges.

While the investigators identified several rotten apples in the form of the former superintendent, Richard Como, and former athletic director, James Donato, they also identified the factors that allowed the rot to become as extensive as it did in the Coatesville Area School District, which was the poor management provided by the board of school directors. As superintendent, Como centralized hiring to the extent that he had almost complete control over who was hired, allowing him to hire individuals with connections to either himself or the board of school directors. This could happen regardless of their qualifications, usually without the input and at times over any objections of the faculty and staff that were the supervisors of those who Como hired. Como was able to keep faculty and staff in fear for their jobs if they objected, in part because the board of school directors failed to provide adequate oversight.

Case 3: Enron Investigated by Powers

The special investigative committee of the board of directors of Enron corporation submitted a report of investigation in 2002 (Powers et al. 2002). The mandate for the investigation was to address transactions between Enron and investment partnerships created and managed by Andrew S. Fastow, Enron's former chief financial officer (CFO) and other Enron employees who worked for Fastow.

There were some practical limitations on the information available to the committee in preparing their report. They had no power to compel third parties to submit to interviews, produce documents, or otherwise provide information. Certain former

Enron employees who played substantial roles in one or more of the transactions under investigation – including Fastow, Michael J. Kopper, and Ben F. Glisan, Jr. – declined interview either entirely or with respect to most issues. The investigators had only limited access to certain work papers of Arthur Andersen, Enron's outside auditors, and no access to materials in the possession of the Fastow partnerships or their limited partners. Information from these key people sources could affect investigation conclusions.

Kenneth Lay, the CEO of Enron, approved the arrangements under which Enron permitted Fastow to engage in related-party transactions with Enron. Jeffrey Skilling was COO at Enron, Richard Causey was chief accounting officer, and Richard Buy was senior risk officer.

Kenneth Lay died in 2006 before his final sentencing. Andrew Fastow served a 6-year prison sentence. Jeffrey Skilling received a sentence of 24 years in prison.

Sixteen Enron executives pleaded guilty for financial crime committed at the expense of the company and sentenced to jail. The private investigation also turned up that Arthur Andersen received $25 million in audit fees and $27 million in consulting fees, which came out to 27% of all fees from clients of Arthur Andersen, so there was motive for a scandal within the audit company as well. Investigators found that Arthur Andersen failed to take note how many deficiencies that were in Enron's public disclosure statements. Eventually prosecutors found Arthur Andersen guilty of obstruction of justice deleting e-mails of company files and shredding numerous documents from the scandal. The company surrendered its CPA license on August 31, 2002, which left 85,000 employees without jobs.

Due to the seriousness of the Enron scandal, the Sarbanes-Oxley Act became a reality on July 30, 2002. This act entailed to fix major problems that went wrong with the Enron scandal such as developing standards for the preparation of audit reports, relinquishment of executive bonuses in case of financial restatement, and increased penalties for destroying records in a federal investigation by attempting to defraud shareholders.

The Powers et al. (2002) investigation does not constitute an independent examination, as all members of the committee came from within Enron, either from the board of directors or from other executive positions in the company. This is a crucial fact, because it can lead to biased results, which turn into the private investigation report at the end. With all members being from within, they could have a second objective or feel like they have an obligation to not make Enron or the board look like it was their fault for the causing of the company's bankruptcy. There were no external private investigators involved throughout the investigation process. Without any external investigators, the chances of having a biased and not as valid report increases.

Why did the board of directors not hire any external investigators to gather knowledge on what has occurred? A plausible explanation for this is that the board was trying to keep certain information hidden and not have any of that information shown to anyone external to the company. Usually, when conducting a private investigation, the client will hire someone who goes deep and gathers sufficient information to draw conclusions. An indication of hidden information was the board's

restriction on documents the investigation committee could and could not use. They had limited access to information regarding Enron, and what the company did during the time of Fastow utilized his partnerships. Investigators did not succeed in obtaining access to most documents in regards to Arthur Andersen. With the lack of access to substantial required information, the investigation's credibility drops severely.

The first two people that the investigators attempted to interview were Andrew Fastow and Michael Kopper. These two men were mostly responsible for cause Enron to go bankrupt. Both men refused to interviews with the investigation committee. The committee also went to third parties to conduct interviews. All third-party entities that investigators approached refused to participate in interviews or offer any types of facts or knowledge about their involvement with Enron. They did not want to get involved in the investigation because they did not want anything out that could negatively affect them. In the end, investigators were not able to conduct any interviews to gather information. They were not capable of convincing anyone into taking the interview or trying to get any outside help in making Fastow or Kopper partake in the interview. Without any interviews successfully conducted, the investigation is lacking substantial information that causes gaps in the report.

In the end, investigators did not conduct a satisfactory or beneficial internal investigation. From their results, from searching through documents, nothing new about what exactly happened seems to have emerged. This maybe because the investigation occurred after Enron filed for bankruptcy. The major reason why the investigation was a failure seems to be that the investigative committee was not capable of reconstructing the past.

In the end, the costs outweighed the benefits for this investigation. Investigators spent months going through files and documents just to find out who was involved and how much money did they exactly get out of the scheme. The time-consuming process seems to be a large expense for Enron's board of directors. There seems to be little to almost no gain in the knowledge from the results of the investigation. When considering the investigation as an investment in knowledge creation, it was a bad investment.

Maybe a summary of media accounts of the Enron scandal is more valuable as presented by Williams (2008). He was drawing from an analysis of over 300 newspaper articles to study diagnosis of the scandal. His study coded newspaper reports based on the following questions: (1) What are the identified causes and consequences of the scandal? (2) To what extent are they attributed to individual versus systemic factors? (3) What types of policy and regulatory responses are advocated and why? (4) How are markets, regulation, and terms such as market integrity and investor confidence represented?

The media is a representational medium as well as an interpretive and sensemaking device. Williams (2008) found that some newspapers commented on the Enron case as a handful of bad apples, while other newspapers viewed the scandal as a systemic expression of institutionalized wrongdoing and crime facilitated by an inadequate regulatory machinery. All media reports described financial markets as autonomous entities that have a tendency to ignore the law.

Case 4: General Motors Investigated by Valukas

General Motors' CEO Mary Barry and the GM Board directed Anton R. Valukas and Jenner to investigate the circumstances that led up to the recall of the Cobalt and other cars due to a flawed ignition switch. They were to investigate what happened and why it happened. Jenner was also asked to focus on the knowledge of specific senior executives and board members. Attorney Valukas (2014) from law firm Jenner & Block was heading the private internal investigation at GM.

Valukas (2014) addresses in the report the role of senior leadership and board in the scandal. Investigators reviewed a large number of documents collected from numerous custodians, including potentially relevant e-mails any of the senior leaders sent or received at pertinent times. They interviewed GM employees in the top leaders' respective chains of reporting who might have discussed Cobalt-related issues with them, and they interviewed the examined senior executives. All of the evidence that investigators reviewed corroborated the conclusion that none of the senior executives had knowledge of the problems with the Cobalt' ignition switch or non-deployment of airbags in the Cobalt – until December 2013 at the earliest.

Before becoming the CEO at GM in January 2014, Mary Barra had served for the preceding 3 years as a senior vice president for global product development. Barra became well acquainted with the recall process when the issue involving the Chevrolet Volt's lithium battery arose in 2011. Based on that experience and others, she believed that recall issues were addressed with appropriate urgency and that the recall decision-making process worked well (Valukas 2014).

Investigators provided opportunities to witnesses to contradict. For example, Raymond DeGorgio, an engineer who allegedly approved the faulty switch and later replaced it with a better one without notifying anyone, just refused the allegations and stated during the interview that he knew nothing. While reading the report (especially ignition switch portion), one can find that the report from the very beginning is leading to one suspect, DeGorgio. The testimonies from Delphi mechatronics directly incriminate him for his negligence and persistence to use flaw switches. After publication of the report, engineer DeGorgio alongside many other engineers were terminated from their positions.

Costs of the investigation are not disclosed, but they are probably substantial. The company achieved some benefits from their investment in the investigation. First, it provided a signal to the public and government authorities that GM is still a socially responsible organization. Second, it helped the organization to identify the misconduct behind the issue and helped to clean the confusion in the organization. Third, it helped the organization to identify the weak spots within the organization. Finally, it helped the CEO at GM to emerge as a leader when issues of leadership were at stake.

Case 5: Lehman Brothers Investigated by Valukas

Attorney Anton R. Valukas at law firm Jenner & Block was hired to investigate the collapse of Lehman Brothers. The bank went bankrupt in 2008. Valukas (2010) concluded in the private investigation report that Lehman failed because it was unable to retain the confidence of its lenders and counterparties, and because it did not have sufficient liquidity to meet its current obligations. Lehman was unable to maintain confidence because a series of business decisions had left it with heavy concentration of illiquid assets with deteriorating values such as residential and commercial real estate. Confidence was further eroded when it became public that attempts to form strategic partnerships to bolster its stability had failed.

The investigation report begins with a discussion of the business decisions that Lehman made well before the bankruptcy and the risk management issues raised by those business decisions. Ultimately, investigators conclude that while certain Lehman's risk decisions can be described in retrospect as poor judgment, they were within the business judgment rule and do not give rise to colorable claims. But those judgments, and the facts related to them, provide important context for the other subjects on which investigators found colorable claims. For example, after saddling itself with an enormous volume of illiquid assets that it could not readily sell, Lehman increasingly turned to deviant acts to manage its balance sheet and reduce its reported net leverage (Valukas 2010).

The time allotted to the examiner, Anton R. Valukas, was reduced compared to other large investigations due to the rapid functions necessary in a bankruptcy proceeding. The examiner began his investigation by requesting access to Lehman Brothers records, both online and physical files stored within their office. Once his request was granted, he used key search terms to sort through approximately 350 billion pages of online data sheets and client information sheets (Valukas 2010).

Valukas then requested hard copies files of other companies whose records corresponded with Lehman Brothers, Valukas looked specifically at companies such as JP Morgan, Ernst & Young, and S &P among records from sources such as The Federal Reserve. Over five million records from these sources were maintained in an online database cataloging them by company and then by relevance (Valukas 2010).

The examiner was able to gain access to 90 of the Lehman Brothers' operating, financial, valuation, accounting, trading, and other data systems. Much of the software was unorganized and outdated which only slowed down the process. Valukas enlisted the help of numerous attorneys in scouring through the endless databases and documents searching through the use of key terms and essential events which could point to misconduct (Valukas 2010).

Valukas then continued his investigation by speaking with examiners from other large bankruptcy cases such as WorldCom, Refco, and SemCrude in order to obtain advice from them as to the best practices for successful investigation report. Valukas used some of the abovementioned attorneys and examiners in the next step of his investigation, the interview stage. Valukas used a set of informal interviews with

two attorneys present during each to take precise notes and make sure all laws were followed (Valukas 2010).

The interview's main goals were to gain a better perspective on where everyone stood opinion-wise on the filing for bankruptcy, why they thought Lehman Brothers failed, and other essential questions that could lead to evidence of misconduct or point to new information. The examiner gave the person to be interviewed advanced notification of the topics to be discussed and the documents they would be asked to interpret. Valukas was met with great cooperation from all 250 people he and the attorneys interviewed (Valukas 2010).

Valukas (2010) concluded his investigation as follows:

1. The examiner does not find colorable claims that Lehman's senior officers breached their fiduciary duty of care by failing to observe Lehman's risk management policies and procedures.
2. The examiner does not find colorable claims that Lehman's senior officers breached their fiduciary duty to inform the board of directors concerning the level of risk Lehman had assumed.
3. The examiner does not find colorable claims that Lehman's directors breached their fiduciary duty by failing to monitor Lehman's risk-taking activities.

Valukas (2010) planned the investigation strategy with the goal of finding the presence of white-collar criminal activity; however, he found no evidence of such a crime. When investigators were unable to find evidence of any misdeed regarding Repo 105 transactions that had taken place, the investigation abruptly finished because investigators were seemingly unable to readjust their viewpoint to look at other forms of transactions that had taken place.

As for the aspect of lack of contradiction, this is when investigators avoid giving suspects and witnesses a chance to contradict what is said about them in the report. It seems that investigators did not give any employees at Lehman Brothers an opportunity to look over what was written about them before investigators published the report.

Blame game is a potentially important aspect of an investigation report where investigators complete the report by placing the blame for misconduct on individual(s), which the client who ordered the investigation would prefer to see blamed for it. Valukas was commissioned by the Security and Exchange Commission (SEC) to conduct this investigation. From the beginning of suspicions that Lehman Brothers' collapse was due to misconduct by the board of business executives, the SEC was probably intent on blaming the board of executives for the bank on pocketing what money was left over from collapsing stocks and market values. Valukas was probably influenced by their goal of detecting misconduct and therefore focused much of the investigation on those esteemed members of the company.

The main goal of an investigation report is not to jump to conclusion about who committed what and accuse them of such acts but instead to simply reconstruct the past. Valukas succeeded in reconstructing how Lehman Brothers collapsed into a precise timeline. Valukas followed the company from the beginning of trouble in late 2008 when the housing market crashed to when the bank put into place a more

aggressive business strategy to when they began losing increasingly large amounts of investors' money to when they began conducting Repo 105 transactions in order to cover up the exact amount of money they were losing to the end when the company was forced to file for the largest bankruptcy proceeding ever recorded to date in the United States.

When the investigation is considered an investment, it was probably not profitable. Lehman Brothers was a lengthy and costly investigation. Assuming that the investigation had costs of one million dollars, it is hard to identify benefits of a larger size. Valukas procured such a hefty bill due to his hiring of attorneys and assistants, his own hourly rate, his use of expensive technology and software to extract information form the offices of Lehman Brothers, and by travel costs in and around New York City. Due to the high cost of this investigation and the fact that no white-collar criminal was identified and then convicted, it seems that this investigation was not worth it. The report may not have benefitted Lehman Brothers, the SEC, or the public.

The role of CFO Erin Callan is discussed in the investigation report on page 930:

> In her interview with the examiner, Callan recalled very little about Lehman's Repo 105 program. Callan said she had little to no independent recollection of Lehman's use of Repo 105 transaction, but that her memory had been refreshed to a limited extent by documents the examiner provided her in advance of her interview.

In 2016, 6 years after she was interviewed by fraud examiners for the Valukas (2010) report, Erin Callan published her own memoir entitled *Full Circle: A Memoir of Leaning in Too Far and the Journey Back*. An interesting issue is whether her book adds new insight into possible misconduct and crime related to the collapse of the bank. She had been working for the bank since 1995. She recalls in her book (Montella 2016: 142):

> One thing I do remember is the sense that I had a shocking lack of control over the state of Lehman Brothers and its financial health. Maybe that seems like it would be obvious, but it felt very strange and alarming to me. I was used to running businesses where the decisions I was making every day had real consequences. The market environment itself was always a wild card in terms of how quickly the profitability of those decisions could be realized, but I had the ability to create a respected, highly competent business under any circumstances (…)
>
> I came to understand how the mere existence of a concentrated portfolio of mortgage assets on our balance sheet was a big problem, regardless of any quality or hedging arguments that might be made.
>
> By late January of 2008, when I was fully committed to the view that some assets should be sold regardless of our opinion of their future profitability, then my complement lack of control and influence came home to roost. It was one thing to live with legacy decisions that had defined the position of the firm, but it was another to not be able to convince Dick and Joe that we had to move quickly to reduce our positions, even if that meant selling at a loss. Since they had been part of those initial decisions, they were vested, not willing to abandon ship with the same urgency.

Richard "Dick" Fuld was CEO at Lehman Brothers, while Joseph "Jo" Gregory was president and COO when the bank collapsed.

Erin Callan was the chief financial officer of Lehman Brothers and a member of its executive committee during the height of the financial crisis in 2007. Prior to holding the CFO position, she held various business head positions over a dozen of years throughout the bank. She was a corporate tax lawyer at Simpson Thacher & Bartlett, a New York-based law firm for 5 years before joining Lehman in 1995. She graduated from Harvard University and then from NYU law school.

In 1844, 23-year-old Henry Lehman, the son of a Jewish cattle merchant, emigrated to the United States. With his brothers Emanuel and Mayer, he created the firm Lehman Brothers. The last Lehman to be in charge of the bank was Robert Lehman, who died in 1969 after 44 years as the patriarch of the firm, leaving no member of the Lehman family actively involved with the partnership.

The bank filed for bankruptcy in 2008. Lehman had then borrowed significant amounts to fund its investing, a process known as leveraging or gearing. A significant portion of this investment was in housing-related assets, making it vulnerable to downturn in that market. One measure of this risk taking was its leverage ratio, a measure of the ratio of assets to owners' equity, which increased from approximately 24 to 1 in 2003 to 31 to 1 by 2007. While generating tremendous profits during the boom, this vulnerable position meant that just a marginal decline in the value of its assets would entirely eliminate its book value of equity. It only took about 10 days before the Lehman bankruptcy came knocking at Erin Callan's door. On Friday, September 26, 2008, two FBI agents came to personally hand her the subpoena.

While Elin Callan in her book criticizes bosses and illustrates her struggles through the bank's collapse, her former boss, ex-Lehman CEO Dick Fuld, spoke at a New York banking industry conference and continued to present his defense of his tenure atop the defunct bank. Unlike Callan, Fuld seemed intent in May 2015 to argue the case that Lehman was not a bankrupt company in 2008.

As mentioned in the introduction to this book, it may seem asserted that in the Lehman's case study above that an investigation which does not produce a conviction is not worth it. This contradicts the thread running through the text that investigations are merely factual reconstructions of the past and are not necessarily a resource for apportioning blame. Therefore, all case studies should be read with the perspective that proving innocence is just as important as proving guild in a criminal investigation.

Case 6: Motorola Investigated by SEC

The division of enforcement at the US Securities and Exchange Commission (SEC) conducted an investigation into whether Motorola, Inc. violated the federal securities laws when one of its senior officials selectively disclosed information about the company's quarterly sales and orders during private telephone calls with sell-side

analysts in March 2001. During those calls, Motorola's director of investor relations told analysts that first quarter sales and orders were down by at least 25 percent. Previously, in a February 23, 2001 press release and a public conference call, Motorola had said only that sales and orders were experiencing "significant weakness" and that Motorola was likely to miss its earnings estimates (SEC 2002).

SEC (2002) found that the conduct in question was inconsistent with the disclosure mandate, which generally prohibits issuers from communicating material, non-public information to securities professionals without simultaneous public disclosure of the same information. When an issuer endeavors to make public disclosure of material information – but later learns that it did not, in fact, fully communicate the intended message and determines that further disclosure is needed – the proper course of action is not to selectively disclose the corrected message in private communications with industry professionals but rather to make additional public disclosure.

According to the enforcement manual at SEC (2013), an investigation is an inquiry into potential violations of the federal securities laws. The purpose is to protect investors and the markets by investigating potential violations of the laws and litigating the SEC's enforcement actions. Values integral to that mission include integrity, fairness, passion, and teamwork.

The main suspect in the investigation was the director of investor relations. He is blamed in the report and is presented as a rotten apple. Motorola as company seems to avoid the rotten barrel label in the report. Blaming the director of investor relations without even interviewing the person is a shortcoming of the investigation. The report suggests that the director misinformed the public, then cleared it up with analysts, but neglected to inform the public again with a public release. Such allegations should have caused investigators to interview the director to get the potentially other side of the story.

Case 7: Padakhep Investigated by Inspector General

Padakhep Manabik Unnayan Kendra (PMUK) is a nongovernmental organization in Bangladesh. PMUK received US$5.2 million from Save the Children for HIV/AIDS work among children in Bangladesh. An investigation by the Office of the Inspector General (2012) was a result of irregularities found in multiple audits performed by the principal recipient, Save the Children USA (SCUSA). The investigation confirmed that there were acts of misappropriation and a fraud scheme from 2004–2009 identified through the audits. A loss of grant funds in the amount of $1,894,426 of the funds was disbursed to PMUK.

PMUK engaged in a scheme to divert the grant funds disbursed to them as a sub-recipient under the HIV/AIDS program. They concealed the diversion through fabricated documents for submission to SCUSA, including "a set of manufactured books and records to justify withdrawals that never actually took place and then withdrew funds separately" (Inspector General 2012: 3):

> The fictitious books and records included: (i) fabricated and falsified bank statements; (ii) accounting journals maintained for recording the false program expenditures and activities in detail; (iii) falsified bids and invoices for purchases of services and goods by third party vendors that did not in fact occur; and (iv) copies of checks allegedly issued to vendors that were never actually issued or presented for payment.

The documents were all created to justify the expenditures for a legitimate program purpose, but it never occurred. PMUK withdrew funds and diverted them to unknown locations. While the diversion of the program funds was well concealed through a scheme of creating documentation that appeared on its face generally complete and mutually consistent, upon closer examination, indicators of fraud were evident (Inspector General 2012: 4):

> For example, typographical and arithmetic errors appeared on the forged bank statements provided by PMUK. In addition, vendors who allegedly provided goods and services under the program confirmed in several instances that the bids and invoices bearing their companies' names were not authentic, that the vendors never provided the services/goods, and that these entities never actually received the money.

The investigation unit of the Office of the Inspector General is responsible for conducting investigations of fraud, abuse, misappropriation, corruption, and mismanagement that may occur when grants are given for various purposes. Investigations aim to uncover the specific nature and extent of fraud and abuse of funds, to identify the staff or private entities implicated in the schemes, and to determine the amount of funds misappropriated. The office is an administrative body with no law enforcement powers (Inspector General 2012).

While PMUK was not able to justify the proper use of funds, investigators were not able to find out where PMUK placed the money. Investigators were unable to locate misappropriated sums. The fabricated and falsified bank statements were evidence of fraud, but investigators failed in reconstructing the past in terms of financial transactions.

It seems that investigators entered the country of Bangladesh with disregard to their culture. The investigators should have understood the culture better instead of showing up at the NCC Bank requesting access to documents. The investigators went in with confrontation and accused the locals of embezzlement that intimidated the locals away. It probably caught PMUK and bank staff off guard because the investigators may have been viewed as outsiders, and locals were not sure how to handle such external critics from the United States.

Investigators requested access to bank statements on May 26, 2011 and did not receive them until June 19, 2011. For about 3 weeks, investigators were being fooled around in Bangladesh because they may have been seen as foreign and intimidating people. It is understandable for Bangladesh executives to be hesitant in giving up documents to foreign investigators. They did not want to self-incriminate themselves to someone they did not know or were familiar with. The investigators should probably not have barged into the country of Bangladesh without understanding their culture or know how the locals might feel. They could have gained the trust of Bangladesh executives better if they had identified some allies in their struggle to reconstruct the past.

Case 8: Peregrine Investigated by Berkeley

The investigative team at Berkeley Research Group was tasked with conducting a review of the National Futures Association audit regulatory framework after the failed audit of Peregrine Financial Group (Berkeley 2013). It was not the team's mandate to determine how former Peregrine Financial Group CEO Russell Wasendorf conducted the fraud that caused the failure of Peregrine, and the team did not conduct an exhaustive analysis of how he perpetrated the fraud.

The investigation found that National Future Association (NFA) auditors conducted a total of 27 audits of Peregrine from 1995 to 2012. The investigation further found that these audits were, for the most part, routine audits designed to review Peregrine's operations and systems and not specifically directed to a particular tip or complaint alleging that Wasendorf was conducting a fraud. Investigators inquired whether any complaints indicating that Wasendorf was conducting a fraud and found none. Investigators also found that Wasendorf was able to conceal the fraud meticulously by providing numerous convincingly forged documents to NFA auditors (Berkeley 2013).

Investigators found that, overall, the NFA audits were conducted in a competent and proper fashion, and the auditors dutifully implemented the appropriate modules that were required in the annual audits. However, they found that certain areas, such as internal controls, Wasendorf's capital contributions and Pelegrine's accounts were not examined closely in the audits (Berkeley 2013).

Case 9: Philadelphia Police Investigated by Commission

The Pennsylvania Crime Commission investigated police corruption and the quality of law enforcement in Philadelphia. The investigation was based on allegations of corruption within the Philadelphia Police Department. Thirty investigators were involved in the investigation. A plan was devised to spend 2 months on the street developing crime profiles of ongoing police corruption linked to liquor outlets, gambling locations, prostitution activities, narcotics trade, stolen cars, and other crime opportunities (Pennsylvania 1974).

Investigators were arrested, interrogated, and beaten in police custody. Investigation problems climaxed when it was discovered that some of their rooms in a hotel had been wiretapped. The facts and circumstances surrounding the subsequent charges and countercharges, the resignation of the Attorney General, and the dismissal of the Commissioner of State Police, as well as the State's unsuccessful attempts to bring criminal charges against many of the individuals believed to be involved in the wiretapping have received widespread publicity in the news media (Pennsylvania 1974).

The Commissioner found evidence to suggest that police officers were taking possessions and money while investigating burglaries, serving warrants, or when an

individual was under arrest or being detained so that they cannot protect their belongings. The Commissioner received sworn testimony from police witnesses that such instances had occurred and that the police officer had taken part in a few. Similar to the stealing of possessions, the Commission also found proof that police officers were taking advantage of poorly monitored police impound lots by stripping the cars in the lot in order to sell the parts and then receive a reward from insurance companies later on when they "recovered" the stolen car parts. The investigation into the stripping of cars began when a claims manager reported that cars that went into a particular impound lot always had parts stolen and that the police would then be paid for recovered parts. The Commission team then set up surveillance and subpoenaed five major insurance companies; however, the companies denied ever paying the police for such services.

Within the police department itself, corruption was also found as the Commission uncovered mishandled pensions. In some cases, good pensions only went to those who were well connected, while in other cases an individual received a disability pension but then took on a new job doing work incongruent to work they would be capable of doing if they had received the injury they had supposedly received. In a different case, the Commission caught an officer on videotape participating in a bribe, but the officer refused to cooperate with the investigation and was allowed to resign after arrest and still collect a pension even though he was caught in an illegal activity.

The Commissioner had many suggestions as to how the various forms of crime and financial crime being committed by the Philadelphia police could be handled. In order to stop the police from accepting money in exchange for illegal gambling facilities being protected from raids or shut down, the Commissioner suggested that gambling laws needed to be rewritten, the police needed to be properly trained as to how to handle illegal gambling crime, as well as the establishment of an outside investigation unit that would handle all things related to gambling and integrity without using the police department to staff the unit. The Commissioner also stated that vice departments needed to be more realistic about the types of crime they can prevent and what policies are incapable of enforcing so that officers do not end up feeling bogged down and that their efforts are not making a difference. Along with the new unit, the Commission also stated that it was necessary to change the department's attitude toward corruption so that it was no longer viewed as something everyone did, leadership needed to accept the fact that corruption was an issue within their department rather than turning a blind eye, higher ups needed to be held responsible for those underneath them, and officers in the academy needed to be warned about the corruption hazards and trained in how to avoid those scenarios. In order to make sure this newfound honesty and integrity would remain intact, the Commissioner suggested that the Internal Affairs Bureau be strengthened; the Commission recognized the potential for an internal system to greatly decrease crime so long as it was strengthened and utilized with clear and specific guidelines. It was also suggested that a special deputy attorney general, a special prosecutor, and prosecuting committee be put into place to prosecute police corruption specifically.

There was a rotten barrel problem in the Philadelphia Police; however, the commissioner insisted upon it being a rotten apples issue instead. The Commissioner made it clear in the start of his report that he did not want the report to reflect negatively on the entire Philadelphia Police Department or the individuals who were working hard to still do good despite the negative image the others were painting for all Philadelphia Police Officers, but rather that there was a large handful of individuals creating the problem and affecting everyone else in the department. The Commissioner also noted the hardships of doing the investigation included being under constant public scrutiny over the years of the investigation. The investigation team also lacked the staff needed to effectively investigate the large-scale corruption and had to deal with a Supreme Court Case filed by the police department questioning the constitutionality of the investigation. It was also noted in the report that the investigation received limited support in looking into the police department and that multiple agents of the investigation had cars illegally searched, were unlawfully detained, and were subjected to other sorts of harassing behaviors by the Philadelphia police during a 3-month period of the investigation.

Investigators collected evidence by getting informants to tape record conversations with the police discussing the corruption and had sworn testimonies verifying the facts even more. They got these informants and sworn testimonies by letting an individual see the facts they had piled against them proving that they were involved in the corruption scheme and would give them the opportunity to cooperate with the investigation and give names and other details of the crime to avoid their prosecution. The Commissioner ran into problems here due to the police code of silence that made many choose to take their chances with the system rather than tell on the other officers.

Case 10: Sandstorm (BCCI) Investigated by PwC

The Sandstorm group was investigated by PwC (1991). Bank of England was the client for the investigation. The investigation report is concerned with irregularities and related matters which came to the investigators' attention during the course of their work. Investigators reviewed correspondence and other files and conducted interviews with former management.

According to Block (2001), the Sandstorm case was one of the financial crime activities of the Bank of Credit and Commerce International (BCCI). The bank was founded in 1972 by Agha Hasan Abedi, a Pakistani financier. The bank came under the scrutiny of numerous financial regulators and intelligence agencies in the 1980s due to concerns that it was poorly regulated. Subsequent investigations revealed that it was involved in massive money laundering.

The Sandstorm case was one of the money laundering cases involving the bank. Sandstorm was a code name for BCCI (Wikipedia, downloaded March 28, 2015):

> In March 1991, the Bank of England asked Price Waterhouse to carry out an inquiry. On 24 June 1991, using the code name "Sandstorm" for BCCI, Price Waterhouse submitted the Sandstorm report showing that BCCI had engaged in "widespread fraud and manipulation" that made it difficult, if not impossible, to reconstruct BCCI's financial history.
>
> The Sandstorm report, parts of which were leaked to The Sunday Times, included details of how the Abu Nidal terrorist group had manipulated details and through using fake identities had opened accounts at BCCI's Sloane Street branch, near Harrods in London. Britain's internal security service, MI5, had signed up two sources inside the branch to hand over copies of all documents relating to Abu Nidal's accounts. One source was the Syrian-born branch manager, Ghassan Qassem, the second a young British employee.
>
> The Abu Nidal link man for the BCCI accounts was a man based in Iraq named Samir Najmeddin or Najmedeen. Throughout the 80s, BCCI had set up millions of dollars in credit for Najmeddin, largely for arms deals with Iraq. Qassem later swore in an affidavit that Najmeddin was often accompanied by an American, whom Qassem subsequently identified as the financier March Rich. Rich was later indicted in the U.S. for tax evasion and racketeering in an apparently unrelated case and fled the country.
>
> Qassem also told reporters that he had once escorted Abu Nidal, who was allegedly using the name Shakir Farhan, around town to buy a tie, without realizing who he was. This revelation led in 1991 to one of the London Evening Standard's best-known front-page headlines: "I took Abu Nidal shopping."

Investigators from PwC (1991) emphasized that much of the information in their report is based on records which had previously been concealed from them. The documents only came to light as a result of investigators' insistence on the files of being sealed, such records having been in personal possession of top executives in the bank.

According to the Bank of England, the PwC (1991) report was the basis for the closure of BCCI in July 1991. The report was prepared for the Bank of England, though it was never finalized (http://visar.csustan.edu/aaba/BCCISandstormRelease.html). Some 1,4 million depositors lost $11 billion.

While Agha Hasan Abedi was the founder of the bank, Zafar Iqbal was the chief executive and also general manager of treasury of Grand Cayman. Ziauddin Akbar was bank treasury official, and Swaleh Naqvi was bank executive and deputy to bank founder Abedi. These are some of the names presented in the investigation report by PwC (1991).

PwC (1991) writes that Abedi had "a grandiose vision of the bank, and the global role it should play." His deputy Naqvi "manipulated transactions." When Akbar resigned, he left a record of his activities with Naqvi who "brought under his own control the amounts which had been financed by unorthodox means. Naqvi had a number of core documents in his personal possession when PwC (1991) started its investigation. Investigators found evidence of CEO Iqbal's "approval of certain questionable transactions booked through the accounts of the crown prince of Abu Dhabi."

The PwC (1991) investigation is focused on illegal money transfers that caused the bank to collapse. Transfers occurred from a bank in India to various entities. The

report deals with the implications of those money transfers and looks into the aspects of which of the bylaws have been violated during the money transfers. The report is aimed at reaffirming the illegal money transfers made by Bank of India to different entities due to which the bank faced heavy losses.

PwC (1991) was unable to find out where the stolen money went. The team assigned to the investigation attained circumstantial evidence that the involved brokers did not always trade with the treasury and may have been involved within the manipulation of profits. The investigation was aimed at reaffirming the illegal money transfers made by Bank of India to different entities due to which the bank faced heavy losses. Special duties department were identified to be involved in the fabrication of offshore accounts.

Case 11: Walters Investigated by WilmerHale and PwC

Harriette Walters served as a tax assessments manager for the District of Columbia. She was convicted of being the central participant in the largest fraud scheme ever perpetrated by a government official in the district. On September 2008, Walters pleaded guilty to federal charges related to the theft of over $48 million of district funds. Counsel from Wilmer Cutler Pickering Hale and Dorr and forensic accounting advisors from PricewaterhouseCoopers were hired to investigate how Walters was able to embezzle 48 million of funds from the District of Columbia (WilmerHale and PwC 2008).

Walters masterminded a nearly two-decade-long scheme in which she processed fraudulent real property tax refunds and arranged for the proceeds of those funds to be deposited into bank accounts controlled by her and her friends and family. For example, she cashed refund checks that were returned when the taxpayer recipient had died. She also fabricated several tax refund checks. It appeared that Walters had figured out that she had the last eyes on the tax refund check and operated with little monitoring (Stewart and Nakamura 2007).

Because of the lack of monitoring, four managers were held responsible for failing to catch the fraud. The four managers resigned: deputy chief financial officer, Sherryl Hobbs Newman; her deputy director, Matthew Braman; the director of real property tax administration, Martin A. Skolnik; and the chief assessor, Thomas Branham (Stewart and Nakamura 2007).

The investigation by WilmerHale and PwC (2008) had a mandate of determining how Walters was able to embezzle over nearly 20 years and recommending changes in controls, work environment, and oversight structures that could help prevent future fraudulent schemes. The investigation should not attempt to trace the stolen money or determine how the money was distributed or spent. Nor did the mandate seek to determine the guilt or innocence of any participants in Walters' scheme. Federal authorities had addressed those issues.

The WilmerHale and PwC (2008) investigation involved three phases: (i) document and data collection, (ii) document and data review and analysis, and (iii)

witness interviews. The investigators reviewed and analyzed more than 680,000 electronic and hard copy documents. They reviewed e-mails and other electronic documents associated with 87 current and former employees.

The second phase of the investigation involved a review of the collected documents and an analysis of the data included in the documents. WilmerHale and PwC reviewed documentation for manual real property tax refunds, including all refunds dating back to 1998, no matter the amount. 1,600 documents required more in-depth review because (1) the identity of the refund recipient was fraudulent; the voucher packets reflecting the refund were issued to a legitimate business or entity, but the check was addressed to "care of" address related to several of Walters payees; (2) there was a lack of authorizing signatures; and (3) documentation did not correspond to the property or taxpayer listed as the recipient of the refund or was missing. In addition, WilmerHale and PwC closely scrutinized the following types of real property transactions:

- Refunds over $10,000
- Refunds that were to be held for taxpayer pickup and those issued to taxpayers that did not appear to own property in the district
- Refunds ordered by the court for which an original court order with a raised seal did not accompany the refund documentation

Following the review of the refunds, WilmerHale and PwC analyzed the data in various tax systems, where they identified "refunds with characteristics consistent with refunds previously identified as fraudulent in court documents filed by the US Attorney's Office." The analysis also identified suspicious refunds where hard copy documentation was not available, unclear, or incomplete. The analysis of the financial management system ("FMS") revealed several refunds to entities or individuals involved in the Walters' scheme, unfortunately hard copy records were unavailable. FMS was a system that processed refunds manually. It was replaced in October 1998 with the system of accounting and reporting ("SOAR"), which also required that refunds be processed manually.

A similar analysis of data in SOAR was conducted. Real property tax refund payments in the general ledger, which was housed in SOAR, were isolated and searched for refunds characteristic of fraud (i.e., known entities involved in the fraud scheme, refunds sent to "care of" addresses or coded "hold for pickup," etc.). Lastly, WilmerHale and PwC analyzed documentation for real property tax refunds processed through the Integrated Tax System, in order "to identify patterns of data and activity indicative of Walters' scheme." The system is an automated system that was introduced in 2005. It is composed of several applications which supported the district's various tax types (i.e., personal income, business, and real property tax). This system interacted with some of the district's relevant computer systems but not all. There was no direct interface between the system and SOAR, which meant entries from the system had to be manually entered into SOAR. The private investigation team discovered that Walters "manipulated the system to process fraudulent refunds at least twice."

In addition, WilmerHale and PwC requested copies of canceled checks associated with the refunds previously identified during the review and those associated with all other real property tax refunds of $100,000 or more. Reviewing the canceled checks allowed WilmerHale and PwC to determine whether the refunds were legitimate or illegitimate and to identify checks that "had been deposited at bank branches where known fraudulent refunds had been processed based on account information on the back of checks." They also compared endorsements to confirm or identify additional fraudulent refunds.

Finally, the private investigation team compared refunds in the SOAR general ledger with those from other databases. WilmerHale and PwC identified refunds that did not coincide with actual properties or property owners contained in the various systems. Furthermore, they "obtain[ed] additional information regarding the fraudulent nature of certain previously identified suspicious payments." This concluded the document review and data analysis.

The final phase of the investigation process was witness interviews which supplemented the previous reviews and analyses. WilmerHale and PwC conducted interviews of over 70 individuals including current and former OCFO employees, representatives of the Office of the District of Columbia Auditor, the Office of the Inspector General, the Office of Risk Management, the District's current and former independent auditors, and other third parties.

Upon completing the investigation, WilmerHale and PwC concluded that Walters perpetrated her lengthy fraud scheme due to a failure of controls, a dysfunctional work environment, and a lack of oversight. The reliability of real property tax refunds process could not be ensured because no policies or procedures could be found within the OTR, which formally documented how real property tax refunds should be processed. If policies and procedures did exist, managers and employees did not follow them consistently. Managers in the OTR did not test the refund process or take basic steps to examine real property tax refunds. In fact, when Walters began her scheme, her managers in the Real Property Tax Administration ("RPTA") signed off on these refund vouchers without reviewing the attached documentation for legitimacy. "Worse, Walters' direct supervisor in 2003, evidently made clear in words or deeds that she no longer wished to sign off on real property tax refund vouchers at all." This failure of managers to exercise responsibility allowed Walters to process all real property tax refunds without review and approval from upper management. In addition, there was lack of automated controls.

WilmerHale and PwC (2008) formulated the following recommendations:

- Controls improvement. Walters' scheme went undetected for such a long time in part because of the lack of sufficient controls, the failure of existing controls to operate effectively, and the lack of management oversight of those controls.
- Systems improvements. The vast majority of Walters' fraudulent refunds was processed manually.
- Work environment improvements. A culture of compliance was lacking in the organization.

When evaluating this investigation, it can be assumed that the starting point for the examination was good. FBI had already identified who, what (i.e., fraud), and how (processing fraudulent real property tax refunds) for the crime. Evidence was already collected, and Walters was already arrested. At this point, Walters already knew she had been caught. According to her attorney, Walters wanted to cooperate and tell the truth. She told investigators loopholes in software allowed her to carry out scheme, and lax internal controls allowed her to go undetected. Walters revealed role in scam, how she did it, how it could have been prevented, and who did not pay attention at their job.

The investigating team focused on the mandate: How did the fraud occur? Why did the scheme go undetected for so long? What changes can be made to reduce risk of any recurrence of similar fraudulent activity?

The investigative process seems professional. For example, the report makes clear what the investigation was and was not: Investigation was not to determine guilt or innocence, but was the audit of administration of real property tax refunds. They do not only blame Walters (rotten apple) but also management (rotten barrel). Evidence and interviews back up report statements. Investigators cooperated with criminal investigations. For example, they obliged to request to hold off on witness interviews. They invited attorneys to sit in on interviews they conducted. They informed the individuals they interviewed of their rights (i.e., if truth would incriminate, no answer). They hired independent attorneys to represent certain interviewees. Interviews were optional, and many refused. Investigators could probably have made it more attractive to participate in interviews.

In addition to Walters, ten more individuals pled guilty in connection with her scheme. None were district employees; they were the bank manager, relatives, and friends. The chief financial officer for the District of Columbia asked several high-ranking managers to resign for their failure to prevent or detect Walter's scheme. More than 30 individuals lost their jobs due to the fraud scheme. $10 million was recovered by law enforcement officials. Walter's assets were seized and sold (i.e., house, car, and handbags). Managers and employees were replaced. New guidelines were introduced.

Case 12: Wildenthal Investigated by Breen and Guberman

Private investigators Breen and Guberman (2012) conducted an internal investigation at the University of Texas. They wrote a special investigative report regarding allegations of impropriety by Dr. C. Kern Wildenthal relating to travel and entertainment expenses paid for by University of Texas Southwestern Medical Center. Wildenthal was first unveiled by a newspaper. In the beginning of 2008, Dallas Morning News reporters had been investigating if he had spent university funds for his personal travel and entertainment. He was interviewed in the newspaper on three separate occasions in October 2008, December 2009, and November 2011.

The university reacted after the third news story and hired law firm Paul Hastings to conduct an investigation regarding whether Wildenthal had engaged in misconduct. Breen and Guberman (2012) gathered, reviewed, and analyzed a number of documents, such as all donations approved by Wildenthal, all requests for reimbursements, and all written correspondence involving Wildenthal. Investigators interviewed Wildenthal and 11 witnesses including Cyndi Bassel (external affairs), Charles Chaffin (audit executive), and Francis Frederick (general counsel).

The investigation report presents the following findings and conclusions at the University of Texas Southwestern Medical Center (UTSW):

1. Dr. Wildenthal exercised questionable judgment in making discretionary decisions on spending within UTSW's broad mandate.
2. UT System and UTSW had policies and procedures in place governing the approval, documentation, reporting, and auditing of Dr. Wildenthal's travel and entertainment expenses.
3. UT System's policies and procedures governing Dr. Wildenthal's spending were adequate but not enforced at UTSW. Most significantly, Dr. Wildenthal's spending was not in all instances sufficiently documented to show the predominant business purpose and benefit to UTSW, and as a result it was not subjected to meaningful review.
4. UT System and UTSW audits during Dr. Wildenthal's presidency failed to alert officials at UT System or UTSW that there were risks related to Dr. Wildenthal's spending and expense documentation.
5. UTSW's manner of accounting for and acknowledging Dr. Wildenthal's donations was inadequate, at times resulting in inaccurate gift letters being issued to him.
6. UT System's policies and procedures governing acceptance of anonymous donations were adequate but not followed at UTSW.

The Breen and Guberman (2012) investigation costed nearly half a million US dollars. Wildenthal's one million salary was cut, and he resigned from the position of special assistant to the president. An auditing firm was hired to review Wildenthal's travel expenses to calculate how much he owed the medical center for spending public money on personal travel. However, nobody ever prosecuted Wildenthal, and in 2014 the University of Texas named its newest biomedical research tower as Dr. Kern Wildenthal.

The investigators interviewed Dr. Wildenthal and 11 employees over the phone and not in person. Interviewing witnesses by phone is an interviewing technique with limitations.

The late response by the university to media stories probably affected the investigation. It provides ample opportunity for a suspect to hide and recover actions by changing and official records and documents.

Case 13: WorldCom Investigated by Wilmer and PwC

Wilmer and PwC (2003) were hired to investigate accounting irregularities at WorldCom, including those that led to WorldCom's announcements that it intended to restate its financial statements for the years 1999 through 2002, and certain actions by the board of directors and its members, including the authorization of large loans and guaranties by WorldCom to Ebbers. The scope of the authority granted to investigators was very broad, making it necessary for them to refine and focus their undertaking.

One of the most famous white-collar criminals is Bernhard Ebbers, former chief executive officer of WorldCom (Wagner 2011: 978):

> To answer why Bernard Ebbers did this, one must take a look at his personal finances. Bernard Ebbers was extremely wealthy by the time WorldCom began to experience difficulties in 2000. Unfortunately for Ebbers (and ultimately for WorldCom shareholders), his desires exceeded his income. Ebber's purchases included an enormous ranch, timber lands, and a yacht-building company, and his loans totaled over $400 million. To secure these loans, he used millions of shares of WorldCom stock as collateral. Any time the price of WorldCom stock went down he needed more cash or assets to maintain his collateral. At one of WorldCom's financial meetings, Ebbers told his employees that his "lifeblood was in the stock of the company" and that if the price fell below approximately $12 per share, he would be wiped out financially by margin calls. Bernard Ebbers could not allow WorldCom's stock price to fall even if it was realistically inevitable that this would eventually occur. As Judge Winter stated, "[t]he methods used were specifically intended to create a false picture of profitability even for professional analysts that, in Ebber's case, was motivated by his personal financial circumstances."

WorldCom was a global communications company offering Internet, voice, and data services for business. Key executives convicted to prison were CEO Bernie Ebbers, CFO Scott Sullivan, and controller David Myers. The private investigation was completed in 2003, and Bernard Ebbers was convicted in 2005.

Ebbers, Sullivan, and Myers denied participating in interviews with investigators in 2003. Investigators found no evidence that members of the board of directors, other than Ebbers and Sullivan, were aware of the improper accounting practices at the time they occurred. The board received regular financial and operational presentations that included a level of detail consistent with what investigators believe most properly and typically boards received at that time.

Cynthia Cooper blew the whistle on the $9 billion dollar corporate financial scandal involving WorldCom, which eventually led to the imprisonment of the company's five executives. Cooper had never intended to go public, but a member of Congress had released her internal audit memos to the press. She was named as a Time's person of the year in 2002, along with Coleen Rowley, the FBI whistle-blower from Minneapolis, and Sherron Watkins, the Enron whistle-blower (www.whistleblowerdirectory.com).

References

BDO. (2014a). *Gransking av Stiftelsen Betanien Bergen (Examination of the Foundation Betanien Bergen) – Anonymisert og revidert sammendrag (Anonymised and revised summary)*, auditing firm BDO, Oslo, 10 pages.

BDO. (2014b). *Rapport til Norges idrettsforbund (Report to the Norwegian Sports Federation) – Faktautredning av enkelte opplysninger i boken "Fotballagenten" (Facts study of certain information in the book "The Football Agent")*, BDO, Oslo, powerpoint presentation, 4 pages.

BDO. (2014c). *Undersøkelse av påstander om inhabilitetsforhold i Andebu kommune (Investigation into allegations of disqualification in Andebu municipality).* BDO, Oslo, 23 pages.

BDO. (2014d). *Investigative report to the Coatesville Area School District.*http://casd.schoolwires.net/cms/lib8/PA01916452/Centricity/Domain/513/Forensic%20Audit.pdf, 54 pages.

Berkeley. (2013). *Report of investigation – Analysis of the National Futures Association's audits of Peregrine Financial Group Inc*. Berkeley Research Group, published January 29. http://www.nfa.futures.org/news/BRG/report_of_investigation.pdf, 160 pages.

Block, A. A. (2001). *The organized criminal activities of the Bank of Credit and Commerce International: Essays and documentation*. Dondrecht: Kluwer Academic Publishers.

Breen, K. M., & Guberman, P. A. (2012). *Special investigative report regarding allegations of impropriety by Dr. C. Kern Wildenthal relating to travel and entertainment expenses paid for by University of Texas Soutwestern Medical Center*, Paul Hastings LLP, University of Texas. http://www.lrl.state.tx.us/scanned/archive/2012/18224.pdf, 365 pages (main report 46 pages).

Chester Grand Jury. (2014). *Chester County 18th Investigating Grand Jury's report re: Coatesville Area School District*. Court of Common Pleas of Chester County. http://casd.schoolwires.net/cms/lib8/PA01916452/Centricity/Domain/513/Grand%20Jury%20Report%20CASD.pdf, 114 pages.

Haverstick, M. H., Seiberling, M. E., Stengel, T. M., Madden, A. R., & Damiani, S. T. (2014a). Investigative Report to the Board of School Directors for the Coatesville Area School District. *Conrad O'Brien PC.*http://casd.schoolwires.net/cms/lib8/PA01916452/Centricity/Domain/513/Conrad%20OBrien%20Investigative%20Report.pdf, 194 pages.

Haverstick, M. H., Seiberling, M. E., Stengel, T. M., Madden, A. R., & Damiani, S. T. (2014b). Supplement to Investigative Report to the Board of School Directors for the Coatesville Area School District. *Conrad O'Brien PC*. http://casd.schoolwires.net/cms/lib8/PA01916452/Centricity/Domain/513/Supplement to the Conrad OBrien Investigative Report.pdf, 66 pages.

Inspector General. (2012). Final investigation report of sub-recipient Padakhep Manabik Unnayan Kendra (PMUK) – Bangladesh. *The Office of the Inspector General*, Report No.: GF-IG-11-025. www.theglobalfund.org/.../OIG_GFOIG11025InvestigationBangladesh_Report_en.pdf, 32 pages.

Montella, E. C. (2016). *Full circle: A memoir of leaning in too far and the journey back*. Sanibel: Triple M Press.

Pennsylvania. (1974, March). *Report on the police corruption and the quality of law enforcement in Philadelphia*. The Pennsylvania Crime Commission. https://www.ncjrs.gov/App/publications/abstract.aspx?ID=25640, 456 pages.

Powers, W. C., Troubh, R. S., & Winokur, H. S. (2002). *Report of investigation by the special investigative committee of the board of directors of Enron Corporation*, published February 1. http://news.findlaw.com/wsj/docs/enron/sicreport/, 218 pages.

PwC. (1991). *Report on Sandstrom SA under section 41 of the Banking Act 1987.* PricewaterhouseCoopers. http://file.wikileaks.info/leak/sandstorm-bcci-report-1881.pdf, 22 + 28 = 50 pages.

SEC. (2002). *Report of Investigation Pursuant to Section 21 (a) of the Securities Exchange Act of 1934: Motorola, Inc*. U.S. Securities and Exchange Commission. http://www.sec.gov/litigation/investreport/34-46898.htm

SEC. (2013). *Enforcement manual*. Securities and Exchange Commission, Division of Enforcement. http://www.sec.gov/divisions/enforce/enforcementmanual.pdf, 141 pages.

Sidley. (2010). *Report of investigation regarding procurement practices at the office of the chief technology officer of the District of Columbia*, Sidley Austin LLP, July 14, DRAFT, 60 pages, http://assets.bizjournals.com/cms_media/washington/pdf/Sidley%20Report.pdf

Stewart, N., & Nakamura, D. (2007). 2 More D.C. Tax workers removed, *The Washington Post*. www.washingtonpost.com, published Saturday, November 10.

Valukas, A. R. (2010). *In regard Lehman Brothers Holdings Inc. to United States Bankruptcy Court in Southern District of New York*, Jenner & Block, March 11, 239 pages. http://www.nysb.uscourts.gov/sites/default/files/opinions/188162_61_opinion.pdf

Valukas, A.R. (2014, May 29). *Report to board of directors of General Motors Company regarding ignition switch recalls*, law firm Jenner & Block, 325 pages, http://www.beasleyallen.com/webfiles/valukas-report-on-gm-redacted.pdf.

Wagner, R. E. (2011). Gordon Gekko to the rescue? Insider trading as a tool to combat accounting fraud. *University of Concinnati Law Review, 79*, 973–1017.

Williams, J. W. (2008). The lessons of Enron: Media accounts, corporate crimes, and financial markets. *Theoretical Criminology, 12*(4), 471–499.

Wilmer and PwC. (2003). *Report of Investigation by the special investigative committee of the Board of Directors of WorldCom Inc*., Wilmer, Cutler & Pickering (Counsel) and PricewaterhouseCoopers LLP (Accounting Advisors). http://www.sec.gov/Archives/edgar/data/723527/000093176303001862/dex991.htm, downloaded February 8, 2015, 345 pages.

WilmerHale and PwC. (2008). *Report of Investigation submitted by the Council of the District of Columbia*. Wilmer Cutler Pickering Hale and Dorr LLP (Counsel) and PricewaterhouseCoopers LLP (Forensic Accounting Advisors). http://www.dcwatch.com/govern/otr081215.pdf. Downloaded February 8, 2015, 126 pages.

Chapter 8
The Case of Moscow School Investigation

It is often argued that private internal investigations suffer from lack of integrity, lack of objectivity, and lack of accountability. Private internal investigations are paid for by clients who order an extraordinary examination of suspicions of misconduct and crime. Clients hire fraud examiners from law firms, auditing firms, and consulting firms to carry out investigations. Based on a mandate from the client, investigators conduct a goal-oriented data collection to reconstruct the past. Unfortunately, scope, time pressure, resource limitations, and other factors in investigations may cause results such as victims of blame games. In this chapter, the case a private internal investigation in Norway is described, where there is a lack of integrity, lack of objectivity, and lack of accountability.

When suspicion of misconduct and white-collar crime occurs in a business enterprise, there is a tendency to hire fraud examiners from a law firm or an accounting firm to conduct an internal investigation. The purpose of a private investigation is similar to a police investigation in that it is about reconstructing the past (Osterburg and Ward 2014). Past events and sequence of events are to be reconstructed as objectively and completely as possible. Investigators should avoid biases and abstain from sympathy and antipathy. An investigation should be independent and apply information sources and knowledge categories that are relevant to the case. Investigators may assess past events, but they should not pass judgments or verdicts on individuals. Privatization of law enforcement should not occur in democratic societies where the criminal justice system is in place to conduct a fair trial with defense.

There are many problematic issues related to private investigations. Lack of integrity and lack of objectivity as well as lack of accountability stand out as key problems in fraud examinations (Brooks and Button 2011; Button et al. 2007a, b; Lewis et al. 2014; Schneider 2006; Williams 2005, 2014). Based on a publicly available investigation report in Norway, this chapter presents a study of integrity, objectivity, and accountability in the case of Moscow school investigation.

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Investigation by Ernst & Young Consulting

Financial crime specialist Elisabeth Roscher at Ernst & Young was responsible for a private investigation of misconduct at the Moscow school (Ernst & Young 2013a, b). She is a lawyer and is head of the investigative and forensics team at auditing firm Ernst & Young in Norway. Elisabeth Roscher has worked as a senior public prosecutor in economic crime at the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime and in the Competition Authority in Norway.

As will become evident when reading the following case presentation, I commented on this investigation in Norwegian media in 2014. Furthermore, email correspondence with both a suspect and an investigator has been approved for publication.

A person-focused investigation was conducted by Ernst & Young (2013a, b), which revealed irregularities related to the Norwegian-Russian secondary school in Moscow. Roscher recommended in the report in October 2013 that Akershus County should go to the police. After a long process of both internal audit and external examination, suspicions from the private investigation became a police matter in February 2014. Former principal Rune Grahn was reported to the police. One reason was suspicion of wages paid to a Russian teacher in reality was money spent on rent for an apartment occupied by Grahn, former rector of Skedsmo High School in Norway and responsible for Norwegian management of the Moscow school (Fremmerlid 2014a).

The mandate for the investigation was clearly person-focused by stating that investigators should "assess any personal consequences for individuals" (Ernst & Young 2013a, b). Investigators conducted eight interviews and examined documents. The investigation report points out that accounting and documentation of expenses at the Moscow school has been severely lacking, so investigators were unable to verify the exact use of Norwegian state grants.

Rector Rune Grahn resigned from his position in Norway at Skedsmo High School (www.skedsmo.vgs.no) in April 2013 and became subject to police investigation. Assistant rector Thore Sandø stepped down from his position and returned to his previous job of being a teacher in the same school. A long letter from Sandø indicates that the investigation work headed by Roscher had many shortcomings. For example, he criticizes Roscher's assistant, Elin Thrane, for her inability of contradiction for interviewed persons in the investigation process.

It may seem like Rune Grahn and Thore Sandø were the losers in the blame game of Ernst & Young (2013a, b), while it actually might be named bureaucrats and politicians in the county administration who should be criticized for their actions. County executive at that time was Tron Bamrud, and Nils Aage Jegstad was the county mayor (Fremmerlid 2014a). They paid for the investigation.

Police investigator Bjørn Meland in Romerike Police District called Grahn to an interview. Sandø was also interviewed by the police. The police intended to complete the investigation during the spring of 2014.

In the main investigation report, Roscher concluded with the following recommendations (Ernst & Young 2013a: 52):

- Personnel-related consequences for individuals.
- Control of travel expenses for 2010 and 2011.
- Evaluation of internal control routines in financial system.
- Convey results of the investigation to funders of the school.
- Review an awareness of whistle-blowing procedure.
- Inform Russian authorities about persons who have worked for the Moscow school, so that they eventually can control whether these persons have reported the "Norwegian" part of their income for tax revenue.
- Report to the police.

It is the latter recommendation that is most interesting in our perspective. The recommendation of reporting Rune Grahn to the police was implemented by Akershus County Council, and Romerike Police District opened an investigation case in February 2014. One reason for this police decision might be that Elisabeth Roscher was a well-known public prosecutor at the Norwegian National Authority for Investigation and Prosecution of Economic Crime (Økokrim) before she joined the auditing firm Ernst & Young as a financial crime specialist.

Akershus County Council is a democratically elected body with regional responsibilities in areas such as education, transport, dental care, and regional development. A county is headed by a county mayor and managed by a chief county executive. Akershus is a county surrounding the capital Oslo in the west, east, and north. It has half a million inhabitants and comprises 22 municipalities.

Suspect's Criticism of the Investigation

Thore Sandø was upset on behalf of himself and on behalf of Rune Grahn. He wrote me on April 15, 2014, the following lines of criticism of Roscher's investigative study of misconduct at the Moscow school (Ernst & Young 2013a, b), based on evaluation criteria presented to him:

> *When it comes to Ernst & Young's investigation, I have some comments on the implementation and follow-up investigation on the basis of the guidelines drawn up in your report. The following issues are discussed:*
>
> 1. *Implementation and monitory of EY's interviews*
> 2. *Responsibilities as presented in the final EY report*
> 3. *Coverage of rental expenses for apartment in Moscow*
> 4. *Lack of transparency in the supplementary report*
>
> *1. Implementation and monitoring of EY's interviews*
>
> *I want to basically point out the following guidelines in your report, and then go into realities. From Chapter 1 – Investigation as a concept, page 14, first paragraph: "…the person or persons performing the investigation will clarify the facts and causes, propose necessary system changes and conclude based on legal rules or norms in a given case". Page 15, second paragraph: "Investigation as a consulting task by financial crime*

specialists is not the same as investigation as a public task by police detectives, because police investigation usually requires that something went wrong". Page 16, penultimate paragraph: "The investigation is about providing the most reliable, accurate and relevant information so that the client can make good decisions".

So to realities:

Implementation of interviews:

Now it cannot be concealed that the interviewers were characterized by having very little insight into what they asked for. This may have been part of the reason why questions were so vague that they were difficult to deal with. When we asked them to be more precise, so that we could understand what they were asking about, we received the following answer: "It is not so important, because what we are most interested in is how you react to our questions". To us this did not sound trustworthy.

For my own part, this meant that the minutes of the interview had to be passed between me and EY four times before it was barely reliable so that I could accept the content. When I sent off the last version I allowed myself the following comment in my email. "It would perhaps have been better if you had informed us a little in advance about what you wanted to know; then answers might become a little more precise". Then I got a reply mail from EY where they say that this is not really minutes in that sense. It is more to be considered as notes they have taken about what they meant was relevant in the conversation they had with me. Since I had lived in the belief that I was there to help get facts on the table, I was not particularly reassured by this response. And sure enough, a few days later I received what was now called "draft factual part of the report".

In all, the contradiction process for my involvement was characterized by EY sending me the draft report about two weeks later than they had promised. I was interviewed on Friday, September 6, 2013, and was promised that I would receive the draft no later than September 11. I told them that this was important, as we were to visit our daughter in California for two weeks starting September 27. Nevertheless I had to push to get the draft, and I received the draft on September 26, the day before my departure. This may sound like platitudes, but it meant that I had access to minimal documentation in the contradiction process.

The problem applied in particular to facts in the report, since there it is about matters that only to a small extent had been touched on in the interview. The relevant appendices were also sent in a format that could not be opened on the Ipad, but luckily we had access to a PC at our daughter's work, so I was able to open and consider document contents. The time pressure was however a problem, since I in addition to the problem of getting documents opened initially received the wrong documents, documents related to one of the others who had been interviewed. When EY finally sent me the proper documents, it was on the day of the deadline for feedback. The biggest problem was that I found myself in a situation without access to necessary documentation with regard to political decisions, travel expenses, etc.

It turned out that our inputs in the contradiction process to a little extent were taken into account in the final report.

2. *Responsibilities as presented in the final EY report*

I will in this section refer to the following guidelines in your report page 139: Mandate for investigations. It follows from EYs report that they were based in the mandate they got from Akershus County given economical and practical considerations in certain respects have not conducted inquiries themselves, but based their work on existing documentation.

I assume that this applies to, among other places, to assertions about local board's tasks that can be found in the document from county auditor in Østfold and Akershus of May 2013. I believe this is very unfortunate, as the county auditor in my opinion both has misinterpreted the mandate of local board in the Moscow school, and also until 2013 has failed to address the conditions that now are believed to be unlawful, even if every year since 1994 annual accounts have been approved to the county council and thus accounting for the

Moscow school which has been an integral part of the financial statements for Skedsmo high school for the entire period.

Page 210: Archive-based information sources. It surprises me that EY not to a larger extent has taken the trouble to check out for example key political decisions. The crucial political decision as it regards responsibilities for the Moscow school was made by the county executive board in 1998 (county executive board, case no. 127/98) as a continuation of the scheme as it had been since 1994. I mentioned this issue in the interview, and it was discussed thoroughly. Nevertheless, I had in the contradiction of the facts section of the report to point out that this decision was left out in the summary of key events in the project. Then it was included in the summary.

Now to realities: There are two circumstances that have been highlighted as culpable in EY's final report. One of them is that the local board has failed to treat the Moscow school budget and accounting; they never once since its inception has followed this up. Like the county auditor, EY assumes that the local board carries full responsibility for monitoring financial management at the Moscow school. They say this on the basis that in 2004 there was a sentence added in the Regulations for the board (mandatory appendix to the cooperation agreement) that the board should follow up expenses at the school. This change, however, was related to the fact that the school in 2003 was being moved to newly-built premises, and that there was disagreement between Norwegian and Russian side concerning how the costs of necessary communication between Moscow school and Skedsmo high school should be distributed. It was very important to have necessary communication tools in place because of the system of monitoring teachers from Skedsmo for Norwegian students at the Moscow school. In 2007 the agreement was renewed without changes. When the agreement was renewed again in 2010, Regulations for the board were no longer part of the agreement.

The project was initiated in 1994. The first year was defined as a trial year without county funds. From the fall of 1995, however, the school has been defined as a county project, and Regulations for the board has been included as a mandatory part of the cooperation between Norwegian and Russian side. Here it is clearly specified that the local board's work is educational supervision of the project. Follow-up of financial management was added to the regular authority line, evidenced by the Moscow school being defined as a branch under Skedsmo high school. In addition, in the political case for establishment of the Moscow school it is specified that the school council at Skedsmo high school also was school council for the Moscow school with work responsibility in line with the other school councils in the county.

When in 1998 the county board considered the case of potential continuation of the project, the scheme that had been followed so far was approved for future management. The Moscow school should still be a branch under Skedsmo high school, and the board should continue with the same tasks as before, i.e. only with educational tasks as its responsibility. This was thus the situation from the start until the autumn of 2004. It is a fact that such a board's expertise and responsibility according to the Local Government Act and Akershus County's delegation rules cannot be delegated. As there has been no political debate of these issues since the county's discussion in 1998, it is an impossibility that the administration should have been able to change the board's responsibility to include Moscow school financial management. This would then have been a blatant violation of both Municipality Law and Akershus County delegation rules.

Another curiosity is that no one from supervisory level (chief county executive or county auditor) at any time during the almost 20 years that have passed since the start has pointed out that financial management should be part of the local board's work. As already mentioned, this was decided to be placed in the line just to make sure that this slightly exotic project should be addressed through a systematic and annual handling in the finance and accounting department, and through the fact that the county auditor each year approved financial statements. It is therefore correct that the local board never dealt with Moscow

school budget or accounting. The reason is that this was not included as part of the board's mandate.

3. Coverage of rental expenses for apartment in Moscow

Page 345: The right to contradiction. Coverage of rental expenses for apartment in Moscow was the second issue EY considered being a misconduct. It was alleged that fictitious payroll to a professor of the state oil and gas university was in fact covering rental charges for an apartment the principal could use. Thus, project funds should wrongfully have been used to cover these expenses. Akershus County has reported the matter to the police. The EY investigation report said straight out that it is probably teaching that never took place.

When I refer to the right of contradiction on page 345, it is because EY has not found it feasible to include our statements in the final report. I myself and several with me even showed names based on student lists laying on the table in the interview what students had attended these lectures. When principal Grahn read these allegations in the final report, he immediately submitted to the chief county executive via his attorney all documentation (contracts, agreements, etc.) that shows what this professor has done for the Moscow school and what he has received as compensation.

I myself did not believe my own eyes when I saw this part of the report. When I had calmed down, I sent an email to all relevant students (those with a major in the sciences) and asked them to confirm or deny that this teaching had taken place, if they had attended, where, when, to what extent, etc. All students responded affirmatively to my email within about a week. Although we had been muzzled on April 4, 2013, and all communication on the matter should be undertaken by the chief county executive, I chose on the basis of this affirmative answer to reply to a request from the local newspaper Romerikes Blad to comment on EYs final report. On the basis of this and the documentation submitted by Rune Grahn to the chief county executive, the chief county executive decided to ask EY to rewrite this part of the report. The supplementary report was submitted to the chief county executive early January 2014.

4. Lack of transparency in the supplementary report

EY's supplementary report should form the basis for county executive board's final discussion of the case on January 20, 2014. I came to be present at the hearing, not least to hear what EY had arrived at in the supplementary report. However, politicians decided to close the meeting.

I then immediately sent an email to the county attorney and asked for access to the supplementary report. I received the day after a refusal of access, on the grounds that I was not a party in the case. I told Rune Grahn about this, and he asked in turn for access to the supplementary report. He did also receive a rejection, then with the reason that the case was to be reported to the police, and that it therefore no longer was a county issue. When three weeks had elapsed without receiving any answer on his complaint, his attorney contacted again the county attorney. It then became known that the county governor in Oslo and Akershus two weeks earlier had told the chief county executive that Grahn's complaint was upheld, and that the chief county executive had been asked to provide Grahn access to the supplementary report. Instead of complying with the county governor's instruction, the chief county executive wrote a letter to the county governor in which he asked for the decision on access to be turned. We have since learned that the county governor did reply to the chief county executive that it was not an issue to reverse the decision. The chief county executive has to my knowledge not yet given Grahn access to the supplementary report.

We conclude on this basis that it has been very important for the chief county executive to finalize the matter politically without letting Grahn or the undersigned gain insight into what information is contained in the supplementary report.

Finally, it is tempting to point at the heading on page 425 in your report: Where was the auditor? As I have stated above, I am worried about the auditor's role in this case. If they seriously think that the local board had complete responsibility for financial management

at the Moscow school, how have they been able to wait 19 years before pointing it out? That said, they have received the annual report every year during this period, and thus had ample opportunity to point this out, especially since the board has not treated finances once during all these years.

Oslo, April 15, 2014

Thore Sandø

Ernst & Young (2013a) concluded in their main report that personnel consequences for individuals should be considered. Chief county executive Tron Bamrud reported former principal Rune Grahn to the police (Fremmerlid 2014a, b). Grahn left his position and the school, while Sandø left his position but continued as a regular teacher in the school. Sandø was on the board of the Moscow school for many years. He wanted to correct the investigation report on two points, as he described above: the professor actually taught Norwegian students in physics, and the local board of the Moscow school was not responsible for financial management of the Moscow school.

Investigator's Response to Suspect's Criticism

Principal Rune Grahn at Skedsmo High School was reported to the police for misconduct in the Moscow school case. Grahn was suspected of financing his stay in the Moscow apartment by school project funds. He was reported to the police by Akershus' chief county executive Tron Bamrud based on the recommendation from private investigators Elin Thrane and Elisabeth Roscher at Ernst & Young (2013a, b). The case was investigated by police detective Bjørn Meland at Romerike Police District. Local newspaper "Romerikes Blad" followed the case (Fremmerlid 2014a, b, c). It was the secret supplementary report by Ernst & Young (2013b) that should have provided the basis for the accusations.

Thore Sandø sent me a new email on April 17 about his own situation in the case:

When it comes to my own status, I received on December 5, 2013, a so-called written reprimand for my role in the local board at the Moscow school. Because I believe that the factual basis for this instruction is not present (board members were accused of not following up financial management at the Moscow school), as I reasoned in my previous email, I immediately complained about this reproof. I was then promptly rejected the complaint procedures because there is no appeal against reprimand. Because the factual basis in my opinion is wrong and because the reprimand in its content de facto in my opinion has to be regarded as a disciplinary penalty, I then complained that they did not deal with my complaint, a decision I have the right to appeal. This last complaint was submitted primo January 2014. I then received a mail from the chief county executive with the message that since the county attorney is incompetent in this matter, they have started a tender process to find an external lawyer who can be the officer in my complaint case.

In the same email I was notified that it had to be assumed that this was going to take a long time. Since his email, I have not heard anything from the chief county executive.

Regards

Thore Sandø

The mandate for the private investigation by Ernst & Young (2013a, b) was to review the Moscow school since inception in 1994 and until 2013. Those who interviewed Sandø were Elin Thrane and Elisabeth Roscher. Thrane sent him the interview for contradiction. There are a number of things that went wrong in the investigation according to Sandø. First, the county auditor misinterpreted the mandate of the local board of the Moscow school. Next, EY has neglected to do research independently. Furthermore, the chief county executive should have examined the local board's responsibilities. His fourth criticism is related to the secrecy of the supplementary report, as the process was closed for all involved.

One of the requirements for a proper investigation is that suspects receive legal assistance paid by the employer. It does not seem that neither Grahn nor Sandø has received such assistance. Another requirement is that an interviewer should have knowledge of the case complex. Sandø did not perceive that Roscher and Thrane knew what they were talking about in the Moscow school interview with him. A third requirement is that the investigator has to keep to the deadline in terms of sufficient time for contradiction. Sandø did not perceive that Thrane met that requirement. Another requirement is that the suspect's attorney, paid by the employer, should be given immediate access to the confidential supplementary report. This did not happen.

Thore Sandø had as a member of the school leadership union access to a lawyer paid by the union from the start of the investigation process. Rune Grahn did have to fund his lawyer from the very beginning. None of them were offered legal assistance paid by their employer.

Thore Sandø has been the principal of Nesbyen High School and inspector at Lambertseter High School before becoming the deputy principal at Skedsmo High School. He has been in various positions as a teacher, leader, and central administrator throughout his working life.

Financial crime specialist Elisabeth Roscher at Ernst & Young replied to the criticism in an email on April 18:

> *I refer to an email in which there is stated that Thore Sandø criticizes the investigation of the Moscow school. According to the email, Sandø's presentation creates the impression that EY has violated several principles that apply to proper private investigations. Views from Sandø that are presented in the book manuscript about private investigations appear primarily as a party post and do not cause special comments on our part. However, we disagree that principles of proper investigations have been broken. In part, we disagree with the description of the current principles, and in part we disagree with the representation of facts, see comments below. Due to our confidentiality we have limited opportunity to comment on matters that emerged during the investigation.*
>
> *EY has anchored its investigation methodology in the Bar Association guidelines for private investigations from 2011, which among others takes into account the non-statutory prudence principle and is based on fundamental human rights principles and the principle of caution. An investigation process will often affect more people, directly and indirectly, and can naturally be perceived as uncomfortable for people affected. We seek, however, in all investigations to conduct inquiries to conduct examinations as gently as possible. In our view, it was also done in this case.*

> *<u>The Mission</u>*
>
> *As is known, the primary purpose of an investigation is to ascertain facts by fact gathering and fact statement. It appears from the Bar Association guidelines that investigators should be careful to consider legal consequences of any violation of rules. This applies in particular to determine whether a criminal offense has occurred.*
>
> *In line with recommendations from the Bar Association guidelines, EY's mandate for the investigation of the Moscow school was "to reveal factual circumstances relevant for assessing whether there could have been criminal offenses or breaches of internal rules and guidelines". Our mission/mandate was thus limited to provide material that could enable the client (Akershus County) to further assess whether responsibility norms or other norms had been violated. Thus, our contract did not cover legal considerations related to responsibilities.*
>
> *<u>Oral Information Retrieval, Affected's Rights</u>*
>
> *As stated in the investigation report interviewed people were made aware of the following before interview was conducted:*
>
> - *The purpose of the investigation*
> - *Voluntary participation in the process*
> - *Voluntary use of sound recording and that the sound recording is deleted when minutes are approved*
> - *Possibility of being accompanied by a union representative*
> - *Not obliged to answer questions that may involve criminal prosecution (protection against self-incrimination).*

When it comes to the handling of the interview with Sandø and his review of minutes from the interview, we do not recognize our self in Sandø's description. Sandø was given complete opportunity to review the minutes and came with feedback several times. It appears from the minutes that he had no objections to the conduct of the interview. The facts section of the report has also been presented to those that the investigation primarily was targeted at, for verification/contradiction.

> *When it comes to bullet point number two in the e-mail of April 18 that "the interviewer should be knowledgeable about the subject matter" it is unclear to us what is meant here. The purpose of the oral information gathering through interviews is primarily to obtain information that can shed light on the matter.*
>
> *Persons who are considered to be "affected" by an investigation have basically the right to be assisted by a lawyer or other fiduciary. Sandø was given the opportunity to have a trusting person, but chose to meet alone. Moreover, it is only in exceptional cases – in cases where there are "special reasons" – that necessary expenses for assistance shall be borne by the client, according to Bar Association guidelines. That will depend on an assessment of the situation of each interviewee.*
>
> *<u>The Supplementary Report</u>*
>
> *When it comes to the supplementary report we have been told that Akershus County has not provided access to it. Furthermore it is known that criminal investigation has been started in this case and, as far as we know, the supplementary report is included in the criminal case documents. Transparency is therefore governed by the Criminal Procedure Act. It appears from the Criminal Procedure Act § 242 that the suspect, his lawyer, aggrieved and more have a right of access unless there is a risk of loss of evidence eventually damage or danger to third parties.*
>
> *Best regards*
>
> *Elisabeth Roscher, Partner, Fraud Investigation & Dispute Services*

The supplementary report by Ernst & Young (2013b) claims that only two Norwegian students attended lectures by the Russian professor from 2006 to 2012.

After a follow-up inquiry by Thore Sandø, a total of six students have so far confirmed that they attended his lectures. In addition, a seventh student has confirmed that she planned to attend as well, but this did not occur because of communication problems. Thore Sandø writes in an email to me on December 2, 2014:

Otherwise I must say I shake my head more and more over the supplementary report by EY that they would not give us access to. One thing is that I sit with these six emails confirming that students have received education, while EY alleges that education only revolved about 2 pupils. I can see from the report that they have only contacted two of the students, and obviously out of it conclude that only two participated. The second thing I am puzzled about is that despite the fact that there apparently does not exist a single document that would prove that the professor has received salary before 2006 and that Grahn emphasizes that he has not received salaries prior to 2006; nevertheless does EY conclude that they assume professor must have received salaries from the 1994. On what basis? And EY also apparently disregarded all the other tasks the professor executed and therefore was paid for during the period between 2006 and 2012. Documentation of this was immediately sent to the chief county executive by Grahn's attorney when allegations concerning apartment appeared in the media. The fact that this documentation had not been submitted was also somewhat police reacted to when we were in for questioning. The only thing the police had been sent from the chief county executive when they were assessing the case were review reports by EY. As far as I know it was when Grahn and his lawyer submitted this documentation to the police that they were advised that it was not sent (or that they possibly made the police aware of it, so that they could ask for it from the chief county executive).

This I must honestly say I think seems strange, bordering on suspicion.
Regards
Thore

Financial crime investigator Elisabeth Roscher at Ernst & Young commented on the roles of private investigators, police investigators, and public prosecutors in an email to me on Wednesday, December 3:

To the extent an investigation provides evidence that a criminal offense has been committed, we will normally recommend reporting it to the police. The statutory threshold for the police to initiate an investigation is low (reasonable grounds to investigate whether there is a criminal offense), but whether an inquiry actually is initiated is up to the police / prosecution. It can also be the situation that there obviously is reason to recommend reporting, but the police / prosecution can still of various reasons decide to drop the case without investigation. A dismissal does not necessarily imply that recommendation to report the incident was incorrect.

The situation is similar also in cases where the prosecution, perhaps based on an investigator's recommended police report, initiates an investigation. The inquiry may lead to dismissal (for example because of lack of evidence) or to indictment. A prosecutor should not initiate an indictment unless he or she is convinced that the suspect is guilty and that this can be proven in court. If the case ends with dismissal or acquittal in the court, this does not imply that police commencement of investigation was a wrong decision. Just as it does not imply that the recommendation to report to the police was wrong.

The Case Story Goes On

In the police case, where chief county executive Tron Bamrud reported principal Rune Grahn for misappropriation of funds, Thore Sandø and another of those involved were interviewed as witnesses, while Grahn was interviewed as an accused. Police investigator Bjørn Meland had the intention of concluding the case in 2014. The conclusion came in the summer of 2014, where the case was dismissed because of insufficient evidence (Fremmerlid 2014c). Grahn received a letter of dismissal from the police.

Deputy principal Thore Sandø chose to leave his position and went into a teaching position at Skedsmo High School from August 1, 2014. Sandø finally got access to the supplementary report in September 2014. The supplementary report confirms that the report was made after Sandø had taken the initiative of getting students to confirm or deny whether lectures with Russian professor had taken place. Therefore, it seems strange to Sandø that he was denied insight.

Worse, however, is that Rune Grahn lost his job. He became a scapegoat. He lost the blame game (Gottschalk 2016). He was classified as the rotten apple. The system including top management in Akershus County was never criticized. Investigators from Ernst & Young were loyal to the mandate. The mandate pointed in a certain direction. Grahn lost face and was hung out in the media without justice being involved in the process. He has been convicted in what might be called a private prosecution. Normally, a public court will determine whether any criminal offense has taken place, not private investigators. Rule of law is essential in a democracy. The other problem is that lack of disclosure and secrecy is contradictory to transparency as practiced in courts, where anyone can sit and listen to proceedings.

Investigators' task is to determine a sequence of events and participants in the events. But they should not blame or judge what people have done. They shall be investigators, not police detectives, public prosecutors, or court judges.

In 2009, financial crime specialist Elisabeth Roscher had net income of 126.000 US dollars, Akershus Chief county executive Tron Bamrud 114.000, former principal Rune Grahn 106.000, and former deputy principal Thore Sandø 77.000, according to statistics from the Internal Revenue Service in Norway. Rune Grahn has no job anymore. He was born in 1946 and lives in Bjørkelangen in Akershus County. The Moscow school was closed in 2015.

Given the outcome of this case, where Rune Grahn never was convicted, what should Roscher and Bamrud learn from this case?

Bamrud did not wait for the police investigation. County director Alf Skaset and lawyer Andreas Heffermehl presented an ultimatum to Grahn even before the private investigation was initiated: Either you take your pension now or you will be fired. In close to chock mode, Grahn signed the papers and became a retired school principal the same day.

Roscher concluded that Grahn should be reported to the police. The police opened a criminal inquiry, but the case was closed after half a year.

What really happened in the Moscow school case is still not certain. Financial crime specialist Elisabeth Roscher at Ernst & Young (2013a, b) did not find out. Instead she seems to have jumped to conclusions and potentially ruined the lives of both Rune Grahn and Thore Sandø.

Lives may be unjustly ruined in the public criminal justice system as well. All components of the criminal justice system – police, prosecution, courts, and correction – may violate the rights of innocent people. But there are two significant differences to private investigations. First, the criminal justice system consists of independent parts. Second, each component in the criminal justice system is regulated by laws and rules. Neither is the case in some private investigations in practice.

Chief county executive at Akershus County, Tron Bamrud, financial crime specialist Elisabeth Roscher at Ernst & Young, and journalist Thor Fremmerlid at local Norwegian newspaper Romerikes Blad do all in my opinion owe former school principal Rune Grahn an apology.

Integrity: Objectivity – Accountability

In the integrity perspectives, Moscow school investigators did not provide suspects of sufficient background material or time to exercise their right of contradiction. Investigators did not provide suspects with an opportunity to contradict statements about themselves in the report. This is an integrity violation. The right of contradiction is not only limited to interviews with the suspects. The right extends to all parts of an investigation report where explicit and implicit descriptions of suspect actions can be found.

Another integrity violation can be found in the report bias where the report of investigation has selected a partial perspective and not presented the complete picture. Particularly, the real role of a local instructor is never investigated or revealed.

Furthermore, it seems that investigators have fallen into the blame game. The blame game hypothesis suggests that the client can indicate where investigators should place the blame for misconduct such as offshore structures and for potential contributions to financial crime such as money laundering and tax evasion. The blame game hypothesis implies that suspected individuals do not necessarily become subject to a fair investigation by private examiners and financial crime specialists (Gottschalk 2016).

The term blame game is often used to describe a phenomenon which happens in groups of people when something goes wrong. Essentially, all members of the group attempt to pass the blame on, absolving themselves of responsibility for the issue. Lack of causal accounts increases disapproval ratings of the harm done by placing the blame for harmful acts on others. For example, by attributing corruption to an executive in the organization as a rotten apple, the suspect will feel betrayed by other executives who, in his opinion, belong to the rotten apple basket.

External attributions place the cause of a negative event on external factors, absolving the account giver and investigation client from personal responsibility. However, unstable attributions suggest that the cause of the negative event is unlikely to persist over time and as such mitigate the severity of the predicament. Uncontrollable attributions suggest that the cause of the event is not within the control of the attributor, further removing any blame or responsibility for the unjust act from the account giver (Lee and Robinson 2000).

The reasons for private inquiries include lack of facts and lack of accountability. Nobody will blame oneself for the negative event. The account giver, the private investigator, absolves others from the blame and responsibility for the negative event. Even in cases of self-blame, investigations are required to ensure that the self-blame is justified. Self-blame is attributing a negative event to one's behavior or disposition (Lee and Robinson 2000).

Sonnier et al. (2015) conceptualize blame in terms of personal control. The assessment of an actor's control over a harmful event is influenced by the desire to blame someone whose behavior, reputation, or social category has aroused negative reactions. Blaming implies to form affective reactions to aspects of negative events and people involved. Private investigators judge how much control the actor exerted by analyzing the structural linkages of volition, causation, and foresight while also spontaneously, relatively, and unconsciously forming affective reactions. The central question in assessing control and blame attribution is whether the actor desired, caused, or foresaw the harmful outcome. Attribution is affected by the investigators' beliefs about what other actors would do in the same situation. When investigators feel that the actor should have foreseen or anticipated the negative consequences of own acts, then they are more likely to lay blame on the actor. The need to lay blame arises out of the need to feel that similar occurrences can be avoided in the future.

In the objectivity perspective, Moscow school investigators did not verify information independently, there seems to be no value neutrality, and judgments are not built up from concepts. These are some of the objectivity violations found in this inquiry. Furthermore, there is lack of true and undeniable knowledge, and there seems to be an absence of prejudice.

In the accountability perspective, Moscow school investigators did not consider themselves accountable for their own misconduct. The misconduct consisted of false allegations of fraud as concluded by the police later on. Investigators argue that victims of their investigation are not their problem. Victims of the investigation have suffered job loss, loss of position, negative media attention, and financial insecurity for more than a year. They became victims already during the investigation and even more so when the investigation report became public. In the investigation report, fraud examiners argue that they have found strong evidence of fraud. They suggest to their client to report the case to the police, who initiate a criminal investigation. After having carried out an inquiry, the police find no evidence of financial crime. The case is dismissed from the police. As stated above, investigators take no responsibility for this outcome. Therefore, there is an obvious lack of accountability in this case.

Criminal investigation is initiated when there is a need to study negative incidents and events that happened in the past. Contrary to the police, regulators and other investigative agencies, forensic accounting and corporate investigation firms are able to conduct their inquiries under a cloak of secrecy providing resolutions that are largely private in nature and which help to safeguard the client from embarrassment and unwanted publicity. Many companies want to deal with misconduct internally by resolving the matter by themselves. They want no publicity.

Corporations and other organizations value the possibility of secrecy, discretion, and control that private specialists bring to investigations. Openness could lead to problems such as reputational loss, which can have economic repercussions. While private inquiries can consider secrecy, openness is a key characteristic of a public criminal justice procedure.

Lack of integrity, lack of objectivity, and lack of accountability are some of the shortcomings often found in private internal investigations by fraud examiners, as illustrated in this case study.

References

Brooks, G., & Button, M. (2011). The police and fraud investigation and the case for a nationalized solution in the United Kingdom. *The Police Journal, 84*, 305–319.

Button, M., Frimpong, K., Smith, G., & Johnston, L. (2007a). Professionalizing counter fraud specialists in the UK: Assessing progress and recommendations for reform. *Crime Prevention and Community Safety, 9*, 92–101.

Button, M., Johnston, L., Frimpong, K., & Smith, G. (2007b). New directions in policing fraud: The emergence of the counter fraud specialists in the United Kingdom. *International Journal of the Sociology of Law, 35*, 192–208.

Ernst & Young. (2013a). *Gransking – NRVS (Investigation report on school in Moscow)*. Oslo: Ernst & Young. October 30, 52 pages.

Ernst & Young. (2013b). *Gransking – NRVS, Tilleggsrapport (Supplementary report on the investigation of the Moscow School)*. Oslo: Ernst & Young. December 20, 23 pages.

Fremmerlid, T. (2014a). Har levert politianmeldelse (Has delivered police report), daily Norwegian local newspaper *Romerikes Blad*, www.rb.no, published February 9.

Fremmerlid, T. (2014b). BI-professor lite imponert over granskingen av Moskva-skolen – Burde gått dypere (BI professor little impressed by the investigation of the Moscow school – Should gone deeper), daily Norwegian local newspaper *Romerikes Blad*, Thursday, April 24, p. 4.

Fremmerlid, T. (2014c). Anmeldelsen av Rune Grahn henlagt (Case against Rune Grahn dismissed), daily Norwegian local newspaper *Romerikes Blad*, www.rb.no, published August 19.

Gottschalk, P. (2016). *Understanding white-collar crime: A convenience perspective*. Boca Raton: CRC Press, Taylor & Francis.

Lee, F., & Robinson, R. J. (2000). An attributional analysis of social accounts: Implications of playing the blame game. *Journal of Applied Social Psychology, 30*(9), 1853–1879.

Lewis, C., Brooks, G., Button, M., Shepherd, D., & Wakefield, A. (2014). Evaluating the case for greater use of private prosecutions in England and Wales for fraud offences. *International Journal of Law, Crime and Justice, 42*(1), 3–15.

Osterburg, J. W., & Ward, R. H. (2014). *Criminal investigation: A method for reconstructing the past* (7th ed.). Waltham: Anderson Publishing.

Schneider, S. (2006). Privatizing economic crime enforcement: Exploring the role of private sector investigative agencies in combating money laundering. *Policing and Society, 16*(3), 285–312.

Sonnier, B. M., Lassar, W. M., & Lassar, S. S. (2015). The influence of source credibility and attribution of blame on Juror Evaluation of liability of industry specialist auditors. *Journal of Forensic & Investigative Accounting, 7*(1), 1–37.

Williams, J. W. (2005). Governability matters: The private policing of economic crime and the challenge of democratic governance. *Policing and Society, 15*(2), 187–211.

Williams, J. W. (2014). The private eyes of corporate culture: The forensic accounting and corporate investigation industry and the production of corporate financial security. In K. Walby & R. K. Lippert (Eds.), *Corporate security in the 21st century – Theory and practice in international perspective* (pp. 56–77). Houndmills: Palgrave Macmillan.

Chapter 9
The Case of Nordea Bank Investigation

Although fraud examiners and other investigators have been in business for many years, there are fundamental limits to their work. Organizations that may be subject to some form of fraud or other white-collar crime call in investigators to examine any concerns that they may have and make a report as to whether or not there is evidence to substantiate such concerns.

They are hired to reconstruct the past and to find reasons why negative events occurred. Client organizations have resources to involve fraud examiners. However, instances of blame game, lack of integrity and objectivity, and other issues can cause limits to the trust that should be placed in reports of investigation.

In this chapter, the case of Scandinavian bank Nordea is presented, where Nordea executives were suspected of involvement in tax evasion, money laundering, and other forms of financial crime in tax havens based on leaked papers from Panama.

When suspicion of misconduct and white-collar crime occurs in a business enterprise, there is a tendency to hire fraud examiners from a law firm or an accounting firm to conduct an internal inquiry. The purpose of a private investigation is similar to a police investigation in that it is about reconstructing the past (Osterburg and Ward 2014). Past events and sequence of events are to be reconstructed as objectively and completely as possible. Investigators should avoid biases and abstain from sympathy and antipathy. An investigation should be independent and apply information sources and knowledge categories that are relevant to the case. Investigators may assess past events, but they should not pass judgments or verdicts on individuals. Privatization of law enforcement should not occur in democratic societies where the criminal justice system is in place to conduct a fair trial with defense.

There are many problematic issues related to private investigations (Brooks and Button 2011; Button et al. 2007a, b; Williams 2005, 2014). First, a client pays the work and asks investigators to do what the client has defined in the mandate. Second, the inquiry is limited in scope since the client is only willing to spend a limited amount of money on the task. Third, private investigations are characterized by secrecy so that neither the police nor the public gain insights into procedures and

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results. Finally, the client sometimes has a desired outcome from the investigation that may influence the work of fraud examiners. These are some of the limits to private internal investigations of white-collar crime suspicion.

Other limits are concerned with the role of fraud examiners which sometimes extends beyond inquiry into prosecution and sentencing. For example, some private investigators conclude in their reports that there is misconduct, but no crime, thereby acquitting their client who is paying for the investigation. While this may be a desirable result for the client, it is an unacceptable outcome for the criminal justice system in democratic societies. Private fraud investigators are not to suggest private settlements when penal laws are violated, which would represent a privatization of law enforcement (Schneider 2006).

In this chapter, we study the case of a private internal inquiry at Nordea. Media coverage on the so-called Panama papers in April 2016 portrayed Nordea International Private Banking in Luxembourg as a provider of tax haven structures for its clients. As a response to what was reported in the media, Nordea issued a statement that the bank strongly denounces tax evasion; that other than in exceptional cases, Nordea does not assist in setting up offshore companies; and that Nordea does not accept clients that are nontransparent toward relevant tax authorities. As a further response to the revelations in the Panama papers, Nordea initiated an internal inquiry of adherence to relevant laws and regulations as well as policies and instructions in connection with offshore structures (Mannheimer Swartling 2016; Nordea 2016).

In this chapter, we apply convenience theory and resource-based theory to study the case of Nordea Bank in tax havens. The chapter is based on the following research question: *What are limits to a private internal investigation in a convenience and resource-based perspective?*

Scandinavian Bank Nordea

The Scandinavian bank Nordea is headquartered in Stockholm and is present in 19 countries around the world, operating through full-service branches, subsidiaries, and representative offices. Nordea International Private Banking has its headquarters in Luxembourg with branches in Switzerland and Singapore. Nordea is the largest bank in Scandinavia. Nordea has despite warnings from the Swedish Financial Supervisory Authority been active in offshore structures in tax havens as leaked in the Panama papers. The Nordea section in Luxembourg has in the years 2004–2014 founded nearly 400 offshore companies in Panama, the British Virgin Islands, and the Seychelles for its customers. The Swedish authority has pointed out that there are serious deficiencies in how Nordea monitors money laundering as well as tax evasion. In 2015, Nordea had to pay the largest possible fine of over 5 million euro in Sweden.

The Panama papers are 11.5 million leaked documents that detail financial and attorney-client information for more than 200 thousand offshore entities. The leaked

documents were created by Panamanian law firm and corporate service provider Mossack Fonseca. The leaked documents illustrate how wealthy individuals and public officials are able to keep personal financial information private. While offshore business entities are often not illegal, media reporters found that some of the shell corporations were used for illegal purposes, including fraud, tax evasion, and money laundering. "John Doe," the whistle-blower who leaked the documents to German newspaper *Süddeutsche Zeitung*, remains anonymous.

In 2012, Nordea asked Mossack Fonseca to change documents retrospectively and to change dates on signed documents. The chief executive officer at Nordea Luxembourg at that time was from Denmark, while a bank executive from Norway was chairman of the board at the Nordea Luxembourg. The Swedish minister of finance characterized the conduct of Nordea as a crime and totally unacceptable. Politicians in Norway condemned the Norwegian executive's support of secrecy for wealthy bank clients and suggested that she should resign from another chair position Norway (Ekeberg 2016d).

Internal Investigations at Nordea

Two parallel investigations were initiated at Nordea in April 2016. Both investigation reports are publicly available. One investigation was internally conducted by the group compliance and group operational risk functions in the bank. The other was conducted by law firm Mannheimer Swartling. Both wrote reports of investigation of 12 pages and 20 pages, respectively. Both reports describe misconduct, but no crime. Both reports suggest that the misconduct has stopped.

The internal Nordea (2016: 11) report concludes as follows:

> The investigation has found deficiencies in the procedures regarding renewal of Powers of Attorney (POA). In at least seven cases investigation has shown that backdated documents have been requested or provided during the last six years, which is illegal when it aims at altering the truth. The previous backdating of a POA took place in 2012, and the backdating of a proxy took place in 2014. However, to be convicted of the criminal offence of forgery or use of forgery, certain conditions need to be met cumulatively. These conditions do not all seem to be met for the cases at hand. At least one of the conditions seems not to be met, which is the clear benefit or illicit advantage of the employee asking for backdating, the bank or another third party or causing prejudice or potential prejudice to a third party. However, the procedures are in violation of the Nordea Code of Conduct.

Internal investigators from group compliance and group operational risk functions draw a conclusion of misconduct, but no crime. Similarly, Mannheimer Swartling (2016: 6) draws the conclusion that neither lack of tax evasion control nor money laundering is considered crime in Luxembourg:

> There are several laws and regulations in place in Luxembourg in relation to the fight against money laundering and terrorist financing. Luxembourg has transposed the relevant EU directives on anti-money laundering (AML) to date. It may be noted that Nordea has the same duties on AML and know-your-customers controls regardless of whether the client uses an offshore structure or not. It may also be noted that, also for the time being,

> Luxembourg banks do not have any legal obligation to make sure that their clients are tax compliant. The fourth EU directive on AML has not yet been transposed into Luxembourg law and tax evasion is therefore not yet treated as predicate money laundering crime und Luxembourg law. There are also bank secrecy rules in place that prevent banks from reporting on tax evasion to the public prosecutor or their holding company. Tax information sharing is only allowed for in certain limited circumstances and exclusively to the Luxembourg tax authorities or to the prosecutor, as part of investigation conducted by such authority.

The internal inquiry at Nordea (2016) studied only documents, while the investigation by law firm Mannheimer Swartling (2016) also interviewed key personnel. They interviewed wealth partners in Luxembourg, current and former board members at Nordea, and management and employees at Nordea.

Mannheimer Swartling (2016: 4) applied interviews to confirm information from other sources:

> Unless otherwise expressly stated, a mention in this report to that we have been "informed" of a certain circumstance or that a fact has been "confirmed" or "explained" or the like is a reference to information provided to us during these interviews. The information in the documents together with the information received during said interviews is referred to as the material. The review is based solely on our understanding of the material.

Mannheimer Swartling (2016: 18) concluded as follows on misconduct:

> While operations associated with offshore structures as such are not illegal in Luxembourg, such structures could be used by clients as instruments for money laundering or tax evasion. In view of this, as well as the result of the investigation, it is therefore a fair conclusion that both the Nordea board and executive management should have identified a need for a particular risk awareness related to the operations associated with offshore structures, and that such risk awareness should have been incorporated in risk assessment processes and the risk appetite framework. If this had been the case, it would have facilitated for the risk and capital and/or the compliance functions to integrate related risks into their respective risk assessment and control processes, and internal audit would possibly have performed audits with this in focus.

Nordea (2016) suggests as the next steps following the completion of the internal investigation relating to the private banking to advice on how to mitigate the deficiencies.

Evaluation of Investigation

This discussion section is structured as follows. First, the convenience perspective is discussed, followed by the resource-based perspective. Next, the blame game hypothesis is discussed and finally followed by other limits to private internal investigations.

In the convenience perspective, helping bank customers in setting up offshore companies for the purpose of wealth secrecy is not a crime. Wealthy customers are important in private banking, and Nordea competes with other banks globally to attract wealthy clients. Nordea and other banks may suggest to their clients to avoid tax evasion by being open to their own national authorities about their money

placements. Nordea and other banks may also suggest to their clients to avoid money laundering by avoiding sums that can stem from criminal activities such as corruption, embezzlement, fraud, and drug trade, as well as suggest that money should not be transferred from tax havens for the purpose of terrorist financing.

Nordea may find it convenient to manage the wealth of important clients without really knowing where the money is coming from or where it is going. Clients may commit financial crime, but bank executives did not really know about it (Ekeberg 2016a, c, d).

In the resource-based perspective, bank executives have access to financial crime specialists who can investigate when they are accused of white-collar crime. For bank executives, leakage of the Panama papers was an unfortunate event. It became public knowledge that banks such as Nordea helped set up secret offshore structures. Politicians and the media criticized Nordea for unethical business practices. To respond to the criticism and to avoid police investigation, Nordea initiated two internal investigations by Nordea (2016) and Mannheimer Swartling (2016). Nordea had access to resources by hiring examiners and by defining the mandates for both investigations.

The blame game hypothesis suggests that the client can indicate where investigators should place the blame for misconduct such as offshore structures and for potential contributions to financial crime such as money laundering and tax evasion. The blame game hypothesis implies that suspected individuals do not necessarily become subject to a fair investigation by private examiners and financial crime specialists (Gottschalk 2016).

The term blame game is often used to describe a phenomenon which happens in groups of people when something goes wrong. Essentially, all members of the group attempt to pass the blame on, absolving themselves of responsibility for the issue. Lack of causal accounts increases disapproval ratings of the harm done by placing the blame for harmful acts on others. For example, by attributing corruption to an executive in the organization as a rotten apple, the suspect will feel betrayed by other executives who, in his opinion, belong to the rotten apple basket.

External attributions place the cause of a negative event on external factors, absolving the account giver and investigation client from personal responsibility. However, unstable attributions suggest that the cause of the negative event is unlikely to persist over time and as such mitigate the severity of the predicament. Uncontrollable attributions suggest that the cause of the event is not within the control of the attributor, further removing any blame or responsibility for the unjust act from the account giver (Lee and Robinson 2000).

The reasons for private inquiries include lack of facts and lack of accountability. Nobody will blame oneself for the negative event. The account giver, the private investigator, absolves others from the blame and responsibility for the negative event. An inquiry is any process that has the aim of augmenting knowledge, resolving doubt, or solving a problem. Even in cases of self-blame, investigations are required to ensure that the self-blame is justified. Self-blame is attributing a negative event to one's behavior or disposition (Lee and Robinson 2000).

Sonnier et al. (2015) conceptualize blame in terms of personal control. The assessment of an actor's control over a harmful event is influenced by the desire to blame someone whose behavior, reputation, or social category has aroused negative reactions. Blaming implies to form affective reactions to aspects of negative events and people involved. Private investigators judge how much control the actor exerted by analyzing the structural linkages of volition, causation, and foresight while also spontaneously, relatively, and unconsciously, forming affective reactions. The central question in assessing control and blame attribution is whether the actor desired, caused, or foresaw the harmful outcome. Attribution is affected by the investigators' beliefs about what other actors would do in the same situation. When investigators feel that the actor should have foreseen or anticipated the negative consequences of own acts, then they are more likely to lay blame on the actor. The need to lay blame arises out of the need to feel that similar occurrences can be avoided in the future.

Nordea (2016) blames local employees at Nordea Luxembourg for offshore arrangements:

> The communication has mainly been handled by a limited number of employees in wealth planning and client relationship units.

Mannheimer Swartling (2016) blames local employees at Nordea Luxembourg for illegal backdating of documents. The firm blames the local board headed by a Norwegian bank executive for not having implemented a code of conduct.

The chief executive officer at Nordea is not blamed in the reports. That comes as no surprise, since he initiated both investigations. Similarly, Valukas (2014) never blamed CEO Mary Barra for the ignition switch failure cover-up at General Motors, maybe because she initiated the investigation.

A number of other potential limits to the investigations are relevant. First independence, since the internal Nordea (2016) report is produced by people whose promotion is dependent on chief executives in the bank. This indicates lack of independence. Next integrity, where Nordea (2016) investigators have avoided criticism of themselves at Group Compliance and Group Operational Risk who normally are responsible for preventing misconduct and crime. This indicates lack of integrity. Furthermore, objectivity that biases should not inappropriately affect understanding and assessment. Finally, the attempted privatization of court work by Mannheimer Swartling (2016), who concluded that Nordea would not be convicted of forgery.

This section has provided insight on private inquiries in the corporate sector using the case study of Nordea. It has shown some interesting insights on how the private sector approaches such cases, which is rare in the broader literature.

There are a number of limits to private internal investigation of white-collar crime suspicions as illustrated by the case of Scandinavian bank Nordea in tax havens. While an investigation should reconstruct past events by finding out what happened, how it happened, when it happened, and why it happened, reports of investigations have a tendency to suffer from:

1. *Mandate bias*. The mandate for the investigation points in a certain direction and excludes other directions for scrutiny.

2. *Report bias*. The investigation report has selected a partial perspective and not presented the complete picture for the investigation.
3. *Lack of contradiction*. The investigators did not provide suspects and witnesses with an opportunity to contradict statements in the report. For example, the board chairperson from Norway at Nordea Luxembourg disagrees with the criticism, but there is no evidence of contradiction in the reports.
4. *Privatization of law enforcement*. Investigators try to acquit suspected executives for illegal backdating of documents.
5. *Blame game*. The investigation concluded to blame others than those paying for the investigation.
6. *Roles.* Investigators took on the roles of police, prosecution, as well as judge.
7. *Lack of independence.* Internal compliance officers are not independent of their superiors.
8. *Lack of integrity.* Internal compliance officers might have blamed themselves for not preventing negative events.

Given such fundamental limits to private investigations, it is important that decision-making is based on other sources as well when it comes to conclusions about past negative events. Alternatively, fraud examiners learn how to avoid these problems so that reports of investigation can play a trustworthy role in the future.

In conclusion, the limitations around private investigations have affected their ability to investigate the allegations leveled by Nordea Bank.

The Case of DNB Bank Investigation

Not only Scandinavian bank Nordea was hit by leakage of the Panama Papers. Also Norwegian bank DNB was involved.

When Norwegian bank DNB was accused of fraud and corruption in connection with media leaks from the Panama papers, corporate management immediately implemented a preliminary internal inquiry to clear themselves. After only 3 days, attorneys at law firm Hjort concluded that no violations of Norwegian penal code had occurred among executives at DNB Bank. At the press conference, Rune Bjerke, chief executive in the bank, could announce that an independent law firm (Hjort) had concluded that there was no evidence of crime. By claiming that the law firm had already examined suspicions of crime, Bjerke may have prevented investigation and prosecution by Norwegian law enforcement agency Økokrim (Langset et al. 2016).

Reactions were loud and swift after Oslo newspaper *Aftenposten* revealed how Norway's biggest bank, DNB, made it possible for wealthy customers to avoid taxes by hiding assets in tax havens through DNB in Luxembourg and Panama. DNB's chief executive Rune Bjerke, who has close ties to the Labor Party – the largest political party in Norway – was facing calls for his resignation (Brustad and Hustadnes 2016). Customers said they were disgusted and angry, government

officials and state authorities expressed a sense of betrayal, and newspapers were editorializing that DNB had violated the confidence of politicians, taxpayers, as well as customers who supported the bank during the financial crisis less than a decade ago.

The Ministry of Trade, Industry and Fisheries owned 34% of DNB bank. This large ownership fraction occurred as a consequence of the collapse of the financial sector during the financial crisis. When Panama papers were leaked and evidence of DNB involvement occurred, DNB called the press conference and at the same time submitted a written statement to the minister, Monica Mæland. She was, however, not happy with the explanations in the statement and returned a number of questions to the chairperson at the bank, Anne Carine Tanum.

Again, chairperson Tanum hired attorney Kristin Veierød at law firm Hjort to reply to the minister's questions, although law firm Hjort already very promptly had concluded that there were no traces of corporate crime.

Law firm Hjort was to carry out a fraud examination of DNB's knowledge of and involvement in tax havens such as the Seychelles. The investigation was to answer questions from the minister concerning possible violations of internal guidelines at DNB Luxembourg, concerning governance structure in DNB, concerning corporate culture, concerning audit functions, concerning whistle-blowing routines, and concerning the need for future investigations.

Law firm Hjort was hired in April 2016 to carry out this investigation, and they were expected to complete the work by June. However, they were still not done in July, and chairperson Tanum was thus unable to provide answers to minister Mæland in August.

It was probably convenient for DNB management to quickly respond to accusations in the Panama papers by initiating a prompt Hjort investigation and to call a press conference as well as submit the Tanum (2016) statement to the minister. DNB management may have expected that their fast initiatives would solve the situation so that the bank could return to its business as usual. However, the loud and lasting reactions combined with the surprising new list of questions from the minister made bank management confused and silent.

From a convenience perspective, DNB chief executive Rune Bjerke argued that he did not know about the practice at their subsidiary DNB Luxembourg helping with postbox companies in the Seychelles and other tax havens through a law firm in Panama. Furthermore, DNB management finds it convenient to remain convinced that this bank practice may have represented misconduct, but no crime.

When the Panama papers disclosed DNB involvement in tax havens for their clients, DNB executives were quickly stating that this practice was not according to bank ethics and was terminated. They apologized for unethical bank practice, but claimed they were not to blame. Chairperson Tanum (2016: 13) wrote in her statement to the minister:

> It is the view of the board that DNB Luxembourg should have refrained from facilitating customers establishing companies on the Seychelles from 2006 to 2008. Not because it was illegal, or that customers necessarily have done anything wrong, but because the structures themselves could be abused for hiding assets and income from the internal revenue service.

> Although it is the responsibility of the customers to report to the internal revenue service, DNB Luxembourg should not have facilitated corporate structures that could be misused. In addition, the board underlines that to facilitate for customers establishing companies in low-tax countries is far from what a bank should be involved in.
>
> Knowledge about DNB Luxembourg's services never reached the CEO, and it was never discussed in executive meetings or in board meetings at DNB.

In the economical dimension of convenience theory, it seems that wealthy Norwegians are important bank clients for whom DNB provided secrecy services. In the organizational dimension, it seems that transactions could be hidden on the electronic road from DNB Luxembourg via Panama arrangements to tax havens. In the behavioral dimension of convenience theory, it seems that DNB executives think they are not to blame since they did not know about the practice.

References

Brooks, G., & Button, M. (2011). The police and fraud investigation and the case for a nationalized solution in the United Kingdom. *The Police Journal, 84*, 305–319.

Brustad, L., & Hustadnes, H. (2016). –Bjerke har forsømt lederansvaret uansett (-Bjerke has neglected the management responsibility regardless), daily Norwegian newspaper *Dagbladet.* www.dagbladet.no, published April 11.

Button, M., Frimpong, K., Smith, G., & Johnston, L. (2007a). Professionalizing counter fraud specialists in the UK: Assessing progress and recommendations for reform. *Crime Prevention and Community Safety, 9*, 92–101.

Button, M., Johnston, L., Frimpong, K., & Smith, G. (2007b). New directions in policing fraud: The emergence of the counter fraud specialists in the United Kingdom. *International Journal of the Sociology of Law, 35*, 192–208.

Ekeberg, E. (2016a). Visste om lyssky kontoer (Knew about shady accounts), daily Norwegian newspaper *Klassekampen*, Friday, July 22, pp. 4–5.

Ekeberg, E. (2016b). Nordea fant lovbrudd (Nordea found law violations), daily Norwegian newspaper *Klassekampen*, Tuesday, July 26, pp. 12–13.

Ekeberg, E. (2016c). Tar paradisene i forsvar (Takes havens in defense), daily Norwegian newspaper *Klassekampen*, Wednesday, July 27, pp. 10–11.

Ekeberg, E. (2016d). Skuffet over Telenor-toppen (Disappointed of Telenor top), daily Norwegian newspaper *Klassekampen*, Thursday, July 28, pp. 6–7.

Gottschalk, P. (2016). *Understanding white-collar crime: A convenience perspective*. Boca Raton: CRC Press, Taylor & Francis.

Langset, M., Ertesvåg, F., & Ensrud, S. (2016). BI-professor: –Det vil bli rettssaker (BI professor: –There will be court cases), daily Norwegian newspaper *VG*, Wednesday, April 6, p. 7.

Lee, F., & Robinson, R. J. (2000). An attributional analysis of social accounts: Implications of playing the blame game. *Journal of Applied Social Psychology, 30*(9), 1853–1879.

Mannheimer Swartling. (2016). *Governance Review, Report to Nordea Bank AB*, law firm (advokatbyrå) Mannheimer Swartling, Stockholm. www.nordea.com, 20 pages.

Nordea. (2016). *Report on investigation of Nordea private banking in relation to offshore structures*. Nordea Group Compliance and Group Operational Risk, Stockholm. www.nordea.com, 12 pages.

Osterburg, J. W., & Ward, R. H. (2014). *Criminal investigation: A method for reconstructing the past* (7th ed.). Waltham: Anderson Publishing.

Schneider, S. (2006). Privatizing economic crime enforcement: Exploring the role of private sector investigative agencies in combating money laundering. *Policing and Society, 16*(3), 285–312.

Sonnier, B. M., Lassar, W. M., & Lassar, S. S. (2015). The influence of source credibility and attribution of blame on Juror Evaluation of liability of industry specialist auditors. *Journal of Forensic & Investigative Accounting, 7*(1), 1–37.

Tanum, A. C. (2016, April 11). *DNB Luxembourg – Redegjørelse fra styret (DNB Luxembourg – Statement from the board)*, brev til Nærings- og fiskeridepartmentet ved statsråd Monica Mæland (letter to industry and fishery department attention minister Monica Mæland).

Valukas, A.R. (2014, May 29). *Report to board of directors of General Motors Company regarding ignition switch recalls*, law firm Jenner & Block, 325 pages, http://www.beasleyallen.com/webfiles/valukas-report-on-gm-redacted.pdf.

Williams, J. W. (2005). Governability matters: The private policing of economic crime and the challenge of democratic governance. *Policing and Society, 15*(2), 187–211.

Williams, J. W. (2014). The private eyes of corporate culture: The forensic accounting and corporate investigation industry and the production of corporate financial security. In K. Walby & R. K. Lippert (Eds.), *Corporate security in the 21st century – Theory and practice in international perspective* (pp. 56–77). Houndmills: Palgrave Macmillan.

Chapter 10
The Case of Telenor VimpelCom Investigation

Business and public organizations hire fraud examiners to conduct private investigations when there is suspicion of misconduct or financial crime. Fraud examiners carry out their investigation based on a mandate. Often, individuals in the organization are suspects. The blame game hypothesis is concerned with factors that cause blame attribution to some but not to others. In this case study, only executives were blamed who had not disclosed corruption information to a major shareholder and to the chief executive officer.

When suspicions of misconduct and white-collar crime occur in a business enterprise, there is a tendency to hire fraud examiners from a law firm or an accounting firm to conduct an internal investigation. The purpose of a private investigation is similar to a police investigation in that it is about reconstructing the past. Past events and sequence of events are to be reconstructed as objectively and completely as possible. Investigators should avoid biases and abstain from sympathy and antipathy. An inquiry should be independent and apply information sources and knowledge categories that are relevant to the case.

However, there are many problematic issues related to private investigations. First, a client pays the work and asks investigators to do what the client has defined in the mandate. Second, the investigation is limited in scope since the client is only willing to spend a limited amount of money on the task. Third, private investigations are characterized by secrecy so that neither the police nor the public gain insights into procedures and results. Finally, the client sometimes has a desired outcome from the investigation that may influence the work of fraud examiners.

When a desired or expected result is evident in private investigations, the examination process can be perceived as a blame game. A blame game is characterized by an examination where someone is blamed for a negative event or a sequence of events.

We explore the blame game hypothesis in the case of an internal investigation by law firm Deloitte at Norwegian telecommunications company Telenor, which was a substantial owner of Dutch telecommunications company VimpelCom. In 2016, VimpelCom agreed to charges of corruption in Uzbekistan and entered into a

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deferred prosecution agreement with the US Department of Justice and with the prosecution service in the Netherlands, where the company paid $835 million to the US Securities and Exchange Commission and to the public prosecution service of the Netherlands. According to the statements of facts for the agreement, the bribe related to the acquisition of 3G frequencies in 2007 was falsely recorded in VimpelCom's consolidated books and records as the acquisition of an intangible asset, namely, 3G frequencies, and as consulting expenses.

Statement of Facts

The description of VimpelCom's Uzbekistan transactions by Deloitte (2016a) was based on statement of facts by United States and Dutch investigating authorities related to the settlement with VimpelCom. The statement of facts can be downloaded from www.justice.gov/usao-sdny/file/826456/download. The statement was incorporated by reference as part of the deferred prosecution agreement between US Department of Justice and VimpelCom, where VimpelCom admits, accepts, and acknowledges that it was responsible for acts of its officers, directors, employees, and agents.

VimpelCom corruptly entered the Uzbek market in 2005 and 2006. In internal VimpelCom documents, foreign officials were identified only as "partner" or "local partner" rather than by name. For example, documents prepared for board meetings concerning partnership agreement with a shell company referred only to a "local partner" who was the 100% owner of the shell company. VimpelCom structured the partnership agreement to hide the bribe payments to foreign officials.

In 2007, VimpelCom arranged to pay foreign officials, through the shell company, an additional $25 million bribe to obtain 3G frequencies in Uzbekistan. The year before, VimpelCom had paid $114 million in bribes for foreign officials' understood influence over decisions made by the Uzbek government. Furthermore, VimpelCom, directly or through a subsidiary, entered into fake consulting contracts, where real work did not justify the large consulting fees.

Two executives at VimpelCom closely monitored the approval process and ensured that the shell company was paid quickly. In 2011, the two executives received an email showing that all approvals had been received also for the 4G consulting agreement. The shell company never provided any legitimate consulting services to justify its $30 million fee. In fact, the shell company's consulting reports and presentations, which were prepared in supposed satisfaction of its obligations under the consulting agreement, were not needed by VimpelCom, and the reports were almost entirely plagiarized from Wikipedia entries, other Internet sources, and internal VimpelCom documents.

Deloitte Investigation

Deloitte is a multinational professional services firm. Accountants, auditors, lawyers, social scientists, IT specialists, engineers and other professionals within Deloitte conduct private investigations and forensic services as fraud examiners. Deloitte was hired in November 2015 to investigate Telenor's involvement in and knowledge of VimpelCom's corruption scandal.

VimpelCom is a global provider of telecommunications services. Most of the company's revenue comes from Russia and Italy. In the summer of 2015, the US Justice Department claimed that VimpelCom used a network of shell companies and phony consulting contracts to funnel bribes to a the daughter of the president of Uzbekistan, in exchange for access to that country's telecommunications market. In November 2015, VimpelCom CEO, Jo Lunder, was arrested on corruption charges in Oslo, Norway. The case alleged that in exchange for an operating license, VimpelCom funneled $57 million to Takilant, a company controlled by Gulnara Karimova, the daughter of Uzbek President Islam Karimov. The Securities and Exchange Commission announced in February 2016 a global settlement along with the US Department of Justice and Dutch regulators that required telecommunications provider VimpelCom Ltd. to pay $835 million to resolve its violations of the Foreign Corrupt Practices Act (FCPA) to win business in Uzbekistan.

Telenor is a Norwegian multinational telecommunications company. Telenor operates in Scandinavia, Eastern Europe, and Asia. The company has a 33% ownership in VimpelCom Ltd.

Telenor's board of directors assigned Deloitte to conduct a review of Telenor's handling of its ownership in VimpelCom including Telenor executives on the board of VimpelCom and Telenor's follow-up as a shareholder, as well as actions and decisions by Telenor representatives and Telenor employees in relation to VimpelCom's investment in Uzbekistan.

The investigation mandate states that the review of decisions and handling should be based on an assessment of the context at the time the decisions were made and take due account of the different phases of Telenor's ownership in VimpelCom. The review should cover all Telenor employees and board members.

Blame Game Candidates

Since the review should cover all Telenor employees and board members, Deloitte (2016a, b) investigators had to make a selection. They selected the chairman of the board at Telenor, the chief executive at Telenor, as well as Telenor executives who had been on the board of VimpelCom and some more Telenor executives:

- Chairman of the board at Telenor: Svein Aaser. He was suspected of not disclosing information about VimpelCom corruption in Uzbekistan to Telenor shareholders.

- Chief executive at Telenor: Fredrik Baksaas. He was suspected of being involved in corruption as a board member at VimpelCom for a while and also for not disclosing information about VimpelCom corruption in Uzbekistan to Telenor board members.
- Five Telenor board members at VimpelCom: Arve Johansen, Ole Bjørn Sjulstad, Kjell Morten Johansen, Henrik Torgersen, and Fridjof Rusten. They were suspected of being involved in corruption as board members at VimpelCom for a while and also for not disclosing information about VimpelCom corruption in Uzbekistan to Telenor management.
- Two Telenor executives: Richard Olav Aa (CFO) and Pål Wien Espen (CLO). They were suspected of not having handled a whistle-blower's message correctly.

These nine persons were at the core of the Deloitte (2016a, b) inquiry. The incoming CEO at Telenor, Sigve Brekke, who took over after Fredrik Baksaas, avoided attention by the fraud examiners, although he had been responsible for market development in corrupt countries such as Myanmar, Thailand, and India. Brekke replaced Baksaas as CEO independent of the VimpelCom scandal.

Deloitte Findings

When top executives at Norwegian telecommunications company Telenor were suspected of involvement in VimpelCom's corruption in Uzbekistan, the board at Telenor hired fraud examiners at law firm Deloitte to conduct an internal investigation. Telenor sought to control damage from bribery allegations (Hovland and Gauthier-Villars 2015). The report of investigation concludes that misconduct has occurred, but there was no evidence of white-collar crime (Deloitte 2016a, b). Based on this conclusion, the Norwegian national authority for investigation and prosecution of economic crime (Økokrim) decided not to investigate the case.

VimpelCom headquartered in Amsterdam in the Netherlands is one of the world's largest telecommunications services operators providing voice and data services. VimpelCom is registered on the US stock exchange.

Telenor was a substantial shareholder in VimpelCom with an economic and voting interest of 33% in the company. A number of top executives at Telenor had over the years been on the board of VimpelCom. The internal investigation case in Norway was concerned with the role of these individuals. Deloitte (2016a, b) investigated the matter.

Jon Fredrik Baksaas had been the CEO at Telenor from 2002 to 2015. He had been a member of the board at VimpelCom since 2011. Nevertheless, fraud examiners Anne Helsingeng and Ingebret Hisdal concluded in their report that the corruption concerns "did not come to the attention of Baksaas before March 2014" (Deloitte 2016a, b: 7).

A middle manager at Telenor was a whistle-blower on VimpelCom corruption already in 2011. He blew the whistle by reporting suspected wrongdoing to top executives at Telenor, but CEO Baksaas was not informed (Deloitte 2016a, b: 7 and 26 and 28):

> The fact that Baksaas was a board member of the VimpelCom Supervisory Board, has in our view also affected how individuals have handled the 2011 concerns internally at Telenor. Complicated confidentiality, and in certain cases legal privilege issues, have also affected the internal handling at Telenor (…)
>
> We have been informed that when Baksaas became a Telenor nominee in December 2011, he was not informed either by the outgoing or by the two incumbent Telenor nominees about the concerns raised in Employee A's e-mail of 4 October 2011. According to Nominee C he cannot recollect one way or the other whether he discussed with Baksaas Employee A's concerns at the time Baksaas re-entered the VimpelCom supervisory board. According to Baksaas, he did not become aware of the reported concerns before March 2014, when he was interviewed as a witness in relation to the VimpelCom investigation. Executive D has informed us that he made Baksaas aware of the concerns, prior to Baksaas being interviewed. Since Baksaas was a member of VimpelCom's Supervisory Board of Directors since December 2011, we have therefore assumed that the concerns were not raised as an issue at VimpelCom board level by the nominees that had knowledge of the concerns, or discussed with Baksaas in his capacity as Telenor nominee before he received the information in March 2014 (…)
>
> Executive E has also explained to us that the reason for not informing Baksaas at this stage was also based on the assumption that Baksaas already had been informed in his capacity as Telenor nominee to the VimpelCom Supervisory Board and/or through the various processes initiated by Telenor to try to get a better understanding of VimpelCom's investments in Uzbekistan (…)
>
> We have not been presented with any evidence indicating that the concerns expressed by Employee A were escalated internally at Telenor to Baksaas.

The acquittal of Baksaas as a suspect by private Deloitte (2016a, b) investigators caused Økokrim not to look into the matter. Instead, Økokrim helped prosecutors in the Netherlands and Switzerland to collect intelligence on the VimpelCom corruption. Also, Økokrim charged former CEO at VimpelCom, Jo Lunder, a Norwegian who was not included in the Deloitte inquiry (Hovland and Gauthier-Villars 2015).

While Telenor owned a substantial share of VimpelCom, the Norwegian government was a majority shareholder of Telenor. Therefore, Telenor engaged in a dialogue with its majority owner, the Norwegian government, to discuss Telenor's role and responsibility in VimpelCom. Svein Aaser was at that time chairman of the board at Telenor. As later became public, Aaser did not disclose everything to the minister in the fall of 2014. Industry minister Monica Mæland therefore said in a statement that she did not trust Aaser and he had to leave the chairman position as a consequence.

The whistle-blower had informed two executives at Telenor in 2011, labeled Executive D and Executive E, respectively, in the report of investigation by Deloitte (2016a, b). Executives D and E lost the blame game (Gottschalk 2016). Executive D was head of legal and compliance at Telenor, while Executive E was chief financial officer. Both executives had to leave Telenor when the report of investigation by Deloitte was published. They got the blame for not having told CEO Baksaas about

the corruption scandal at VimpelCom, which they learned about from the whistleblower Employee A in 2011 (Deloitte 2016a, b: 31):

> In our opinion, Executive D, as Head of Legal and Compliance at Telenor, has had a responsibility to escalate the concerns expressed by Employee A internally at Telenor. In our view, this responsibility is embedded in his role (…)
>
> (Executive E) should subsequent the 12 February 2013 board meeting have informed Baksaas that he was uncertain whether the VimpelCom 2011 transactions and the related concerns expressed by Employee A was disclosed.

Both executives D and E disagreed with investigator assessments (Deloitte 2016a, b: 32):

> (Executive E) disagrees with our assessment as laid out in the third paragraph above. Executive E has further stated that given his role which is clearly outside VimpelCom, the strict personal confidentiality undertakings, and other actions and reasonable assumptions Executive E has taken in this matter, his own consideration is that he also on this occasion acted correctly and according to good leadership.

Several experts were skeptical of the Deloitte report. The president of the Norwegian lawyer association, Curt A. Lier, expressed concern about internal investigation reports, especially when there is an issue of whether or not crime has occurred (Ekeberg 2016).

It was disclosed in the media that Pål Wien Espen was Executive D, while Richard Olav Aa was Executive E. A few months after their resignation from Telenor, Richard Olav Aa was hired for a similar CFO position in the Fred. Olsen Group, while it was expected that Pål Wien Espen would join a Norwegian law firm as a partner (Trumpy 2016).

Jon Fredrik Baksaas retired as CEO at Telenor in 2015, and Sigve Brekke took over the position. Brekke was not interested in expanding the internal inquiry to other parts of Telenor business. It was suggested that possible corruption in India, Thailand, and Myanmar had occurred and might be investigated, since Telenor had obtained telecom rights in those corrupt countries. Before becoming the CEO, Brekke was based in Bangkok and responsible for Telenor business in all Asian markets (Hustadnes 2015).

Per Olaf Lundteigen, a member of Norwegian parliament "Stortinget," wrote the following statement after a public hearing about Telenor's involvement in VimpelCom in June 2016 (www.stortinget.no):

> This member would point out that the size of the fine, the disturbing Deloitte report as well as the risk of new corruption surprises makes it necessary for the ministry to initiate a new investigation. This is to get a total review of all Telenor business abroad, especially in Eastern Europe, Thailand, India, and Myanmar to clarify how zero tolerance of corruption is being practiced.

But nothing happened.

We have applied the blame game hypothesis to the case of an internal investigation. Fraud examiners selected some suspects and decided to apply one specific issue to hand out the blame. Blame attribution occurred along the issue of whether or not someone knew something that should have been told to someone else.

Investigators concluded that the chairman of the board, Svein Aaser, was to blame because he had no informed minister Monica Mæland about the VimpelCom corruption in Uzbekistan. Aaser had to resign the chairman position. Investigators also concluded that the chief financial officer, Richard Olav Aa, and the chief legal officer, Pål Wien Espen, were to blame because they did not inform chief executive officer Fredrik Baksaas, of the whistle-blower's message about possible VimpelCom corruption in Uzbekistan.

References

Deloitte. (2016a). *Review – Ownership VimpelCom Telenor ASA*, signed Anne Helsingeng (partner, attorney-at-law) and Ingebret G. Hisdal (partner, special advisor). Oslo: Deloitte.

Deloitte. (2016b). *Report of factual findings on the review of IRRANI program components VTY and HA*, auditing firm Deloitte, Oslo.

Ekeberg, E. (2016). Kritisk til granskinger (Critical to investigations), daily Norwegian newspaper. *Klassekampen*. www.klassekampen.no, published May 27.

Gottschalk, P. (2016). *Understanding white-collar crime: A convenience perspective*. Boca Raton: CRC Press, Taylor & Francis.

Hovland, K. M., & Gauthier-Villars, D. (2015). VimpelCom bribery investigations spark Telenor review. *The Wall Street Journal*. www.wsj.com, published November 5.

Hustadnes, H. (2015). –Brekke må gå før sommeren (-Brekke must leave before the summer), daily Norwegian newspaper *Dagbladet*, Friday, December 11, p. 10.

Trumpy, J. (2016). Avgått Telenor-direktør i ny havn (Resigned Telenor executive in new harbor), daily Norwegian business newspaper *Dagens Næringsliv*, Thursday, July 14, p. 16.

Chapter 11
The Case of Public Administration Investigation

In the Ministry of Foreign Affairs in Norway, suspicion of misconduct occurred related to allocation and management of grants. This section presents an evaluation of work by internal investigators at the Central Control Unit in the Norwegian Ministry of Foreign Affairs. Investigators' applications of information strategy, knowledge strategy, methods strategy, configuration strategy, and systems strategy are parts of the evaluation. Also, the investigation is evaluated by application of a maturity model in terms of stages of growth for internal reviews. On a six-point scale, the case investigation is assigned maturity level 3. The theory of convenience serves to discuss the actions in the grant case, while agency theory serves to discuss the investigation as such.

The ILPI Case

The International Law and Policy Institute is an independent institute focusing on good governance, peace and conflict, and international law. ILPI's approach to solving global challenges is based on the integration of law and social sciences and on bridging the gap between academia and politics. ILPI was established by former staff members at the Ministry of Foreign Affairs.

In 2016, a major Norwegian newspaper revealed that the Ministry had awarded ILPI in the order of 150–200 million Norwegian kroner (US$ 20 million) without competition or assessment. A competing institute was highlighted in the newspaper, with questions about different treatment, because one of the projects was terminated in the final phase. Headlines in the Norwegian newspaper VG included "ILPI – a scandal" and "Millions in grants may have been illegal" (Majid and Arntsen 2016). The ILPI case was revealed after internal whistle-blowing in the Ministry to the newspaper (Bjørkelo et al. 2011).

It was detected that financial support to ILPI was approved 6 weeks before the application deadline expired, and the newspaper asked whether this contributed to

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discrimination of alternative suppliers of services. It was also detected that a hired consultant in the Ministry for the review of applications had a job at ILPI shortly after the application process was completed. There was suspicion of corruption.

ILPI disagreed with the newspaper presentation of the case and wrote a response under the heading: "Proud of our nuclear weapons project". ILPI's leading persons, Nystuen and Waszink (2016), wrote that only one of the ILPI partners was previously employed in the Ministry and that none of the other ILPI employees had worked there. Furthermore, the newspaper's disclosure that ILPI was a business enterprise rather than a foundation or a research institute was already well known to the Ministry. The fact that ILPI had been awarded money without competition is also supposed to be wrong: ILPI participated in tender competitions and applied for publicly announced grants, together with a number of other players.

There is no reason to suggest that special treatment occurred for ILPI, Nystuen and Waszink (2016) wrote; there was not even suspected breach of the rules of eligibility. That the application for grants in 2011 was processed 6 weeks before the deadline may also be a claim with major modifications: All applications for disarmament and development funding were processed on an ongoing basis, and no one got any less because of the grant received by ILPI. In fact, there were many unused funds left on this budget line that year.

Theory of Convenience

Convenience theory suggests that individuals tend to choose convenient alternatives, even when such alternatives may be associated with extra costs now or in the future. By misconduct or crime, convenience theory suggests that offenders may have chosen crime since alternative actions would be associated with efforts and pain, as well as waste of time, and since the subjective detection risk was considered low (Gottschalk 2017).

Convenience orientation is the value that individuals and organizations place on actions with inherent characteristics of saving time and effort. Convenience orientation is a value-like construct that influences behavior and decision-making. Mai and Olsen (2016) measured convenience orientation in terms of a desire to spend as little time as possible on the task, in terms of an attitude that the less effort needed the better, as well as in terms of a consideration that it is a waste of time to spend a long time on the task. Convenience orientation toward illegal actions increases as negative attitudes toward legal actions increase. The basic elements in convenience orientation are the individual attitude toward the saving of time, effort, and discomfort in the planning, action, and achievement of goals. Generally, convenience orientation is the degree to which an individual is inclined to save time and effort to reach goals. Convenience orientation refers to person's general preference for convenient maneuvers. A convenience-oriented person is one who seeks to accomplish a task in the shortest time with the least expenditure of human energy (Berry et al. 2002).

Convenience theory was introduced to integrate a number of theoretical approaches to explain and understand white-collar crime that was first defined by Sutherland (1939). Convenience theory applies the concept of convenience in terms of savings in time and effort (Farquhar and Rowley 2009), as well as avoidance of pain and obstacles (Higgins 1997). A convenient individual is not necessarily neither bad nor lazy. On the contrary, the person can be seen as smart and rational (Sundström and Radon 2015).

The theory of convenience is a collection of other theories that are organized in the dimensions of motive, opportunity, and willingness. Slippery slope and norm failure as a consequence of differential association are two relevant sub-theories here. Slippery slope theory suggests that it is hard to tell when you are on the wrong side of the law (Welsh et al. 2014). Differential association theory suggests that it is more convenient to conform to the norms advanced by or embraced by those in the environment rather than to deviate in opinion from fellow associates (Sutherland 1983). It is human to favor the known over the unknown. Less and less was documented in the Ministry over time, thereby sliding away from rules and guidelines. It seems convenient to ignore formal procedures and rules when dealing with a trusted partner.

Another sub-theory is neutralization theory where offenders apply various techniques to remove the feeling of guilt (Sykes and Matza 1957). People who handled ILPI grants may justify their actions by higher loyalties, normality of action, entitlement to action, necessity of action, and role in society. They may argue that the Ministry did something good for the world by supporting disarmament efforts. Furthermore, they might neutralize by arguing that rules and regulations related to procurement of services and submission of grants are simply too complicated regulated by the EFTA Surveillance Authority that monitors compliance with European Economic Area rules in Iceland, Liechtenstein, and Norway, enabling these countries to participate in the European internal market. Difficult situations create stress and strain (Langton and Piquero 2007), where individuals search for convenient ways of removing causes of strain.

When convenience theory is applied to ILPI, it seems that partners in the firm were motivated by profits. They were able to earn more than twice as much as they did in public service. There was also a threat in the economical dimension of convenience, since ILPI was completely dependent on the Ministry for its survival. More than 80% of ILPI revenues came from the Ministry. As suggested by Kouchaki and Desai (2015: 362), threat of falling may lead to unethical behavior:

> Perceived threat engenders self-protective defenses that cause people to focus narrowly on their own needs, which interfere with adherence to moral principles and encourage unethical acts.

The almost complete ILPI dependence on the Ministry became evident after the newspaper report and the internal investigation. First, the staff at ILPI was cut to half in the fall of 2016. Next, ILPI was discontinued and put down in the spring of 2017. This threat can be visible to partners at ILPI during their years of operation,

making it important for them to go for convenient, network-based approaches to secure funding for the firm.

The organizational dimension is visible in the firm's experience from and relationships with the Ministry and key individuals there, which enabled ILPI to get easy access to relevant funding information.

The willingness dimension can be found in ILPI's dedication to make a difference in their areas of expertise. ILPI partners were convinced that they got all the grants because of their superiority in carrying out projects, rather than their tight insights into and relationships with business processes in the Ministry.

Internal Investigation

The Central Control Unit in the Ministry was charged with the task of investigating the agreement between the Ministry and ILPI related to financial support for the nuclear arms project. The mandate for the investigation was to find out what actually had happened during the allocation of funds from the Ministry to ILPI. This was a high-priority task. The Central Control Unit had no resource constraints, and they were told to look at all aspects of the matter. According to the investigation report (Utenriksdepartementet 2016), the Central Control Unit emphasized the following inquiry questions:

- Was the announcement of the grant funds in line with current regulations at the present time?
- Were the case processing and the grant to ILPI in accordance with current regulations at the present time?
- Has the agreement been followed up in accordance with the parties' obligations and current regulations?
- Is there a basis for saying that there has been unreasonable differential treatment in the process?

Information strategy is concerned with information sources contacted by investigators. Information sources include manual sources such as paper documents and interviews and digital sources such as electronic documents, emails, and social media. Investigators search paper documents as well as electronic documents, and they carried out a number of interviews both within the Ministry and with ILPI partners. Technology-based information sources were applied to a very limited extent.

Knowledge strategy is concerned with the knowledge of investigators, where knowledge is a combination of accumulated facts, reflection ability, interpretation skills, and context insights accumulated in the heads of investigators that are relevant to the inquiry questions. Four investigators from the Central Control Unit conducted the inquiry. One was a former ambassador with experience also outside state affairs, the second was a lawyer, the third was a former ambassador and accountant,

and the fourth was an expert in personnel matters. None of them had extensive experience from internal investigations, nor relevant knowledge for this specific inquiry.

Methods strategy is concerned with the procedure in approaching information sources. An important approach is interviewing techniques. A challenge in the interviews was that potential misconduct started 5 years ago, since a key agreement was signed in 2011, while interviews took place in 2016. Since interviewees might have forgotten or misunderstood, investigators applied triangulation techniques by checking similar information in emails and documents.

Configuration strategy is concerned with work progress in terms of a linear versus an iterative process. The iterative process is recommended in fraud examinations to make sure that evidence collection is related to the inquiry questions. Since the examination team was inexperienced, it seems that they more or less randomly worked their way through the critical issues.

Systems strategy is concerned with the application of information and communication technology to conduct a digital investigation. The digital competence in the examination team was limited, and they found little of use in their digital searches.

Investigation Summary

The following text is a translation of the summary found in the report of investigation (Utenriksdepartementet 2016):

> *Central Control Unit was asked on 12.10.2016 to review the Ministry of Foreign Affairs' agreement with the International Law and Policy Institute (ILPI) on support for the QZA-11/0341 Nuclear Arms Project, awarded under the Development and Disarmament Assistance Scheme.*

The surveys that have been carried out have primarily aimed at determining whether applicable laws and regulations have been followed at the time of processing.

The review includes a number of aspects of the process that led to ILPI being awarded support for the QZA-11/0341 project. The overall conclusion is that the processing and allocation of the ILPI project had several deviations from current regulations at that present time. It is largely lacking documentation of what assessments were made. The Central Control Unit has not made findings that provide grounds for believing that criminal offenses have been committed.

The relevant grant scheme was announced in 2011 by allocating 76 potential recipients, which must be considered sufficient to meet the requirements of the Financial Regulation on announcement. The Central Control Unit therefore finds that the announcement of the grant scheme was in line with current regulations at that present time.

Possible bias of some of the UD staff involved in the allocation of the ILPI project has been assessed. Central Control Unit believes there was no basis for establishing incompatibility.

It has also been considered whether it might have been in violation of current regulations that a person went directly from working with development and disarmament projects in the Ministry, to a position in ILPI. Central Control Unit has not found that there is a violation of relevant quarantine rules.

In the decision document, there is nothing about the assessment of the budget, which was very superior. Central Control Unit believes that budget aspects of the project were not adequately considered when decision on support for the project was made.

Under the scheme of regulations applicable to spring 2011, there was no reason to grant support from the current scheme to commercial actors. In 2011, ILPI was registered as a private limited company and conducted consultancy for the Ministry of Foreign Affairs. Central Control Unit believes there is no doubt that ILPI was a commercial player and should therefore be excluded as a grant recipient.

The project contains elements that draw in both directions as to whether the agreement can be considered as a one-sided grant or a reciprocal agreement that is covered by the procurement rules. Overall, according to the Central Control Unit's assessment, it is most likely that the support for the ILPI project should not have been granted as a subsidy, but that it should probably follow the rules for public procurement. Although this conclusion is subject to uncertainty, the question of grant or acquisition should have been considered thoroughly and in a verifiable manner before the decision to support the project was reached.

The grant to ILPI is awarded under an application-based public grant scheme that has not been notified or reported to the EFTA Surveillance Authority (ESA) as an aid scheme. It is not found evidence that the question of state aid and, if necessary, the need for ESA notification has been assessed, either by grant or subsequent follow-up of the grant. At the closing of the agreement, it was assumed that the support for the ILPI project could be given in the form of grants. The Central Control Unit therefore believes that the relationship with the EEA regulations state aid rules, including the question of notification to the ESA, should have been considered prior to the decision to grant money to ILPI.

It was a requirement that the support could be reported to the OECD as Official Development Aid (ODA). Such a scheme for development and disarmament was organized, it opened for support in a gray zone with regard to the ODA rules. This was mentioned in the budget propositions starting with the 2012 budget. The ILPI project was not approved as ODA by OECD / DAC. The Central Control Unit finds that the support proved to be contrary to the prerequisite of the ordering rules and the budget propositions that support for the current grant scheme should be in accordance with the OECD / DAC criteria for ODA.

ILPI has provided annual progress reports and accounting reports. Inadequate documentation makes it hard to assess how good the follow-up has been from the Ministry, but there seems to have been more deviations from current requirements. The deviations are primarily related to the control of the financial reporting. Inadequate documentation of follow-up and control actions is also in itself a deviation from established standards of good governance. Central Control Unit believes

that the agreement was only partially followed up in accordance with the parties' obligations and current regulations.

The review has not provided any documentation or other information suggesting that ILPI was treated differently from other applicants in the case processing and decision making process. It seems likely that the discrepancies detected in the ILPI project are due to weaknesses in the Ministry's grant management as it was practiced for the development and disarmament grant scheme in 2011. The Central Control Unit has not made findings that provide the basis for a claim that there has been differential treatment in the process. There is therefore no reason to claim that there has been unreasonable difference in treatment.

Theory of Principal-Agent

Agency theory is suited to study the relationship between a client as the principal and an examiner as the agent (Bosse and Philips 2016; Dawson et al. 2016; Eisenhardt 1985; Jensen and Meckling 1976; Shi et al. 2017). The relationship between principal and agent is regulated through a contract, a mandate, or an executive decision. While the contract typically defines budget constraint and deadline, the mandate tells what the examination is all about. If there is a discrepancy between the budget in the contract and the workload in the mandate, then principal-agent problems arise. Similarly, if there an asymmetry in knowledge, divergence in risk willingness, and conflicting goals, then more principal-agent problems may arise.

In this case, executives in the Ministry of Foreign Affairs are the principal, while investigators in the Central Control Unit in the Ministry are the agent. The Minister claimed that he wanted a full, open, and transparent investigation. There was the danger that investigators wanted to protect some colleagues in the Ministry. There was also the danger that people in the Ministry would not like wrongdoings or misconduct exposed in the public. A concern for Ministry reputation could cause window-dressing rather than facts presentation.

The political leadership in the Ministry is formally the client for the investigation and thus the principal. Internal examiners are the agent, as they carry out a mission for the political leadership. Agency theory problematizes the relationship between these two if they enter into cooperation with different perspectives on what they should arrive at. The principal may often have underlying motives to initiate an investigation and contact the agent, as in this case, the Central Control Unit. The agent may wish to have the work completed as soon as possible due to other important ongoing work tasks.

A question is whether the principal actually wants to get to the bottom of the case and whether they are open enough so that the agent has the opportunity to do a proper job. If issues are not made transparent, then examiners will not be able to complete their work. Then they will have to end up with an unfounded conclusion or no conclusion at all. Alternatively, the Central Control Unit may pursue issues

until they get to the bottom of the case, even when the support from the political leadership is lacking.

In this case, both parties are affiliated with the same organization. It is therefore relevant to consider whether principal and agent together want to clean the Ministry off all suspicions, rather than to get to the bottom of the case. They may prefer to play the blame game by placing all the blame for potential misconduct on ILPI. The blame game hypothesis suggests that suspected actors do not necessarily become subject to a fair investigation by investigators. Pontell et al. (2014) point out that some people are too powerful to blame.

The ILPI case became very visible in the media, and many politicians started to question what was going on in the Ministry of Foreign Affairs. If the political leadership had chosen to ignore the signals, then ignorance could threaten the leadership. Thus, they had seemingly no other choice but to initiate an investigation and freeze funding to ILPI.

The alternative to the Central Control Unit would be to hire external investigators from a global accounting firm or a local law firm. This might have improved perceived objectivity, integrity, and independence for the investigation.

Evaluation of Investigation

Stages of growth models for maturity levels can be applied to assess and evaluate a variety of phenomena (e.g., Röglinger et al. 2012; Solli-Sæther and Gottschalk 2015). Here we apply the concept of maturity levels to evaluate a private internal investigations (Brooks and Button 2011; Button and Gee 2013; Button et al. 2007a, b; Schneide 2006; Williams 2005). The purpose is to develop characteristics of investigations at different maturity levels. Based on our own studies of investigation reports, we present a six-stage model as illustrated in the Fig. 11.1.

Each maturity level in the stage model can be defined as follows:

1. *The investigation was a chaos*. The investigation caused more confusion than before the examination was initiated. The investigation was insufficient, inadequate, surface-oriented, a waste of time, useless, passive, unprofessional, worthless, immature, unacceptable, bad, meaningless, fruitless, awful, and chaotic. The investigation was a failure and a disaster.
2. *The investigation was a mess*. Nothing came out of the investigation. The investigation was random, amateur, formalities focused, somewhat good, sufficient, descriptive, problem-oriented, neutral, unsystematic, inadequate, activity-oriented, shortsighted, fruitless, deviations-oriented, reactive, questions-oriented, and messy. The investigation lacked scrutiny, was a collection of information without analysis, and was filled with assumptions.

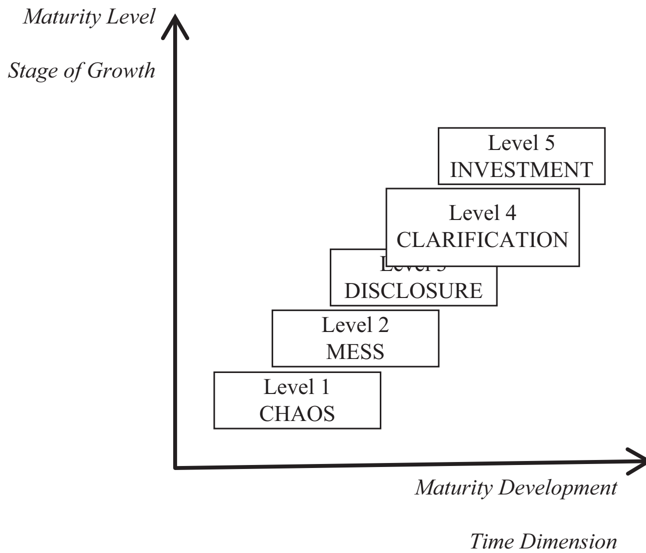

Fig. 11.1 Maturity model for internal private investigations with five stages

3. *The investigation was a disclosure*. Some new facts was identified and documented in the investigation. The investigation was focused, competence-oriented, average, biased, targeted, systematized, integrated, moderate, indifferent, standard, competent, cause-based, revealing, and disclosure-oriented. The investigation was problem-oriented and limited by the mandate.
4. *The investigation was a clarification*. The investigation was able to reconstruct past events and sequences of events. The investigation was responsible, detailed, conscientious, sufficient, professional, neutral, unprejudiced, integrated, proactive, preventive, mature, competent, systematic, professional, explorative, immaculate, expedient, truth-seeking, facts-based, complete, independent, and clarifying. The investigation added value.
5. *The investigation was an investment*. The investigation made a valuable contribution to the organization, where investigation benefits exceed investigation costs. The investigation was 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 was a masterpiece and enrichment for the client and society.

We now assign Central Control Unit's investigation (Utenriksdepartementet 2016) to one of the levels. We will argue that the investigation best fits characteristics at level 3 of disclosure. Central Control Unit did not have a clear methodological approach, but they had surveyed where they could collect information.

Investigators conducted many interviews, and they invested their efforts into finding answers to the four questions in the mandate. Investigators arrived at almost clear answers to almost all questions. Investigators end up providing recommendations to the political leadership.

However, if a government body such as the Ministry of Foreign Affairs is able to have such deviant practices as documented in the investigation, which has been extremely profitable for ILPI and given them competitive advantages, then more than recommendations are probably needed.

Since the investigation was carried out by internal personnel, it is important to reflect on their impartiality, independence, and objectivity. Both because some ILPI employees were ex-colleagues with investigators and because principal and client are in the same organization, it seems that integrity is lacking.

Investigators write in their report that documentation was lacking concerning applications for grants. Interviews did not always result in clear answers. Investigators might have compared the handling of ILPI applications with the handling of applications from competing firms, which they did not.

In the report, there is lacking evidence for the conclusions that investigators present. The reason may be that they were unable to find evidence or they want to protect colleagues and make some findings appear as bagatelles.

It is not easy to understand the sequence of events and deviant behaviors just by reading the report. A reader is required to have knowledge of the subject matter to understand the report of investigation.

These are some of the reasons why level 3 in the maturity model seems appropriate for Utenriksdepartementet's (2016) internal investigation.

In conclusion, this section has presented an evaluation of work by internal investigators at the Central Control Unit in the Norwegian Ministry of Foreign Affairs. Investigators' applications of information strategy, knowledge strategy, methods strategy, configuration strategy, and systems strategy were parts of the evaluation. Also, the investigation was evaluated by application of a maturity model in terms of stages of growth for internal reviews. On a six-point scale, the case investigation was assigned maturity level 3. The theory of convenience served to discuss the actions in the ILPI case, while agency theory served to discuss the investigation as such.

References

Berry, L. L., Seiders, K., & Grewal, D. (2002). Understanding service convenience. *Journal of Marketing, 66*, 1–17.

Bjørkelo, B., Einarsen, S., Nielsen, M. B., & Matthiesen, S. B. (2011). Silence is golden? Characteristics and experiences of self-reported whistleblowers. *European Journal of Work and Organizational Psychology, 20*(2), 206–238.

Bosse, D. A., & Phillips, R. A. (2016). Agency theory and bounded self-interest. *Academy of Management Review, 41*(2), 276–297.

Brooks, G., & Button, M. (2011). The police and fraud investigation and the case for a nationalized solution in the United Kingdom. *The Police Journal, 84*, 305–319.

Button, M., & Gee, J. (2013). *Countering fraud for competitive advantage – The professional approach to reducing the last great hidden cost*. Chichester: Wiley.

Button, M., Frimpong, K., Smith, G., & Johnston, L. (2007a). Professionalizing counter fraud specialists in the UK: Assessing progress and recommendations for reform. *Crime Prevention and Community Safety, 9*, 92–101.

Button, M., Johnston, L., Frimpong, K., & Smith, G. (2007b). New directions in policing fraud: The emergence of the counter fraud specialists in the United Kingdom. *International Journal of the Sociology of Law, 35*, 192–208.

Dawson, G. S., Denford, J. S., Williams, C. K., Preston, D., & Desouza, K. C. (2016). An examination of effective IT governance in the public sector using the legal view of agency theory. *Journal of Management Information Systems, 33*(4), 1180–1208.

Eisenhardt, K. M. (1985). Control: Organizational and economic approaches. *Management Science, 31*(2), 134–149.

Farquhar, J. D., & Rowley, J. (2009). Convenience: A services perspective. *Marketing Theory, 9*(4), 425–438.

Gottschalk, P. (2017). Convenience in white-collar crime: Introducing a core concept. *Deviant Behavior, 38*(5), 605–619.

Higgins, E. T. (1997). Beyond pleasure and pain. *American Psychologist, 52*, 1280–1300.

Jensen, M. C., & Meckling, W. H. (1976). Theory of the firm: Managerial behavior, agency costs and ownership structures. *Journal of Financial Economics, 3*(4), 305–360.

Kouchaki, M., & Desai, S. D. (2015). Anxious, threatened, and also unethical: How anxiety makes individuals feel threatened and commit unethical acts. *Journal of Applied Psychology, 100*(2), 360–375.

Langton, L., & Piquero, N. L. (2007). Can general strain theory explain white-collar crime? A preliminary investigation of the relationship between strain and select white-collar offenses. *Journal of Criminal Justice, 35*, 1–15.

Mai, H. T. X., & Olsen, S. O. (2016). Consumer participation in self-production: The role of control mechanisms, convenience orientation, and moral obligation. *Journal of Marketing Theory and Practice, 24*(2), 209–223.

Majid, S., & Arntsen, E. O. (2016). ILPI-saken: Milliontilskudd fra UD kan ha vært ulovlig (The ILPI case: Millions in grants may have been illegal), daily Norwegian newspaper *VG*, www.vg.no, published December 1.

Nystuen, G., & Waszink, C. (2016). Stolte av vårt kjernevåpenprosjekt (Proud of our nuclear weapons project), daily Norwegian newspaper *VG*, www.vg.no, published October 10.

Pontell, H. N., Black, W. K., & Geis, G. (2014). Too big to fail, too powerful to jail? On the absence of criminal prosecutions after the 2008 financial meltdown. *Crime, Law and Social Change, 61*, 1–13.

Röglinger, M., Pöppelbuss, J., & Becker, J. (2012). Maturity models in business process management. *Business Process Management Journal, 18*(2), 328–346.

Schneider, S. (2006). Privatizing economic crime enforcement: Exploring the role of private sector investigative agencies in combating money laundering. *Policing and Society, 16*(3), 285–312.

Shi, W., Connelly, B. L., & Hoskisson, R. E. (2017). External corporate governance and financial fraud: Cognitive evaluation theory insights on agency theory prescriptions. *Strategic Management Journal, 38*(6), 1268–1286.

Solli-Sæther, H., & Gottschalk, P. (2015). Stages-of-growth in outsourcing, offshoring and backsourcing: Back to the future? *The Journal of Computer Information Systems, 55*(2), 88–94.

Sundström, M., & Radon, A. (2015). Utilizing the concept of convenience as a business opportunity in emerging markets. *Organizations and Markets in Emerging Economies, 6*(2), 7–21.

Sutherland, E. H. (1939). White-collar criminality. *American Sociological Review, 5*, 1–12.

Sutherland, E. H. (1983). *White collar crime – The uncut version*. New Haven: Yale University Press.

Sykes, G., & Matza, D. (1957). Techniques of neutralization: A theory of delinquency. *American Sociological Review, 22*(6), 664–670.

Utenriksdepartementet. (2016, December 8). *Rapport: Gjennomgang av Utenriksdepartementets tildeling og forvaltning av tilskudd til ILPI gjennom prosjektet QZA-11/0341 Nuclear Weapons Project (Report: Review of Ministry of Foreign Affairs' allocation and management and grants to ILPI through the project QZA-11/0341 Nuclear Weapons Project)*. Oslo: Sentral kontrollenhet (Central Control Unit), Ministry of Foreign Affairs.

Welsh, D. T., Oronez, L. D., Snyder, D. G., & Christian, M. S. (2014). The slippery slope: How small ethical transgressions pave the way for larger future transgressions. *Journal of Applied Psychology, 100*(1), 114–127.

Williams, J. W. (2005). Governability matters: The private policing of economic crime and the challenge of democratic governance. *Policing and Society, 15*(2), 187–211.

Chapter 12
Empirical Studies of Investigations

Fraud examiners, financial crime specialists, and counter fraud specialists are in the business of private internal investigations. Empirical studies of a sample of investigations are presented in this chapter.

Sample of Investigations

A sample of 32 private investigation reports from Norway is presented in the table. They can be evaluated in terms of start, process, result, and impact. Quality can be determined by the mandate and motivation for the examination, the professional examination process, investigation results, as well as consequences of the investigation. Here we focus on these reports by evaluating how key issues in private investigations were dealt with by financial crime specialists in the 32 investigations. Our four key issues are privatization of law enforcement, disclosure of investigation reports to the police, competence of private investigators, and limits by investigation mandates.

The column for disclosure in Table 12.1 lists how investigation reports were obtained for this research. It is important to keep in mind that these were the only ones successfully obtained. A number of other reports were denied insight. In addition, and probably the largest number, are all those private investigation reports that we as researchers do not know about.

The first key issue is privatization of law enforcement. We find that several suspects were accused in investigation reports without any possibility to defend themselves. Employers used reports to fire them, or suspects left because of media pressure and other circumstances created by the internal inquiry. They were defenseless after being blamed by private investigators.

The second key issue in the table is disclosure of investigation reports. Since these reports were the only ones we were able to access, they were all disclosed, but

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Table 12.1 Key issues in private investigations

#	Private investigation case	Privatization of law enforcement	Disclosure of investigation report	Competence of private investigators	Limits by investigation mandate
1	Adecco *Nursing and cleaning services business* Wiersholm (2011) law firm	Violation of labor laws for employees working too long hours	Denied disclosure for research, only summary available	Lawyers without investigative focus	Limited to possible violations of working environment legislation
2	Ahus Public hospital PwC (2013a) auditing firm	Fraud by vendor, paid back without prosecution	Posted on Ahus hospital web site	Forensic accounting with investigative focus	Limited to transactions with vendor
3	Briskeby *Football stadium* Lynx (2011) law firm	Suspected fraud never investigated	Posted on Hamar municipality web site	Lawyers with investigative focus	Mandate revised during investigation
4	Eckbos Legater *Family foundation* Dobrowen and Klepp (2009) law firm	Misconduct in assets, but no crime	Posted on Oslo city web site	Lawyers without investigative focus	Limited to asset misappropriation
5	Fadderbarnas Framtid *NGO for children* BDO (2011) auditing firm	Individual dismissed, but never prosecuted	Accepted disclosure for research	Auditors with investigative focus	Limited to accusations
6	Forsvaret *Army* Dalseide (2006)	Individual dismissed but never prosecuted	Posted on defense ministry web site	Auditors with bureaucratic approach	Limited to corruption suspicions
7	Furuheimen *Church foundation* Dalane and Olsen (2006) law firm	Two persons convicted to prison	Accepted disclosure for research	Lawyers with investigative approach	Open investigation of management issues
8	Gassnova *Carbon capture and storage* BDO (2013a) auditing firm	No misconduct or crime	Accepted disclosure for research	Auditors with formalistic approach	Limited to procurement processes
9	Hadeland og Ringerike Bredbånd *Hadeland and Ringerike Broadband, communication company* PwC (2014a)	CFO convicted to prison, CEO and chairman left after massive media pressure	Disclosed after massive media pressure, obtained from local newspaper for research	Auditors with formalistic approach without investigative focus	Limited to facts, legal issues, and internal controls

(continued)

Table 12.1 (continued)

#	Private investigation case	Privatization of law enforcement	Disclosure of investigation report	Competence of private investigators	Limits by investigation mandate
10	Hadeland Energi *Hadeland Energy, utility company* PwC (2014b)	CFO convicted to prison, CEO and chairman left after massive media pressure	Disclosed after massive media pressure, obtained from local newspaper for research	Auditors with formalistic approach without investigative focus	Limited to transactions and legal issues
11	Halden Ishall *Sports Ice Arena* KPMG (2012) auditing firm	Misconduct without consequences	Obtained from Halden municipality for research	Auditors with passive approach	Limited by small investigation budget
12	Halden kommune *City of Halden* Gjørv and Lund (2013)	Misconduct without consequences	Obtained from Halden municipality for research	Lawyers with passive approach	Limited to accusations by two whistle blowers
13	Kraft & Kultur *Power utility company* Ernst & Young (2012) auditing firm	CEO prosecuted by the police	Disclosed after massive media pressure, obtained from newspaper for comments	Auditors with forensic accounting approach	Open investigation of board members' knowledge roles
14	Kragerø Fjordbåtselskap *Shipping company* Deloitte (2012)	Dismissed CEO never prosecuted	Posted on Kragerø municipality web site	Lawyers without investigative focus	Limited to conflicts between board and management
15	Langemyhr *Construction company* PwC (2008a) auditing firm	Contract terminated, but case dismissed in court	Obtained from city of Oslo for research	Financial crime specialists trusting outside single judgment	Limited to labor inspection authority's accusations
16	Lindeberg *Nursing home* Kommunerevisjonen (2013) auditing service	Labor laws violated, but no public prosecution	Posted on web site by radical party in Oslo municipality	Passive investigation	Limited to control of formal procedures
17	Lunde Group *Transportation company* Bie (2012) law firm	Public prosecution based on bankruptcy report	Obtained for research from bankruptcy lawyer	Active investigation by bankruptcy lawyer	Complete bankruptcy report, no limitations

(continued)

Table 12.1 (continued)

#	Private investigation case	Privatization of law enforcement	Disclosure of investigation report	Competence of private investigators	Limits by investigation mandate
18	Moskvaskolen *Norwegian school in Moscow* Ernst & Young (2013a, b) auditing firm	Rector dismissed and reported, but case dismissed by the police	Obtained for research from Skedsmo High School	Passive investigation of documents and failed interviews	Limited to consequences for suspected individuals
19	Norges Fotballforbund *Football association* Lynx (2013) law firm	Misconduct but no crime	Obtained from newspaper asking for comments	Active inquiry prevented by client	Limited access to data
20	Norsk Tipping *Public betting firm* Deloitte (2010) auditing firm	Misconduct but no crime	Posted on company web site	Passive legal investigation of relationships	Limited to individual financial dispositions
21	Oslo Vei *Road construction company* Kvale (2013) law firm	Misconduct and crime, but no police investigation	Disclosed by bankruptcy lawyer for research	Bankruptcy lawyers avoided crime focus	Only focusing on bankruptcy issues
22	Romerike Vannverk *Public water supply* Distriktsrevisjonen (2007) auditing service	CEO and others sentenced to prison	Posted on web site by Romerike public district	Combined legal and forensic accounting	No limitations
23	Samferdselsetaten *Public transportation* PwC (2007) auditing firm	Removed executive without prosecution	Obtained from city of Oslo for research	Formal investigation procedure	Limited to accusations against named individuals
24	Spania *City of Oslo project in Spain* PwC (2009) auditing firm	Displaced executive without prosecution	Posted on Oslo City web site	Forensic accounting without investigative interviews	Superficial investigation because of cost constraints
25	Stangeskovene *Private forest property* Roscher and Berg (2013) lawyers	Investigation report failed as evidence in court	Obtained from one shareholder for research	Detailed transaction review without other investigative sources	Limited to shares handled by the board
26	Sykehuset Innlandet *Hospital* Davidsen and Sandvik (2011) lawyers	Misconduct but no crime, no consequence	Posted on hospital web site	Legal assessment without other perspectives	Limited to accusations by whistle-blowers
27	Terra *Cities investing in bonds* PwC (2008b) auditing firm	Misconduct but no crime, mayor left	Obtained from city mayor	Financial crime specialists without responsibility focus	Limited to roles in failed investments

(continued)

Table 12.1 (continued)

#	Private investigation case	Privatization of law enforcement	Disclosure of investigation report	Competence of private investigators	Limits by investigation mandate
28	Troms Kraft *Power supply company* Nergaard (2013a, b, c) consulting firm	Misconduct but no crime, board members left	Disclosed after massive media pressure, obtained from journalist asking for comments	Management review rather than inquiry	Unlimited and unfocused inquiry of too many issues
29	Tyrkia *City of Stavanger project for children* PwC (2013b) auditing firm	Investigators failed to find out what had happened in Turkey	Obtained from city of Stavanger	Failed to interview main information source	Limited to transactions within a law firm
30	Undervisningsbygg *School maintenance agency* Kommunerevisjonen (2006a) auditing service	Several internal and external persons sentenced to prison	Posted on Oslo City web site	Failed to detect more crime that was later revealed by police investigation	Limited to a formal review and audit
31	Verdibanken *Religious bank* Wiersholm (2012b) law firm	Misconduct, but not crime, one executive dismissed	Obtained from executive in the bank	Lawyers without investigative skills	Limited to legal assessment of accusations in the media
32	Videoforhandlere *Video film distributors and dealers* BDO (2013b) auditing firm	Misconduct, but not crime, no consequence	Obtained from victim of the investigation	Lawyers without investigative skills	Limited to review of subsidy payments and routines

some were disclosed after massive media pressure. An example is the Hadeland and Ringerike investigation (#9).

The third key issue in the table is competence of private investigators. The business of private investigators seems to be dominated by lawyers. This seems inappropriate, as an inquiry is mainly concerned about reconstructing the past, where legal knowledge is less important compared to investigative knowledge, financial knowledge, and knowledge of business administration.

The fourth and final issue is limits in the investigation mandate. We find bias in most of the cases, such as limited to consequences for suspected individuals, limited to individual financial dispositions, limited to accusations against named individuals, and limited to transactions within a law firm. The latter example of limitations to a law firm should help the city of Stavanger as a client for the inquiry to avoid being blamed by PwC (2013b).

Empirical Study of Agency Theory

Agency theory suggests that problems in terms of conflicting preferences, knowledge asymmetry, and different attitudes toward risks can have a negative impact on work outcome from the agent to the principal. In private internal investigations, the client is the principal, while the fraud examiner is the agent. Based on a sample of 49 reports of investigation from Norway, the following research presents empirical results testing agency theory. Results indicate that agency issues do have a significant influence on the contribution from internal investigations, but the influence is not necessarily negative. While different attitudes toward risk have a negative impact, knowledge asymmetry has a positive impact on the contribution from an investigation. A possible explanation for this surprising result is that examiners are experts in other areas than the client, which is the reason why examiners are hired by clients.

The business of private internal investigations by external fraud examiners has grown remarkably in recent decades (Brooks and Button 2011; Button et al. 2007a; Gill and Hart 1997). Law firms and auditing firms are hired by private and public organizations to reconstruct the past when there is suspicion of misconduct and potential financial crime (Button et al. 2007b; Button and Gee 2013; Machen and Richards 2004; Schneider 2006; Wells 2003, 2007; Williams 2005, 2014).

Most reports of investigation are kept secret to the public and often also to the police, even when there is evidence of financial crime by white-collar criminals (Gottschalk and Tcherni-Buzzeo 2017). For this study, we were able to identify and retrieve a total of 49 investigation reports in Norway for the 10-year period from 2006 to 2016.

In this article, we apply principal-agent theory to study fraud examinations carried out by private investigators (agents) for their clients (principals). Agency theory suggests that conflicting preferences, differences in knowledge and information, as well as different attitudes toward risk will influence work performance (Jensen and Meckling 1976). Agency theory is based on the assumption of narrow self-interests for both agent and principal (Bosse and Phillips 2016).

Both principal and agent may behave opportunistically. Agents such as fraud examiners are believed to be rational actors who are interested in maximizing their individual utility, even at the expense of the principals. Agents are believed to be opportunistic, and a key goal of an investigation mandate is for the principal to manage that opportunism through two major mechanisms: financial incentive and mandate for the examination. However, the self-interest-oriented assumption of agency theory has been questioned in many principal-agent relationships (Dawson et al. 2016).

In this section, we address the following research question: *How do conflicting preferences, knowledge asymmetry, and risk difference in a principal-agent relationship influence the contribution from private internal investigations by fraud examiners?* This research is important, as there is very little empirical research available on private investigations of financial crime.

Agency theory with principal and agent applied to a private internal investigation implies that the client organization is the principal, while the fraud examination firm is the agent (Eisenhardt 1985). In agency theory there are three problems: preferences (client and examiner may have conflicting values or goals), knowledge (client and examiner may not have the same information and insights), and risk (client and examiner may not have the same level of risk aversion or risk willingness).

Agency theory is among the dominant theories of management behavior. Challenges arise whenever one party (a principal) employs another (agent) to create value. The interests of the principal and agent may diverge, the principle may have imperfect understanding of the agent's activities, and the two parties may have different attitudes toward risks (Bosse and Phillips 2016).

Common examples of the principal-agent relationship include corporate management (agent) and shareholders (principal), politicians (agent) and voters (principal), and brokers (agent) and buyers (principal). Agency theory describes the relationship between the two parties using the concept of a contract. In fraud examinations, the main contractual arrangement is the mandate that defines tasks and objectives for the internal investigation.

The client defines a mandate for the investigation, and the investigation has to be carried out according to the mandate. The mandate tells investigators what to do. The mandate defines tasks and goals for the inquiry. The mandate is an authorization to investigate a specific issue or several specific issues by reconstructing the past.

The mandate can be part of the blame game, where the client wants to blame somebody while at the same time diverge attention from somebody else (Lee and Robinson 2000). Some are too powerful to blame (Pontell et al. 2014). The mandate can be part of a rotten apple or rotten barrel approach, where attention is either directed at individuals or at systems failure (Punch 2003). Anchoring of suspicion can be unintentionally or purposely be misplaced in the mandate.

We were able to identify and obtain 49 private internal investigation reports by fraud examiners in Norway, as listed in Table 12.2.

The client is the principal organization with its principal business. The agent organization has conducted the investigation, where the investigation report is listed in the references of this article. Most agent organizations are either law firms or auditing firms. The final column in Table 12.2 lists crime suspicion that was to be investigated by fraud examiners for the client organizations.

For each report of investigation listed in Table 12.2, we have interpreted the extent of:

1. Conflicting preferences: the client and the investigator have conflicting values or preferences related to the investigation.
2. Knowledge asymmetry: the client and the investigator have different knowledge about the issues investigated and the investigation procedure.
3. Different risk attitude: the client and the investigator have different risk aversion, i.e., they dislike exposure to risks differently, both related to the investigation process and the investigation outcome.

Table 12.2 Reports of investigation from fraud examinations in Norway

Principal organization	Principal business	Agent organization	Agent business	Crime suspicion
Adecco	Private nursing home	Wiersholm (2011)	Law firm	Fraud against employees
Ahus	Public hospital	PwC (2013a)	Auditing firm	Fraud by vendor
Betanien	Private nursing home	BDO (2014a)	Auditing firm	Embezzlement by CEO
Briskeby	Sports facilities	Lynx (2011)	Law firm	Fraud against municipality
Demokratene	Political party	Partirevisjonsutvalget (2016)	Control authority	Illegal state subsidy
DNB	Commercial bank	Hjort (2016)	Law firm	Tax havens for bank clients
Drammen kommune	Municipality	Deloitte (2017)	Auditing firm	Corruption in building permits
Eckbos Legater	Endowment foundation	Thommessen (2009)	Law firm	Abuse of funds by board members
Fadderbarnas Framtid	Charity foundation	BDO (2011)	Auditing firm	Abuse of funds by board members
Forsvaret IKT	Military ICT systems	Dalseide (2006)	Control authority	Corruption in procurements
Forsvaret logistikk	Military logistics	PwC (2014a)	Auditing firm	Corruption at sale of obsolete military
Forsvarsdepartementet	Department of Defence	PwC (2015)	Auditing firm	Corruption at sale of obsolete military
Furuheimen	Private nursing home	Hald (2007)	Law firm	Misappropriation of funds
Gassnova	Public utility company	BDO (2013a)	Auditing firm	Corruption in procurements
Grimstad kommune	Municipality	BDO (2016)	Auditing firm	Private healthcare services without
Hadeland Bredbånd	Broadband provider	PwC (2014b)	Auditing firm	Embezzlement by CFO
Hadeland Energi	Energy provider	PwC (2014c)	Auditing firm	Embezzlement by CFO
Halden Ishall	Municipal ice rink	KPMG (2012)	Auditing firm	Fraud against municipality
Halden kommune	Municipality	Hjort (2013)	Law firm	Corruption in building permits

Principal organization	Principal business	Agent organization	Agent business	Crime suspicion
Kragerø Fjordbåtselskap	Fjord boats company	Deloitte (2012)	Auditing firm	Misappropriation of funds
Kvam Auto	Auto dealer	Wikborg Rein (2015)	Law firm	Fraud by private car sales
Leksvik kommune	Municipality	Revisjon Midt-Norge (2017)	Auditing firm	Fraud by councilman
Lunde Gruppen	Contracting business	Vierdal (2012)	Law firm	Fraud by CEO
Moskvaskolen	School branch	Ernst & Young (2013a)	Auditing firm	Fraud with time sheet
NAV	Social security service	Wiersholm (2016)	Law firm	Abuse of information about recipients
Norges Fotballforbund	Football association	Lynx (2013)	Law firm	Fraud of former clubs
Norsk Tipping	Betting company	Deloitte (2010)	Auditing firm	Private investments
Omsorgsbygg Oslo	Public care center	PwC (2008a)	Auditing firm	Over billing
Omsorgsbygg Spania	Public care center	PwC (2009)	Auditing firm	Fraud by procurements
Oslo Vei	Road construction	Kvale (2013)	Law firm	Social dumping of workers
Politiets utlendingsenhet	Police immigration unit	KPMG (2012)	Auditing firm	Abuse of overtime system
Rana kommune	Municipality	PwC (2008b)	Auditing firm	Misappropriation of funds
Romerike Vannverk	Public water works	Distriktsrevisjonen (2007)	Auditing firm	Embezzlement by CEO
Samferdselsetaten Oslo	Public transportation agency	PwC (2007)	Auditing firm	Corruption at taxi licenses
Skjervøy Fiskeriutvikling	Public fisheries fund	KomRev NORD (2015)	Auditing firm	Misappropriation of funds
Stangeskovene	Forest owner community	Ernst & Young (2013b)	Auditing firm	Manipulation by sale of shares
Stavanger kommune	Municipality	PwC (2013b)	Auditing firm	Misappropriation of funds
Telenor VimpelCom	Global telecom provider	Deloitte (2016a)	Auditing firm	Corruption in Uzbekistan
Tomter Handelsforening	Business association	Holmen (2014)	Auditing firm	Fraud by transfer of property
Troms Kraft	Public utility company	Nergaard (2013)	Consulting firm	Embezzlement in subsidiary
Undervisningsbygg 1	Educational buildings	Kommunerevisjonen (2006a)	Municipality auditing	Fraud affecting employer
Undervisningsbygg 2	Educational buildings	Kommunerevisjonen (2006b)	Municipality auditing	Fraud affecting employer
Unibuss	Public transportation	Wiersholm (2012a)	Law firm	Corruption in procurements

(continued)

Table 12.2 (continued)

Principal organization	Principal business	Agent organization	Agent business	Crime suspicion
Utenriksdepartementet 1	Department of Foreign Affairs	Duane Morris (2016)	Law firm	Corruption in embassy
Utenriksdepartementet 2	Department of Foreign Affairs	Sentral kontrollenhet (2016)	Control authority	Abuse of public funds
Utlendingsdirektoratet	Immigration directorate	Deloitte (2016b)	Auditing firm	Embezzlement in Afghanistan
Verdibanken	Verdibanken	Wiersholm (2012b)	Law firm	Misappropriation of funds
Videoforhandleres Forbund	Video dealers' union	BDO (2013b)	Auditing firm	Abuse of public funds
World ventures	Gambling company	Lotteritilsynet (2014)	Control authority	Ponzi scheme

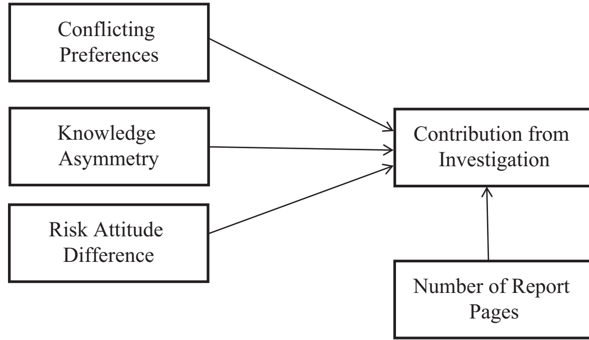

Fig. 12.1 Research model to study effects of agency issues on investigations

Furthermore, we have interpreted the extent of contribution from each report of investigation. Contribution is the extent to which investigators created value for their clients in terms of reconstructing the past, answering the mandate, and suggesting actions for the future (Osterburg and Ward 2014).

Figure 12.1 illustrates our research model to answer the research question: *How do conflicting preferences, knowledge asymmetry and risk difference in a principal-agent relationship influence the contribution from private internal investigations by fraud examiners?*

In the research model, we have introduced a control variable, which is the number of pages in the investigation report. The assumption is that contribution can be just as much explained by the report itself as by issues according to agency theory.

The following research hypotheses are consistent with the research model:

Hypothesis 1: A greater extent of conflicting preferences between client and investigator will reduce the contribution from the investigation.

Hypothesis 2: A greater extent of knowledge asymmetry between client and investigator will reduce the contribution from the investigation.

Hypothesis 3: A greater extent of difference in risk attitude between client and investigator will reduce the contribution from the investigation.

Hypothesis C: A shorter report of investigation will reduce the contribution from the investigation.

A scale was applied from 1 (low) via 2 (middle) to 3 (high) for conflicting preferences, knowledge asymmetry, and risk attitude difference, as listed in Table 12.3. Scores in the table can be defined as expert elicitation where an expert who knows all the reports did the estimation.

Expert elicitation seeks to make explicit and utilizable the unpublished knowledge and wisdom in the heads of experts, based on their accumulated experience as well as their interpretation and reflection in a given context. Elicitation is defined as collecting information from people as part of human intelligence. An elicitation technique or elicitation procedure is applied to collect and gather information from people. Expert elicitation is defined as the synthesis of opinions of experts on a

Table 12.3 Estimation of research model variable

Agent organization	Preferences	Knowledge	Risk	Contribution	Pages
Wiersholm (2011)	3	3	1	3	23
PwC (2013a)	1	3	1	3	15
BDO (2014a)	3	2	3	1	10
Lynx (2011)	2	2	2	2	267
Partirevisjonsutvalget (2016)	2	2	2	2	5
Hjort (2016)	1	2	1	1	18
Deloitte (2017)	1	2	1	1	53
Thommessen (2009)	1	2	1	1	119
BDO (2011)	2	3	3	2	46
Dalseide (2006)	1	2	1	3	184
PwC (2014a)	1	2	1	3	35
PwC (2015)	1	1	1	1	50
Hald (2007)	3	3	3	3	164
BDO (2013a)	1	1	1	1	27
BDO (2016)	3	3	3	1	64
PwC (2014b)	2	2	1	2	32
PwC (2014c)	2	2	1	2	25
KPMG (2012)	2	2	2	2	121
Hjort (2013)	2	2	2	2	46
Deloitte (2012)	1	2	1	1	109
Wikborg Rein (2015)	3	2	3	2	93
Revisjon Midt-Norge (2017)	3	3	3	1	36
Vierdal (2012)	1	2	1	3	86
Ernst & Young (2013a)	2	2	2	1	52
Wiersholm (2016)	2	2	2	1	41
Lynx (2012)	3	3	3	1	50
Deloitte (2010)	2	2	2	1	61
PwC (2008a)	2	2	2	2	27
PwC (2009)	3	3	3	2	92
Kvale (2013)	3	2	3	2	53
KPMG (2012)	1	1	1	1	74
PwC (2008b)	3	1	3	1	52
Distriktsrevisjonen (2007)	3	3	1	3	555
PwC (2007)	2	2	2	2	88
KomRev NORD (2015)	1	2	1	1	138
Ernst & Young (2013b)	1	1	1	1	103
PwC (2013b)	1	2	1	1	14
Deloitte (2016a)	1	1	2	1	54
Holmen (2014)	2	2	2	2	16
Nergaard (2013a, b)	2	1	2	2	38
Kommunerevisjonen (2006a)	1	1	1	2	30
Kommunerevisjonen (2006b)	1	2	1	2	44

(continued)

Table 12.3 (continued)

Agent organization	Preferences	Knowledge	Risk	Contribution	Pages
Wiersholm (2012a)	3	1	2	2	23
Duane Morris (2016)	2	1	1	2	172
Sentral kontrollenhet (2016)	2	1	1	1	23
Deloitte (2016b)	1	3	1	2	36
Wiersholm (2012b)	2	1	2	1	5
BDO (2013b)	1	2	1	1	20
Lotteritilsynet (2014)	1	2	2	1	17

subject where there is uncertainty due to insufficient data (Heyman and Sailors 2016; Valkenhoef and Tervonen 2016).

Expert elicitation is a systematic approach to include expert insights into the subject and also insights into the limitations, strengths, and weaknesses of published studies (Slottje et al. 2008: 7):

> Usually the subjective judgment is represented as a "subjective" probability density function (PDF) reflecting the experts' belief regarding the quantity at hand, but it can also be for instance the experts' beliefs regarding the shape of a given exposure response function. An expert elicitation procedure should be developed in such a way that minimizes biases in subjective judgment and errors related to that in the elicited outcomes.

Meyer and Booker (2001) argue that expert elicitation is invaluable for assessing products, systems, and situations for which measurements or test results are sparse or nonexistent. When experts disagree, it can mean that they interpreted the question differently or that they solved it using different lines of thought. Expert judgment can be considered relevant information in the sense that it is data based on qualified opinions.

The validity or quality of expert judgment, like any data, can vary. The quality of expert judgment depends on both the completeness of the expert's mental model of the phenomena in question and the process used to elicit, model, analyze, and interpret the data.

First, we establish the extent of covariation between variables in the research model by calculation of correlation coefficients as listed in Table 12.4.

The table shows that all three issues in agency theory are significantly related to each other. Preferences with knowledge are correlated at 0.334*, preferences with risk are correlated at 0.749**, and knowledge with risk is correlated at 0.290*.

Furthermore, Table 12.4 shows that the contribution from or value of the investigation is significantly related to knowledge asymmetry and number of pages. A greater knowledge asymmetry between client and examiner is associated with a more valuable investigation, and an investigation report with more pages is associated with a more valuable investigation.

Next, regression analysis was applied to the research model both without and with the number of pages as control variable. Both models are significant, as listed in Table 12.5. While the model without pages can explain 19.7 percent of the varia-

Table 12.4 Correlation analysis of variables in the research model

	Preferences	Knowledge	Risk	Contribution	Pages
Preferences	1	0.334*	0.749**	0.159	0.166
Knowledge		1	0.290*	0.358*	0.200
Risk			1	−0.094	−0.096
Contribution				1	0.334*
Pages					1

Table 12.5 Regression analysis for predictors of investigation contribution

	Regression model 1		Regression model 2	
Adjusted R square	0.197		0.205	
Significance	0.005		0.007	
Preference	0.424	0.038	0.342	0.110
Knowledge	0.366	0.011	0.335	0.020
Risk	−0.518	0.011	−0.431	0.044
Pages	–		0.169	0.238

tion in contribution, the model with pages can explain 20.5 percent of the variation in contribution.

In model 1, the quality of the investigation in terms of contribution is positively related to conflicting preferences and knowledge asymmetry. While the first is hard to explain, the second can make sense in that investigators are experts in fields different from clients' expertise. Also the significant relation between risk and contribution makes sense, where there is a negative influence from different attitudes toward risk on contribution.

Model 2 indicates that the control variable has no significant impact, since the number of pages is not a significant predictor at $p < 0.05$. Both knowledge and risk remain significant, while preference is not significant anymore when compared to model 1.

Since the number of pages as a control variable had no significant impact on regression results, we base our conclusion on model 1. We do not find support for neither hypothesis 1 nor hypothesis 2. On the contrary, we find the opposite of suggested hypotheses to be the case. Both divergences in preference as well as knowledge asymmetry are associated with greater contribution from the investigation. The only hypothesis finding support is hypothesis 1, where empirical results indicate that a smaller extent of difference in risk attitude between client and investigator will increase the contribution from the investigation.

This research has tested agency theory for the relationship between a client and an examiner in private internal investigations where there is suspicion of misconduct and crime. Empirical study indicates that the contribution from an investigation is influenced by agency issues but not necessarily in the direction suggested by agency theory. The theory suggests that conflicting preferences, asymmetry in knowledge, and different attitudes toward risks should all have a negative impact on the contribution from an investigation. Our empirical findings suggest that knowl-

edge asymmetry is beneficial to an investigation, where examiners have different knowledge from the knowledge established by clients. A greater extent of knowledge asymmetry contributes to a more valuable investigation. As suggested by agency theory, different attitudes toward risks have a negative impact on the outcome of an investigation.

Empirical Study of Contigent Stages

The business of private internal investigations by external fraud examiners has grown remarkably in recent decades. Law firms and auditing firms are hired by private and public organizations to reconstruct the past when there is suspicion of misconduct and potential financial crime. This section is another empirical study of 49 private internal investigations in Norway that were publicly available. A contingent approach to investigations was applied, where private investigations at later stages are faced different mandates than investigations at earlier stages in the criminal justice system. This research has been exploratory by indicating that fraud examiners make a higher-level contribution at later stages in the criminal justice system.

The criminal justice system follows a sequence of stages starting with suspicion (rumors) and followed by detection (what happened), investigation (evidence), prosecution (violations of the law), and conviction (in court). Depending on the stage in the criminal justice system for a crime case, fraud examiners will have different challenges and roles. Despite extensive secrecy, we were able to collect 49 investigation reports that are publicly available in Norway. None of them were carried out in later stages of prosecution and conviction. All were carried out in earlier stages of suspicion (27 reports), detection (14 reports), and police investigation (8 reports). Tables 12.6, 12.7, and 12.8 list reports at suspicion, detection, and police investigation stage, respectively.

In the first line in Table 12.6, a private nursing home run by the firm Adecco was investigated by law firm Wiersholm (2011) to examine suspicion of fraud against employees in terms of violations of minimum wage regulations and working hour restrictions. In the second line, a public hospital, Ahus, suspected fraud by a vendor and hired auditing firm PwC (2013a) to find out what happened. In the third line, a municipality in charge of the Briskeby area suspected fraud by property developers when developing sports facilities and hired law firm Lynx (2011) to reconstruct the past.

In the first line in Table 12.7, a charity foundation had detected disappearance of funds and wanted to find out whether or not board members were responsible for the abuse of charity funds (BDO 2011). In the second line, irregular money transfers were already detected, and fraud examiners were to establish whether or not corruption had occurred (Dalseide 2006). In the third line, irregular sale of military equipment and discarded naval vessels to terrorist groups in Africa had occurred. Fraud examiners were asked to investigate the roles of retired officers in the navy (PwC

Table 12.6 Private internal investigations at stage I (suspected crime)

Principal client organization	Principal business	Agent examiner organization	Agent business	Financial crime suspicion
Adecco	Private nursing home	Wiersholm (2011)	Law firm	Fraud against employees
Ahus	Public hospital	PwC (2013a)	Auditing firm	Fraud by vendor
Briskeby	Sports facilities	Lynx (2011)	Law firm	Fraud against municipality
Demokratene	Political party	Partirevisjonsutvalget (2016)	Control authority	Illegal state subsidy
DNB	Commercial bank	Hjort (2016)	Law firm	Tax havens for bank clients
Eckbos Legater	Endowment found	Thommessen (2009)	Law firm	Abuse of funds by board members
Gassnova	Public utility company	BDO (2013a)	Auditing firm	Corruption in procurements
Halden Ishall	Municipal ice rink	KPMG (2012)	Auditing firm	Fraud against municipality
Halden kommune	Municipality	Hjort (2013)	Law firm	Corruption in building permits
Kragerø Fjordbåtselskap	Fjord boats company	Deloitte (2012)	Auditing firm	Misappropriation of funds
Kvam Auto	Auto dealer	Wikborg Rein (2015)	Law firm	Fraud by private car sales
NAV	Social security service	Wiersholm (2016)	Law firm	Abuse of information about recipients
Norges Fotballforbund	Football association	Lynx (2012)	Law firm	Fraud of former clubs
Politiets utlendingsenhet	Police immigration unit	KPMG (2012)	Auditing firm	Abuse of overtime system
Rana kommune	Municipality	PwC (2008b)	Auditing firm	Misappropriation of funds
Skjervøy Fiskeriutvikling	Public fisheries fund	KomRev NORD (2015)	Auditing firm	Misappropriation of funds
Stangeskovene	Forest owners	Ernst & Young (2013b)	Auditing firm	Manipulation by sale of shares
Stavanger kommune	Municipality	PwC (2013b)	Auditing firm	Misappropriation of funds
Telenor VimpelCom	Global telecom	Deloitte (2016a)	Auditing firm	Corruption in Uzbekistan
Tomter Handelsforening	Business association	Holmen (2014)	Auditing firm	Fraud by transfer of property
Troms Kraft	Public utility	Nergaard (2013a, b)	Consulting firm	Embezzlement in subsidiary
Utenriksdepartementet 1	Department of Foreign Affairs	Duane Morris (2016)	Law firm	Corruption in embassy

(continued)

Table 12.6 (continued)

Principal client organization	Principal business	Agent examiner organization	Agent business	Financial crime suspicion
Utenriksdepartementet 2	Department of Foreign Affairs	Sentral kontrollenhet (2016)	Control authority	Abuse of public funds
Utlendingsdirektoratet	Immigration dir.	Deloitte (2016b)	Auditing firm	Embezzlement in Afghanistan
Verdibanken	Verdibanken	Wiersholm (2012b)	Law firm	Misappropriation of funds
Videoforhandlere	Video dealers' union	BDO (2013b)	Auditing firm	Abuse of public funds
World Ventures	Gambling company	Lotteritilsynet (2014)	Control authority	Ponzi scheme

2014a). PwC (2015) was also hired to conduct more general inquiries into the guidelines and practices when the Norwegian navy discarded naval vessels.

In the first line in Table 12.8, auditing firm BDO (2014a) was hired after the CEO at the private nursing home Betanien was reported to the police for embezzlement. The CEO was also a priest, and he had initiated establishing a nursing home in Spain for old Norwegians. While being completely in charge of all money transfers from Norway to Spain, he embezzled money to buy himself a house in Spain and to arrange parties with local friends and prostitutes. BDO (2014a) was hired to find out if the CEO had embezzled more money than he had confessed to so far. While police investigations occurred in parallel, private investigators were able to find evidence of more money embezzled by the former CEO.

Table 12.9 lists investigation mandate, investigation finding, and contribution from the finding on a three-level scale from low to medium and high. In the first line in the table, Wiersholm (2011) was asked to investigate possible violations of the working environment legislation.

Private investigators from the law firm identified some cases of violations of the law, but it remained unclear whether or not this was regular procedure for which management was responsible, or it was simply a number of random mistakes occurring in the nursing home. Hence, there was a medium contribution.

Similarly, PwC (2013a) did not get to the bottom of the case when investigating potential fraud by a vendor suffered by the hospital. Further down the list in the table, Holmen (2014) and Duane Morris (2016) concluded convincingly that there had been no fraud and thereby made a high-level contribution.

Table 12.10 lists similar items as Table 4 regarding private internal investigations at stage II. The first investigation by BDO (2011) made a low-level contribution, since they were unable to reconstruct the past, and thereby letting it remain open whether or not misconduct or crime had occurred.

Table 12.11 lists similar items as Tables 4 and 5 regarding private internal investigations at stage III. BDO (2014a) made a high-level contribution by detecting

Table 12.7 Private internal investigations at stage II (detected crime)

Principal client organization	Principal business	Agent examiner organization	Agent business	Financial crime suspicion
Fadderbarnas Framtid	Charity foundation	BDO (2011)	Auditing firm	Abuse of funds by board members
Forsvaret IKT	Military ICT systems	Dalseide (2006)	Control authority	Corruption in procurements
Forsvaret logistikk	Military logistics	PwC (2014a)	Auditing firm	Corruption at sale of equipment
Forsvarsdepartementet	Department of Defence	PwC (2015)	Auditing firm	Corruption at sale of equipment
Grimstad kommune	Municipality	BDO (2016)	Auditing firm	Private health without tender
Leksvik kommune	Municipality	Revisjon Midt-Norge (2017)	Auditing firm	Fraud by councilman
Moskvaskolen	School branch	Ernst & Young (2013a)	Auditing firm	Fraud with time sheet
Norsk Tipping	Betting company	Deloitte (2010)	Auditing firm	Private investments
Omsorgsbygg Oslo	Public care center	PwC (2008a)	Auditing firm	Over billing
Omsorgsbygg Spania	Public care center	PwC (2009)	Auditing firm	Fraud by procurements
Oslo Vei	Road construction	Kvale (2013)	Law firm	Social dumping of workers
Samferdselsetaten	Public transportation	PwC (2007)	Auditing firm	Corruption at taxi licenses
Undervisningsbygg 1	Educational buildings	Kommunerevisjonen (2006a)	Municipality auditing	Fraud affecting employer
Undervisningsbygg 2	Educational buildings	Kommunerevisjonen (2006b)	Municipality auditing	Fraud affecting employer

more money embezzled by the CEO. The additional sums had not been confessed by the priest, and police investigation had not detected the money. Only by means of a private internal investigation were several more millions of Norwegian kroner revealed. When the priest and CEO were convicted in court to 4 years in prison, the significant amount of money embezzled played a role in the severity of sentencing. On average in Norway, a white-collar criminal is sentenced to a little more than 2 years in prison.

The contingent approach to private internal investigations implies that the contribution from an investigation is dependent on the stage at which the case is standing when a fraud examination is introduced. Among 27 investigations at stage I, 12 investigations make a low-level contribution, 8 investigations make a medium level

Table 12.8 Private internal investigations at stage III (investigated crime)

Principal client organization	Principal business	Agent examiner organization	Agent business	Financial crime suspicion
Betanien	Private nursing home	BDO (2014a)	Auditing firm	Embezzlement by CEO
Drammen kommune	Municipality	Deloitte (2017)	Auditing firm	Corruption in building permits
Furuheimen	Private nursing home	Hald (2007)	Law firm	Misappropriation of funds
Hadeland Bredbånd	Broadband provider	PwC (2014b)	Auditing firm	Embezzlement by CFO
Hadeland Energi	Energy provider	PwC (2014c)	Auditing firm	Embezzlement by CFO
Lunde Gruppen	Contracting business	Vierdal (2012)	Law firm	Fraud by CEO
Romerike Vannverk	Public water works	Distriktsrevisjonen (2007)	Auditing firm	Embezzlement by CEO
Unibuss	Public transportation	Wiersholm (2012a)	Law firm	Corruption in procurements

Table 12.9 Contribution from private internal investigations at stage I (suspected crime)

Agent organization	Investigation mandate	Investigation finding	Contribution
Wiersholm (2011)	Investigation of possible violations of the working environment legislation	Identified cases of violations of the law	Medium
PwC (2013a)	Inquiry into transactions between hospital and map vendor	Reviewed misconduct, but identified no fraud	Medium
Lynx (2011)	Investigation of fraud in construction project for the city	Found no evidence, only suspicion of misconduct	Low
Partirevisjonsutvalget (2016)	Control of financial support for political party and accounting practice	Found extensive use of funds for private purposes	High
Hjort (2016)	Investigations of violations of the bank's own guidelines	Found that financial services were violating bank guidelines	Low
Thommessen (2009)	Review of management and leadership in the foundation	Found no signs of misconduct or abuse of funds	High

(continued)

Table 12.9 (continued)

Agent organization	Investigation mandate	Investigation finding	Contribution
BDO (2013a)	Assessment of impartiality of procurement by consulting services	No partiality found in procurement processes	Medium
KPMG (2012)	Investigation of abuse of funds in construction project for the city	Simply no investigation results	Low
Hjort (2013)	Review of whistle-blowing in terms of accusations against building approvals	Simply no investigation results	Low
Deloitte (2012)	Review of abuse of board positions in the company	Found that chairman had violated board routines	Medium
Wikborg Rein (2015)	Examination of transactions between the firm and one of the owners	Identified offenses and offenders	High
Wiersholm (2016)	Inquiry into employees leak of sensitive information about clients	Identified some cases of misconduct without evidence	Medium
Lynx (2013)	Inquiry into fraud by football player transfers	Found some evidence, but investigators were stopped by client	High
KPMG (2012)	Investigate whistle-blowing accusations of fraud among executives	Suggest misconduct among whistleblowers	Low
PwC (2008b)	Scrutinize municipal investments that were lost	Suggest general improvements in public procedures	Low
KomRev NORD (2015)	Inquiry into abuse of funds by the mayor	No specific findings, claiming lack of information	Low
Ernst & Young (2013b)	Inquiry into manipulation of shareholders by board members	Concluded strongly without any reasoning	Low
PwC (2013b)	Inquiry into abuse of funds by law firm hired by the city	Blamed an unknown individual without evidence	Low
Deloitte (2016a)	Investigation into participation in known corruption by subsidiary	Avoided crime suspicion and blamed some executives	Low

(continued)

Table 12.9 (continued)

Agent organization	Investigation mandate	Investigation finding	Contribution
Holmen (2014)	Inquiry into board members' actions when transferring property	Found nothing wrong	High
Nergaard (2013a, b)	Inquiry into board members' knowledge of fraud in subsidiary	Concluded without any focus on anything	Low
Duane Morris (2016)	Investigation into embassy employees renting back their property	Found no evidence for accusations	High
Sentral kontrollenhet (2016)	Investigation into abuse of public funds in foreign studies	Found nothing to prove neither guilt nor innocence	Low
Deloitte (2016b)	Investigation into abuse of public funds in refugee returns	Found evidence of illegal money flows	High
Wiersholm (2012b)	Investigation of media reports about CEO abuse of position	Identified no misconduct or crime by CEO	Medium
BDO (2013b)	Examination of fund allocations according to guidelines	Identified a number of deviant allocations of fund	Medium
Lotteritilsynet (2014)	Investigate Ponzi scheme allegations	Found evidence of illegal Ponzi scheme	Medium

Table 12.10 Contribution from private internal investigations at stage II (detected crime)

Agent organization	Investigation mandate	Investigation finding	Contribution
BDO (2011)	Investigation of alleged illegal use of funds for administration	Found no evidence, only suspicion of abuse of funds	Low
Dalseide (2006)	Investigation of suspicions of corruption and other violations of the law	Found no evidence, only suspicion of corruption	Low
PwC (2014a)	Investigation to reveal whether there has been fraud	Errors in proceedings, but no new irregularities uncovered	High
PwC (2015)	Review of all sales contracts for naval vessels	Found violations of disposal regulations	Medium
BDO (2016)	Assessment of impartiality of procurement by health services	Found nothing to prove neither guilt nor innocence	Low

(continued)

Table 12.10 (continued)

Agent organization	Investigation mandate	Investigation finding	Contribution
Revisjon Midt-Norge (2017)	Inquiry into retired council man's compensation scheme	Identified rule breaking procedure in the municipality	High
Ernst & Young (2013a)	Investigation into financial matters at subsidiary school	Accuse former dean for abuse of funds without evidence	Low
Deloitte (2010)	Scrutinize financial transactions in violation of the organization's interests	Found no evidence of corruption	Medium
PwC (2008a)	Investigate allegations of fraud suffered by the municipality	Accused construction firm for fraud without proof	Low
PwC (2009)	Investigate abuse of public funds in Spain	Blamed innocent employee in the municipality	Low
Kvale (2013)	Investigate fraud after bankruptcy in public road construction company	Found evidence of fraud among executives	High
PwC (2007)	Investigate corruption accusations regarding taxi licenses	Found some traces of corruption, but no evidence	Medium
Kommunerevisjonen (2006a)	Inquiry into embezzlement and fraud by property manager	Identified some details about embezzlement and fraud	Medium
Kommunerevisjonen (2006b)	Inquiry into embezzlement and fraud by project manager	Identified some details about embezzlement and fraud	Medium

Table 12.11 Contribution from private internal investigations at stage III (investigated crime)

Agent organization	Investigation mandate	Investigation finding	Contribution
BDO (2014a)	Investigation of potentially further irregularities committed by the CEO	Found more money that the CEO had embezzled	High
Deloitte (2017)	Evaluation of internal routines and practice for approval of building projects	Suggest improvements in guidelines and routines	Medium
Hald (2007)	Identification of unacceptable circumstances and any criminal offenses	Recommend report to the police for prosecution assessment	High

(continued)

Table 12.11 (continued)

Agent organization	Investigation mandate	Investigation finding	Contribution
PwC (2014b)	Reconstruction of the past to document what went wrong	Accounting reconstruction, but no organizational reconstruction	Low
PwC (2014c)	Reconstruction of the past to document what went wrong	Accounting reconstruction, but no organizational reconstruction	Low
Vierdal (2012)	Bankruptcy inquiry into potential misconduct by executive management	Identified several violations of the law	High
Distriktsrevisjonen (2007)	Investigate embezzlement by CEO	Collected evidence to prove embezzlement by CEO	High
Wiersholm (2012a)	Investigation of executives who received personal benefits	Found evidence of executive benefits	High

contribution, while 7 investigations make a high-level contribution. Among 14 investigations at stage II, 6 investigations make a low-level contribution, 5 investigations make a medium-level contribution, while 3 investigations make a high-level contribution. Among eight investigations at stage II, two investigations make a low-level contribution, one investigation make a medium-level contribution, while five investigations make a high-level contribution.

While statistically not significant, it comes as a surprise that stage III investigations are most successful. Traditionally, it is argued that private internal investigations are concerned with questions such as: What happened or did not happen? How did it happen or not happen? Who did what to make it happen or not happen? However, stage III work is mainly concerned with additional examinations when crime cases are already in the hands of law enforcement agencies.

This section has presented an empirical study of 49 private internal investigations in Norway that were publicly available. A contingent approach to investigations was applied, where private investigations at later stages are faced different mandates than investigations at earlier stages in the criminal justice system. This research has been exploratory by indicating that fraud examiners make a higher-level contribution at later stages in the criminal justice system.

Empirical Study of Mandates

Usually, the client is a private or public organization that has caused or been victimized by a negative event or negative events. The examiner usually comes from an auditing firm, consulting firm, or law firm to conduct the private internal

investigation. The relationship between the two parties is regulated by a contract and a mandate. While the contract determines financial matters between principal and agent in terms of client and investigator, the mandate determines tasks and objectives that are to be accomplished by the investigator on behalf of the client.

Since the mandate describes what the examiners are supposed to do, and sometimes even describes how they are supposed to do it, we find it interesting to study a number of private internal investigation reports. This section presents results from our research where we attempt to answer the following research question: *What are content characteristics of mandates for fraud examiners in private internal investigations?* Specifically, we look for content characteristics in terms of motive, purpose, scope, tasks, and goals for fraud examinations.

From the literature we know that a number of requirements have been described for mandates. For examples, a mandate should present the purpose and the scope by describing what to do. The mandate should define tasks and goals. The mandate should represent an authorization for fraud examiners to carry out their investigation. The mandate should not in any way be biased.

For our empirical study, we have selected 7 reports of investigations out of 49 publicly available reports in Norway. Most reports of investigations are kept secret to the public and often also to the police, even when there is evidence of financial crime by white-collar criminals (Gottschalk and Tcherni-Buzzeo 2017). Our sample consists of cases where all suspects were convicted to prison after the private internal investigations were completed. While information from the private internal investigations did not necessarily cause convictions, the cases all involved public investigations in terms of police investigations, public prosecution, and finally conviction in Norwegian courts.

The mandate tells investigators what to do. The mandate defines tasks and goals for the inquiry. The mandate is an authorization to investigate a specific issue or several specific topics by reconstructing past events. The term mandate is used to describe an official or authoritative command; it is an order or an obligation handed down from others. The mandate documents the power granted from a client to an investigator; it is a command or authorization to act in a particular way.

Synonymous words to the term “mandate” include authorization, command, decree, directive, injunction, instruction, sanction, behest, bidding, charge, commission, dictate, edict, fiat, go ahead, imperative, okay, precept, warrant, word, blank check, carte blanche, and green light. Based on all these synonyms, a mandate is both an obligation and an opportunity to carry out detective work according to expectations from others. The mandate is forced upon the examiner to the extent the examiner accepts work for the client.

Investigation work is mandated by the client to the examiner. Synonyms for mandated include assigned, authorized, charged, decreed, ordered, bid, commanded, dictated, proclaimed, requisitioned, and summoned. Terms related to “mandated” include authorized, lawful, enforced, justifiable, official, ruled, and established.

In other context than private internal investigations, the term mandate typically means assignment of authority and responsibility to carry out certain duties. For

example, Jarvis (2017) studied institutional mandates that lubricate and cement social bonds. Neeley and Dumas (2016: 14) used the term mandate in the context of language mandate, where all employees have to use English:

> We build theory about unearned status gain drawing from a qualitative study of 90 U.S.-based employees of a Japanese organization following a company-wide English language mandate. These native English-speaking employees believed that the mandate elevated their worth in the organization, a status gain they attributed to chance, hence deeming it unearned.

Desai (2016) studied regulatory mandates as external pressures on organizations. Because of the non-popular perception of regulatory mandates, organizations vary in compliance. Some organizations comply while others resist enforcement of mandates. Some mandates can be misinterpreted, translated, or misconstrued by managers or employees.

Within a private internal investigation, the term mandate may occur in terms of a suspected executive's degrees of freedom in the job. For example, in an investigation by Hastings (2012: 7), it was found that the suspect had a "broad spending mandate."

The mandate for private internal investigations specifies what the examination will be all about. The mandate is usually limited to specific individuals, businesses, time periods, places, events, or causal relations. The motive to initiate an investigation is reflected in the mandate, such as a perceived need to identify and describe actual conditions associated with a particular suspect, uncovering responsibilities, or make inquiries that are suited to find out something that cannot be mapped using normal administrative procedures. The purpose is then to provide the person(s) responsible for follow-up actions with a factual basis for decision-making (Grimstad 2015).

The mandate is both an authorization and a command that a person or a group has received and accepted to work on a given case or a given question. The mandate must be precisely and clearly formulated. If there is lack of clarity in the mandate, it is the responsibility of examiners to provide feedback to the client regarding any interpretation issues. After the investigation has been initiated, the need sometimes arises to make changes and/or clarifications and specifications in the mandate. Changes and clarifications can be initiated by both client and investigator. If changes are believed to have consequences for the investigator's work, this must be emphasized. This concern applies to both timing and costs (Advokatforeningen 2007).

Furthermore, a mandate can be evaluated in terms of accuracy (information correct), relevance (information can direct and support the investigation), completeness (no information is missing), and conciseness (information is not too detailed or too general). Clarity (information readily interpreted) and order (information sorted in a logical order) are other criteria that can be applied to evaluate a mandate (Chaffey and White 2011).

When Valukas (2014: 12) was hired by General Motors to investigate ignition switch recalls and potential fraud related to secrecy, the mandate stated that examiners should do "as full and complete an investigation as was possible in the short

Table 12.12 Sample of investigations with clients and examiners

Principal client	Principal business	Agent examiner	Agent business	Crime suspicion
Betanien	Private nursing home	BDO (2014a)	Auditing firm	Embezzlement by CEO
Furuheimen	Private nursing home	Hald (2007)	Law firm	Misappropriation of funds
Hadeland Energi og Bredbånd	Energy and broadband company	PwC (2014b, c)	Auditing firm	Embezzlement by CFO
Lunde Gruppen	Logistics company	Vierdal (2012)	Law firm	Fraud by CEO causing bankruptcy
Romerike Vannverk	Public water supply	Distriktsrevisjonen (2007)	Public auditing office	Embezzlement by CEO
Undervisningsbygg	Educational buildings in the municipality	Kommunerevisjonen (2006a)	Public auditing office	Fraud affecting employer
Unibuss	Public transportation company	Wiersholm (2012a)	Law firm	Corruption in procurement

period allotted." Investigators were asked to focus on the knowledge of specific senior executives, as well as GM's board.

For our empirical study, we have selected 7 reports of investigations out of 49. Our sample consists of cases where all suspects were convicted to prison after the private internal investigations were completed. While information from the private internal investigations did not necessarily cause convictions, the cases all involved public investigations in terms of police investigations in addition to private internal investigation, as well as public prosecution, and finally conviction in Norwegian courts. The seven cases are listed in Tables 12.12 and 12.13.

The first line in Table 12.12 lists private nursing home Betanien. The CEO at Betanien had business education and was trained as a priest. He was charged with the task of establishing a nursing home for old Norwegians in Spain. He travelled frequently to Spain, where he negotiated and initiated the construction of a nursing home. Money for the project was transferred from Betanien in Norway to the local subsidiary in Spain. The CEO was alone in charge of all financial transactions. He transferred some of the money to his own private account in a local Spanish bank and spent the money on a private apartment as well as parties with friends and prostitutes. Two whistleblowers sent notice to the chairman of the board at Betanien, but the chairman did not belie their stories.

When the whistleblowers threatened to tell a Norwegian journalist their story, then the chairman invited them in for a meeting. The whistleblowers presented evidence to the chairman, but the chairman waited several months before he initiated a private internal investigation and later reported the CEO to the police.

Table 12.13 Sample of investigations with mandates and findings

Principal client	Agent examiner	Investigation mandate	Investigation finding	Prison
Betanien	BDO (2014)	Investigation of potentially further irregularities committed by the CEO	Found more money that the CEO had embezzled	3.0 years
Furuheimen	Hald (2007)	Identification of unacceptable circumstances and any criminal offenses	Recommended report to the police for prosecution assessment	3.5 years 3.0 years
Hadeland Energi og Bredbånd	PwC (2014b, c)	Reconstruction of the past in terms of financial transactions	Reconstructed transactions where CFO had lone responsibility	4.5 years
Lunde Gruppen	Vierdal (2012)	Bankruptcy inquiry into potential misconduct by executive management	Identified several violations of the law including fraud	6.0 years
Romerike Vannverk	Distriktsrevisjonen (2007)	Investigate money flows out of Norway	Collected evidence to prove embezzlement by CEO	8.0 years
Undervisningsbygg	Kommunerevisjonen (2006a, b)	Inquiry into embezzlement and fraud by property manager	Identified some details about embezzlement and fraud	7.0 years
Unibuss	Wiersholm (2012a)	Investigation of executives who received personal benefits	Found evidence of corrupt executives in the company	5.0 years 4.8 years 4.0 years 4.0 years 3.5 years

The first line in Table 12.13 lists the mandate for BDO (2014a, b, c, d), which was to search for further irregularities committed by the CEO, after the CEO had confessed to the chairman about embezzlement to the extent documented by whistleblowers. Fraud examiners were able to find several more millions of Norwegian kroner embezzled by the CEO. The total embezzlement amounted to 20 million NOK (US$ 2.5 million). The CEO was finally convicted to 3 years in prison.

The mandate for BDO's (2014a: 2) investigation at Betanien emphasized the following tasks:

- Examine and evaluate uncovered financial irregularities committed by the CEO, including the time and scope of the fraud.
- Examine and evaluate whether there are further financial irregularities committed by the CEO.
- Investigate and assess whether others in the foundation are involved in or contributed to fraud.
- Examine and evaluate the foundation's internal control systems, in particular the control of the CEO.
- Examine the board's handling of the matter.
- Examine and evaluate the board's securing of claims against the CEO.
- Investigate and evaluate whether criminal and/or replacement recovery actions have occurred among the foundation's employees or trustees.

Given our research question – what are content characteristics of mandates for fraud examiners in private internal investigations – we want to explore the occurrence and description of motive, purpose, scope, tasks, and goals for investigations in their mandates. We collected 49 reports of investigations that were publicly available and selected 7 reports that have in common that suspects were later sentenced to prison in courts in Norway.

We applied content analysis to identify whether the following content characteristics could be found in the mandate for the investigation:

1. Motive for investigation: Why the client as principal hired an investigator as agent to conduct a fraud examination
2. Purpose of investigation: What the investigator was supposed to find out in the examination
3. Scope of investigation: How the area for investigation was limited in terms of persons, incidents, time, and other aspects
4. Tasks in investigation: Which activities the investigator was expected to carry out during the examination
5. Goals of investigation: What investigation result was expected from the examination

Research results are presented in Table 12.14. For the first investigation by BDO (2014a, b, c, d), the mandate only defined tasks as quoted above. The mandate said

Table 12.14 Characteristics of mandates for private internal investigations

Principal client	Agent examiner	Motive	Purpose	Scope	Tasks	Goals
Betanien	BDO (2014)				X	
Furuheimen	Hald (2007)	X	X			
Hadeland Energi	PwC (2014c)		X	X	X	
Lunde Gruppen	Vierdal (2012)			X		X
Romerike Vannverk	Distriktsrevisjonen (2007)		X	X	X	
Undervisningsbygg	Kommunerevisjonen (2006a, b)				X	
Unibuss	Wiersholm (2012a, b)			X		X

nothing about motive, purpose, scope, or goals. As is visible from the table, none of the mandates covered all content characteristics recommended in the literature.

The last investigation in the table, Unibuss examined by Wiersholm (2012a), has an extensive description of the scope. The mandate defines what business areas are to be examined and what examiners should look for. The mandate also defines a goal (Wiersholm 2012: 3):

> The investigation will clarify the facts which will be relevant when criminal law is to be applied to detected misconduct. The fact of the matter must be prepared in such a manner and to such an extent that government requirements are satisfied.

From a principal-agent perspective, the fewer issues that are defined in the mandate, the greater the chance is for opportunistic behavior on both sides. Diverging preferences, knowledge asymmetry, as well as different attitudes toward risks may create greater problems for a successful examination when a mandate is lacking key characteristics. The consequence of a deficient mandate on the extent of success or failure for a private internal investigation is a topic very well suited for future research.

Based on agency theory, a client can be defined as the principal and an investigator can be defined as the agent in private internal investigations. Agency theory suggests that three problems can arise among self-serving principals and agents: preferences (client and examiner may have conflicting values or goals), knowledge (client and examiner may not have the same information and insights), and risk (client and examiner may not have the same level of risk aversion or risk willingness). The extent of opportunism among the parties can be reduced when the mandate for the work is clearly defined. However, as indicated by seven reports of investigations in this research, none of the reviewed reports define all characteristics of mandates for private internal investigations. Future research may determine how deficient mandates may influence the extent of success or failure for private internal investigations.

Empirical Study of Digital Evidence

Computer forensics in terms of electronic evidence, analysis, and pattern recognition is often a key to private internal investigations of suspected financial crime by white-collar criminals, where fraud examiners reconstruct the past. Based on a sample of 49 reports of investigations, this section addresses a research question concerned with the extent fraud examiners search for electronic evidence and conduct digital analysis of all available information. We find that the lack of digitalization in examinations can be one reason why so many investigations are unsuccessful in getting to the bottom of cases. We suggest a more creative and curious thinking style combined with exploratory application of computer information systems to make private internal investigations more successful.

Computer forensics in terms of electronic evidence is often a key to private internal investigations of suspected financial crime by white-collar criminals, where fraud examiners are to reconstruct the past (Brooks and Button 2011; Button et al. 2007a; Gill and Hart 1997). Examples of investigations include Valukas (2010) and Valukas (2014) at Lehman Brothers and General Motors, respectively. Reconstruction of past events and sequences of events is based on a number of information sources such as interviews, reports, and other documents (Button et al. 2007b; Button and Gee 2013; Machen and Richards 2004; Schneider 2006; Wells 2003, 2007; Williams 2005, 2014). However, to get to the bottom of a case, private investigators often need to take an active approach by searching for additional information. Access to information and evidence in computer systems and networks is often a key to success (Svantesson and Zwieten 2016).

According to the theory of planned behavior, the behavior of an examiner is a function of an individual's behavioral intention to perform the behavior and the examiner's control over the behavior. Behavioral intention represents an individual's motivation to engage in the behavior. Behavioral control denotes the degree to which an individual has the ability, resources, and opportunism to perform the behavior. Thus, the extent of search for electronic evidence in computer systems and networks may be influenced by the examiner's perceived ability, resources, and opportunities to perform such behavior (Robert and Sykes 2017). The use of information and communication systems in private internal investigations is a matter of being able to master technology (Bapna et al. 2017; Dawson et al. 2016).

In this section, we address the following research question: *To what extent do fraud examiners in private internal investigations of suspected financial crime by white-collar criminals search for electronic evidence?*

Reports of investigations from fraud examinations in private and public organizations are usually kept secret and never disclosed to the public (Gottschalk and Tcherni-Buzzeo 2017). We were able to identify and retrieve a total of 49 reports of investigations in Norway from the last decade. Based on this sample, we explore the research question above.

This research is important, as internal investigations tend to represent a privatization of law enforcement, where the outcome for suspected individuals is dependent on findings and conclusions from private investigators. Just like police detectives, private investigators are to search for evidence that support innocence as well as guilt when they reconstruct past events.

Computer information systems can be applied in two different tasks of fraud examination. First, computers can help find pieces of information that are relevant to the investigation. Search engines, accounting systems, document systems, and other systems typically available in the client organization can be used by fraud examiners to find relevant pieces of information. Next, computers can help analyze information from all kinds of sources to develop hypotheses and conclusions. Sources such as interviews and paper documents are combined with electronic data to conduct computer forensics. The first task is concerned with electronic evidence, while the second task is concerned with electronic analysis.

Searching for electronic evidence is not limited to information systems in the client organization. Search for information on open electronic networks such as the Internet is done by using keywords and strings of words for intelligent search engines. There can be incredibly much information about famous people, such as people in the elite in business, government, and politics who may commit white-collar crime. Many of the defendants in white-collar crime cases were well known long before they were revealed. On the Internet it is possible to stumble over or bump into details that investigators were not really looking for. It is called surfing the Internet and can indeed be a useful activity in an investigation. Rather than looking for the unknown, the Internet opens up for new leads and connections that were unknown to examiners thus far.

When seeking information, one has defined what one is looking for. When browsing information, one is uncertain, because one does not know what is out there on the web. By clicking from page to page, one may come across issues that can provide ideas and associations in examination work. One can draw parallels, and one can find differences. Background information about a business can show up and so can several interesting pieces of information about people and their activities. Examiners can stumble across names of people worth contacting for interviews. Examiners can find journalists and scholars who have written about similar occurrences.

Surfing is not searching blindly. Surfing is search driven by curiosity, which is a very important characteristic of successful investigators. Curiosity combined with creativity characterizes the risk style of successful detectives (Dean et al. 2008). The risk style revolves around how an examiner will think through being proactively creative to discover new information and if possible develop it into evidence that will either prove innocence or be sufficient to cause conviction in court.

A portion of the Internet that can be of particular interest to private detectives is social media, where people tend to leave all kinds of information about themselves. Access to social media provides insights into closed online networks about people and their relationships. Unlike the Internet in general, information in social media is as a rule provided by persons themselves. While celebrities are referred to by others on Wikipedia, both famous and not so famous people provide descriptions of themselves on Facebook and other virtual places. Surfing social media can provide much useful information.

WikiLeaks illustrates how much information in general is available. WikiLeaks specializes in the analysis and publication of large datasets of censored or otherwise restricted official materials involving war, spying, and corruption. It has so far published more than 10 million documents and associated analysis. Another example of digital information retrieval is the Panama Papers of more than 11 million leaked documents that detail financial and attorney-client information for more than 214.000 offshore entities.

The idea here is the following: Rather than passively examining documents handed over from the client to examiners, a successful investigation requires a proactive and curious approach to be able to solve a potential crime case as a puzzle.

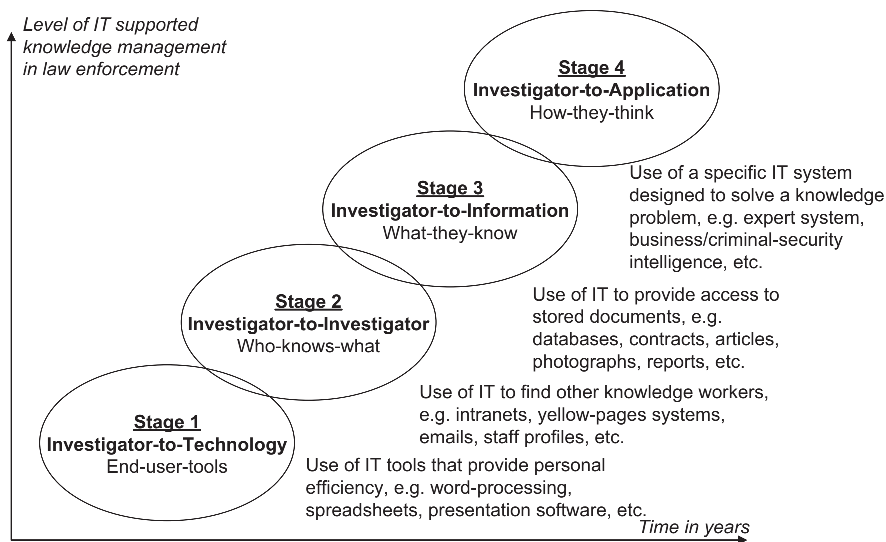

Fig. 12.2 The knowledge management systems stage model for investigations

Attorneys and others who follow a formal and sequential procedure rather than an informal and iterative procedure will seldom get to the bottom of a case.

Electronic Analysis

As mentioned above, computers can help analyze information from all kinds of sources to develop hypotheses and conclusions. Sources such as interviews and paper documents are combined with electronic data to conduct computer forensics. While electronic evidence is found in the client's computer systems and other external systems, electronic analysis is conducted in-house by examiners in law firms, auditing firms, and consulting firms.

Internal systems in such firms can be described in terms of levels as illustrated in Fig. 12.2.

Stages of knowledge management technology are such that ICT, in its later stages, is more useful to knowledge work than it is at earlier stages. The relative concept implies that ICT is more directly involved in knowledge work at higher stages and that ICT is able to support more advanced analysis work at higher stages, as illustrated in the figure (Gottschalk and Dean 2010).

Here, a model consisting of four levels is presented: investigator-to-technology systems, investigator-to-investigator systems, investigator-to-information systems, and investigator-to-application systems as illustrated in the figure:

1. *Investigator-to-Technology Stage*: Tools for end users are made available to knowledge workers. In the simplest stage, this means a capable networked PC on every desk or laptop in every briefcase, with standardized personal productivity tools (word processing, presentation software) so that documents can be exchanged easily throughout a company. More complex and functional desktop infrastructures can also be the basis for the same types of knowledge support. Stage 1 is characterized by widespread dissemination and use of end-user tools among knowledge workers in the firm. For example, in this stage, investigators in a consulting firm will use word processing, spread sheets, legal databases, presentation software, and scheduling programs.
2. *Investigator-to-Investigator Stage*: Information about who knows what is made available to all people in the firm and to target outside partners. Search engines should normally facilitate work with a thesaurus, since the terminology in which expertise is sought may not always match the terms (and hence search words) the expert uses to classify that expertise. The aim is to record and disclose who in the organization knows what by building knowledge directories. Often called yellow pages, the principal idea is to make sure knowledgeable people in the organization are accessible to others for advice, consultation, or knowledge exchange. Knowledge-oriented directories are not so much repositories of knowledge-based information as gateways to knowledge, and the knowledge is as likely to be tacit as explicit.
3. *Investigator-to-Information Stage*: Information from knowledge workers is stored and made available to everyone in the firm and to designated external partners. Data mining techniques can be applied here to find relevant information and combine information in data warehouses. On a broader basis, search engines are web browsers and server software that operate with a thesaurus, since the terminology in which expertise is sought may not always match the terms used by the expert to classify that expertise.
4. *Investigator-to-Application Stage*: Information systems solving knowledge problems are made available to knowledge workers and solution seekers. Artificial intelligence is applied in these systems. For example, neural networks are statistically oriented tools that excel at the application of data to classify cases into categories. Another example is expert systems that can enable the knowledge of one or a few experts to be used by a much broader group of workers. Investigator-to-application systems will only be successful if they are built on a thorough understanding of procedures in private investigations. Artificial intelligence (AI) is an area of computer science that endeavors to build machines exhibiting human-like cognitive capabilities. Most modern AI systems are founded on the realization that intelligence is tightly intertwined with knowledge. Knowledge is associated with the symbols we manipulate.

In fraud examinations, private investigators will apply information technology at all four levels in their knowledge work, depending on the challenges ahead.

Research Method

This research is concerned with the extent to which fraud examiners in private internal investigations of suspected financial crime by white-collar criminals search for electronic evidence and conduct electronic analysis of collected information.

Table 12.15 lists available reports of investigations in Norway in the last decade. The client for the investigation is the principal organization. For example, Adecco is

Table 12.15 List of reports by fraud examiners (agents) for their clients (principals)

Principal organization	Principal business	Agent organization	Agent business
Adecco	Private nursing	Wiersholm	Law firm
Ahus	Public hospital	PwC	Auditing firm
Betanien	Private nursing	BDO	Auditing firm
Briskeby	Sports facilities	Lynx	Law firm
Demokratene	Political party	Partirevisjonsutvalget	Control authority
DNB	Commercial bank	Hjort	Law firm
Drammen kommune	Municipality	Deloitte	Auditing firm
Eckbos Legater	Foundation	Thommessen	Law firm
Fadderbarnas Framtid	Foundation	BDO	Auditing firm
Forsvaret IKT	Military systems	Dalseide	Control authority
Forsvaret logistikk	Military logistics	PwC	Auditing firm
Forsvarsdepartementet	Department of Defence	PwC	Auditing firm
Furuheimen	Private nursing	Hald	Law firm
Gassnova	Public utility	BDO	Auditing firm
Grimstad kommune	Municipality	BDO	Auditing firm
Hadeland Bredbånd	Broadband	PwC	Auditing firm
Hadeland Energi	Energy provider	PwC	Auditing firm
Halden Ishall	Municipal ice rink	KPMG	Auditing firm
Halden kommune	Municipality	Hjort	Law firm
Kragerø Fjordbåtselskap	Fjord boats	Deloitte	Auditing firm
Kvam Auto	Auto dealer	Wikborg Rein	Law firm
Leksvik kommune	Municipality	Revisjon Midt-Norge	Auditing firm
Lunde Gruppen	Contract business	Vierdal	Law firm
Moskvaskolen	School branch	Ernst & Young	Auditing firm
NAV	Social security	Wiersholm	Law firm

(continued)

Table 12.15 (continued)

Principal organization	Principal business	Agent organization	Agent business
Norges Fotballforbund	Football assoc.	Lynx	Law firm
Norsk Tipping	Betting company	Deloitte	Auditing firm
Omsorgsbygg Oslo	Public care center	PwC	Auditing firm
Omsorgsbygg Spania	Public care center	PwC	Auditing firm
Oslo Vei	Road construction	Kvale	Law firm
Politiets utlendingsenhet	Police unit	KPMG	Auditing firm
Rana kommune	Municipality	PwC	Auditing firm
Romerike Vannverk	Public water	Distriktsrevisjonen	Auditing firm
Samferdselsetaten	Public transport	PwC	Auditing firm
Skjervøy Fiskeriutvikling	Public fish fund	KomRev NORD	Auditing firm
Stangeskovene	Forest owner	Ernst & Young	Auditing firm
Stavanger kommune	Municipality	PwC	Auditing firm
Telenor VimpelCom	Global telecom	Deloitte	Auditing firm
Tomter Handelsforening	Association	Holmen	Auditing firm
Troms Kraft	Public utility	Nergaard	Consulting firm
Undervisning 1	Property	Kommunerevisjonen	Municipality auditing
Undervisning 2	Property	Kommunerevisjonen	Municipality auditing
Unibuss	Public transport	Wiersholm	Law firm
Utenriks 1	Foreign affairs	Duane Morris	Law firm
Utenriks 2	Foreign affairs	Sentral kontrollenhet	Control authority
Utlendingsdirektoratet	Immigration	Deloitte	Auditing firm
Verdibanken	Verdibanken	Wiersholm	Law firm
Videoforhandlere	Video dealers	BDO	Auditing firm
World Ventures	Gambling	Lotteritilsynet	Control authority

running private nursing homes and was suspected of fraud. Norwegian law firm Wiersholm as the agent organization conducted a fraud examination at Adecco. Global accounting, auditing, and law firms such as BDO, Ernst & Young, and PricewaterhouseCoopers (PwC) are frequently hired by clients to conduct internal investigations in private and public organizations.

The extent to which examiners have used electronic sources and digital forensics in their investigation is normally described early on in the report together with other sources that were applied. Documents and interviews seem to be the main sources of information in most investigations.

Reports of investigations are used as empirical source for this research. Unfortunately, most reports are kept secret to protect investigated individuals and organizations from public exposure (Gottschalk and Tcherni-Buzzeo 2017). Only very few reports are retrievable for research. We were able to identify and retrieve a total of 49 reports in Norway from the last decade.

A typical report of a private internal investigation is the final result and product handed over from fraud examiners to the client. It becomes the property of the client, and the client decides what to do with the findings and recommendations in the report. The report is typically structured in such a way that a description of information sources follows a description of the mandate for the investigation.

Research Results

Findings for digital access to information and digital analysis of information are listed in Table 12.16. While digital access is enabled by systems at level 1 (investigator-to-technology), level 2 (investigator-to-investigator), and level 3 (investigator-to-information), digital analysis is enabled by systems at level 3 (investigator-to-information) and level 4 (investigator-to-application).

As illustrated by Table 12.16, many fraud examiners did not apply information and communication technology to access information, and even more examiners did not apply technology to analyze technology. While indeed some of the investigations were not suited for the application of technology, most of them certainly were very well suited. There were just a few that mainly focused on a formal review of documents where technology was irrelevant.

Out of 49 investigations, 23 investigations (47%) were completely manual in their retrieval and collection of information, and 42 investigations (86%) were completely manual in their analysis. Only 7 out of 49 investigations applied computer information systems to analyze collected information:

1. A digital comparison of documents, time sheet, and accounting figures enabled investigators to identify potential subjects for interviews at Adecco in a fraud case.
2. An application package for analysis of relationships between prime actors and transactions between them enabled visualization for network analysis to identify potential suspects at Ahus in a fraud case.
3. Mirroring different systems – such as travel expenses and procurement of material to the military – enabled identification of main suspects in a corruption case.
4. Merging private account information with corporate account information enabled identification of embezzlement in the Hadeland broadband case.
5. Merging private account information with corporate account information enabled identification of embezzlement by the CFO in the Hadeland Energi case.
6. Employees and executives at the social security service (NAV) were suspected of doing lookups on famous people, neighbors, and others who receive social secu-

Table 12.16 Access to digital information and digital analysis of information

Client	Access	Analysis
Adecco	Collected	Documents found relevant as the basis for interviews
Ahus	None	Map of relationships between suspected actors
Betanien	Collected	None
Briskeby	None	None
Demokratene	None	None
DNB	Searched	None
Drammen kommune	None	None
Eckbos Legater	Searched	None
Fadderbarnas Framtid	None	None
Forsvaret IKT	Mirrored	Financial system Concorde
Forsvaret logistikk	None	None
Forsvarsdepartementet	Collected	None
Furuheimen	None	None
Gassnova	None	None
Grimstad kommune	Collected	None
Hadeland Bredbånd	Retrieved	Forensic accounting
Hadeland Energi	Retrieved	Forensic accounting
Halden Ishall	Collected	None
Halden kommune	None	None
Kragerø Fjordbåtselskap	None	None
Kvam Auto	Retrieved	None
Leksvik kommune	None	None
Lunde Gruppen	Retrieved	None
Moskvaskolen	Read	None
NAV	Searched	E-discovery platform for analysis
Norges Fotballforbund	Retrieved	Red flag system to detect suspicious transactions
Norsk Tipping	None	None
Omsorgsbygg Oslo	None	None
Omsorgsbygg Spania	None	None
Oslo Vei	Retrieved	None
Politiets utlendingsenhet	Collected	None
Rana kommune	Retrieved	None
Romerike Vannverk	Retrieved	None
Samferdselsetaten	None	None
Skjervøy Fiskeriutvikling	Retrieved	None
Stangeskovene	Retrieved	None
Stavanger kommune	Collected	None
Telenor VimpelCom	None	None
Tomter Handelsforening	None	None
Troms Kraft	Retrieved	None
Undervisning 1	Retrieved	None

(continued)

Table 12.16 (continued)

Client	Access	Analysis
Undervisning 2	Retrieved	None
Unibuss	Collected	None
Utenriks 1	None	None
Utenriks 2	None	None
Utlendingsdirektoratet	None	None
Verdibanken	None	None
Videoforhandlere	None	None
World Ventures	None	None

rity benefits. Sensitive information on celebrities can be sold to scandal media. Investigators stored all available information on incidents in the E-discovery platform. Records management, identification, preservation, processing, review, analysis, and presentation software within the platform enabled new insights and conclusions emerging from the investigation.

7. A red flag is an indicator of potential problems with an accounting figure, such as any undesirable characteristic that stands out to an analyst as it pertains to an organization under investigation. In the Norwegian football association, red flags indicated suspicious player transfers where former football clubs had not been compensated.

A few of the investigations ended up with a conclusion that nothing wrong had occurred. In these investigations, fraud examiners were able to prove innocence. A few other investigations ended up with the opposite result, where suspects ended up being subject to law enforcement and sentenced to prison.

However, most of the investigations ended up quite inconclusive. Examiners were unable to reconstruct the past, and they were unable to answer questions from clients as defined in the mandate for the investigations. Instead of reaching a conclusion based on solid evidence, most reports list a number of constraints and assumptions, and they give notice that findings are not necessarily neither complete nor true. In fact, several investigations make a contribution to the opposite of intentions. The intention was to clarify facts and circumstances, so that involved persons and organizations could get a clarification. But many investigations make no such contribution. On the contrary, some reports of investigations contribute to more confusion than was present before the examination was initiated.

This research is concerned with the extent to which fraud examiners in private internal investigations of suspected financial crime by white-collar criminals search for electronic evidence and conduct electronic analysis of collected information. We find that that the extent is very limited and absent in most investigations. At the same time, we notice that examiners were unsuccessful in getting to the bottom of most cases.

Based on this result, we suggest that more intensive application of computer information systems for both access and analysis might improve the situation.

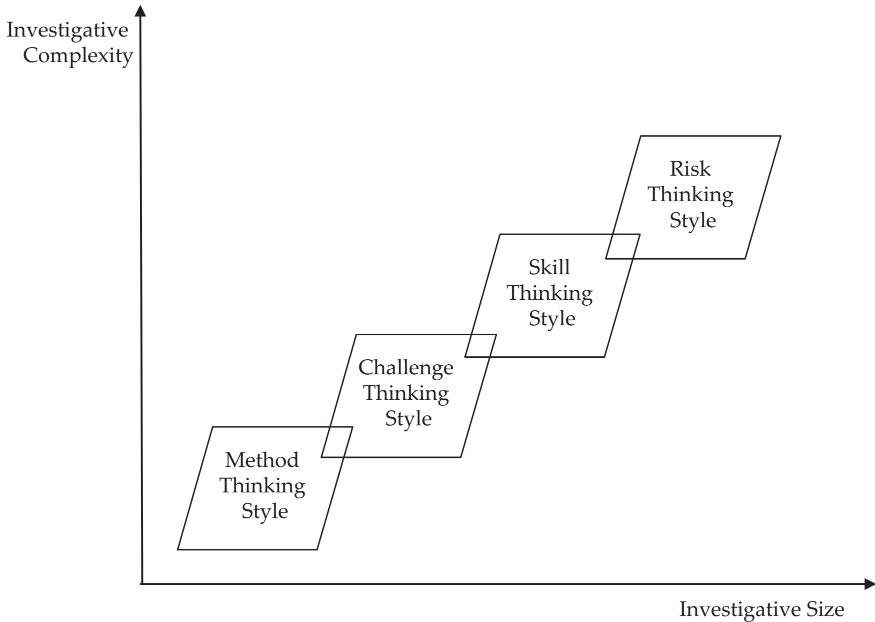

Fig. 12.3 Contingent approaches to investigative thinking styles

However, it is probably not sufficient to emerge on the technology bandwagon. Examiners do as well need to change their thinking styles.

Financial crime specialists and fraud examiners might be compared to police detectives in their thinking styles and investigative approaches. As argued by Wells (2003), becoming a financial crime specialist – a kind of a financial detective – is not for everyone. Detectives – either in law enforcement or in the private sector – typically have distinct personality traits. They are as good with people as they are with numbers and documents, and they are inclined to be curious, creative, and aggressive rather than shy, isolated, and retiring.

Dean (2005) developed a set of four thinking styles, which later were enhanced by Staines (2013), as illustrated in Fig. 12.3:

- *Thinking style 1*: *Investigation as method*. Detectives describe this way of thinking as following a "method" that is driven by a set of basic procedural steps and conceptual processes for legally gathering information and building evidence. The method style is underpinned by a preference for following established rules and procedures, such as standard operating procedures, in order to gather information and build evidence in investigation.
- *Thinking style 2*: *Investigation as challenge*. Detectives describe this way of thinking as a "challenge" driven by the intensity that is generated by the four key processes of the job, the victim, the criminal and the crime. The challenge style is underpinned by an intense motivation, and the job is perceived by the challenge thinker as an opportunity to fight crime and make community safe.

- *Thinking style 3*: *Investigation as skill*. Detectives describe this way of thinking as a "skill" that requires a set of personal qualities and abilities that revolve around the central skill of relating effectively to a diversity of people at a number of different levels throughout an investigation. A detective who employs the skill style is successful at relating to and building relationships with others in order to ensure successful prosecution of a suspect.
- *Thinking style 4*: *Investigation as risk*. Detectives describe this way of thinking as taking a "risk" that must be legally justifiable, in order to be proactive through the use of creativity in discovering and developing information into evidence. By taking proactive risks, the detective aims to create new leads. This proactivity revolves around three investigative processes: creativity (the creation of new/different ideas), discovery (of relevant and important information), and development (of information into knowledge and evidence). The risk style is particularly useful in protracted and complex investigations whereby strict adherence to the method style has been unfruitful.
- Information discovery is likely to be more present in the risk thinking style than in the method thinking style. Information discovery is detection of information that goes beyond search. It addresses the vocabulary mismatch problem by equipping investigators with intuitive intents to explore what initially does not seem relevant. It enlarges the investigators mental information space (Ruotsalo et al. 2015). Discovery of novel information can result in the generation of potentially valuable ideas and can therefore be beneficial to the progress of an internal investigation. To be useful, novel information must have a particular relationship to existing investigation knowledge. It must be far enough away to qualify as novel, but it must be close enough that it can be understood and exploited (Jenkin et al. 2013).

This research was concerned with the extent to which fraud examiners in private internal investigations of suspected financial crime by white-collar criminals search for electronic evidence and conduct electronic analysis of collected information. We found that out of 49 investigations, 23 investigations (47%) were completely manual in their retrieval and collection of information, and 42 investigations (86%) were completely manual in their analysis. Only 7 out of 49 investigations applied computer information systems to analyze collected information.

We argue that this is one of the reasons why so many private internal investigations fail to reconstruct the past and answer the mandate successfully. We suggest that many examiners need to change their thinking style from a method style to a risk style characterized by curiosity and iterative search for information to find new pieces that may fit into the puzzle.

References

Advokatforeningen. (2007). *Retningslinjer for private granskinger (Guidelines for private investigations)*. Oslo: Advokatforeningen (Norwegian Bar Association).

Bapna, R., Gupta, A., Rice, S., & Sundararajan, A. (2017). Trust and the strength of ties in online social networks: An exploratory field experiment. *MIS Quarterly, 41*(1), 115–130.

BDO. (2011). *Rapport til Lotteri- og stiftelsestilsynet vedr. gransking av stiftelsen Fadderbarnas Framtid (Investigation report about the foundation for adopted childrens' future)*, BDO, Erling Grimstad and Morten Thorkildsen. https://lottstift.no/stiftelsestilsynet/files/2011/12/Rapport-til-Stiftelsestilsynet-fra-BDO-vedr-gransking-av-Fadderbarnas-Framtid.pdf, 46 pages.

BDO. (2013a). *Gjennomgang av anskaffelsesprosessen, konsulentinnleie og habilitet i Gassnova SF (Investigation report about procurement in Gassnova)*, 27 pages.

BDO. (2013b). *Gjennomgang av økonomiske bidrag til NVHF Forlag (Examination of economic support to NVHF Publishing)*, BDO, 20 pages.

BDO. (2014a). *Gransking av Stiftelsen Betanien Bergen (Examination of the Foundation Betanien Bergen) – Anonymisert og revidert sammendrag (Anonymised and revised summary)*, auditing firm BDO, Oslo, 10 pages.

BDO. (2014b). *Rapport til Norges idrettsforbund (Report to the Norwegian Sports Federation) – Faktautredning av enkelte opplysninger i boken "Fotballagenten" (Facts study of certain information in the book "The Football Agent")*, BDO, Oslo, powerpoint presentation, 4 pages.

BDO. (2014c). *Undersøkelse av påstander om inhabilitetsforhold i Andebu kommune (Investigation into allegations of disqualification in Andebu municipality).* BDO, Oslo, 23 pages.

BDO. (2014d). *Investigative report to the Coatesville Area School District.*http://casd.schoolwires.net/cms/lib8/PA01916452/Centricity/Domain/513/Forensic%20Audit.pdf, 54 pages.

BDO. (2016). *Rapport til kontrollutvalget. Undersøkelse om kjøp av helsetjenester i Grimstad kommune (Report to the control committee. Review of health services procurement in Grimstad municipality)*, auditing firm BDO, Oslo.

Bie, F. (2012). *Rapport til Stavanger tingrett (Report to district court in Stavanger)*. Stavanger: Vierdal advokatfirma (law firm).

Bosse, D. A., & Phillips, R. A. (2016). Agency theory and bounded self-interest. *Academy of Management Review, 41*(2), 276–297.

Brooks, G., & Button, M. (2011). The police and fraud investigation and the case for a nationalized solution in the United Kingdom. *The Police Journal, 84*, 305–319.

Button, M., & Gee, J. (2013). *Countering fraud for competitive advantage – The professional approach to reducing the last great hidden cost*. Chichester: Wiley.

Button, M., Frimpong, K., Smith, G., & Johnston, L. (2007a). Professionalizing counter fraud specialists in the UK: Assessing progress and recommendations for reform. *Crime Prevention and Community Safety, 9*, 92–101.

Button, M., Johnston, L., Frimpong, K., & Smith, G. (2007b). New directions in policing fraud: The emergence of the counter fraud specialists in the United Kingdom. *International Journal of the Sociology of Law, 35*, 192–208.

Chaffey, D., & White, G. (2011). *Business information management* (2nd ed.). London: Prentice Hall.

Dalane, J., & Olsen, D. L. (2006). *Granskingsrapport – ledelse og styring av Øyestad helselags boligstiftelse Furuheim (Investigation report about the foundation Furuheim for elderly)*, law firm Hald, Dalane & Heimvik, Arendal, 164 pages.

Dalseide. (2006). *Rapport fra Granskingsutvalget for IKT-kontrakter i Forsvaret oppnevnt av Kongen i statsråd 6. januar 2006, avgitt 16. juni 2006 (Report from examination committee for ICT contracts in the Military appointed by the King in Government January 6, 2006, submitted June 16, 2006)*, 184 pages.

Davidsen, E., & Sandvik, K. T. (2011). *Undersøkelse av bekymringsmelding vedrørende psykiatridivisjonen, til styret i Sykehuset Innlandet HF, Oslo 21. juni 2011 (Investigation into complaints about the psychiatry division in Hospital Inland)*, 15 pages.

Dawson, G. S., Denford, J. S., Williams, C. K., Preston, D., & Desouza, K. C. (2016). An examination of effective IT governance in the public sector using the legal view of agency theory. *Journal of Management Information Systems, 33*(4), 1180–1208.

Dean, G. (2005). *The cognitive psychology of police investigators.* Conference paper, School of Justice Studies, Faculty of Law, Queensland University of Technology, Brisbane.

Dean, G., Fahsing, I. A., Gottschalk, P., & Solli-Sæther, H. (2008). Investigative thinking and creativity: An empirical study of police detectives in Norway. *International Journal of Innovation and Learning, 5*(2), 170–185.

Deloitte. (2010). *Norsk Tipping – Granskingsrapport av 16. august 2010 (Investigation report about Norwegian betting company)*. https://www.norsk-tipping.no/forsiden/nytt_fra_selskapet/26819.cms, 61 pages.

Deloitte. (2012). *Rapport Kragerø Fjordbåtselskap AS – Gransking (Report Kragerø Fjord Boat Company – Investigation)*, 109 pages.

Deloitte. (2016a). *Review – Ownership VimpelCom Telenor ASA*, signed Anne Helsingeng (partner, attorney-at-law) and Ingebret G. Hisdal (partner, special advisor). Oslo: Deloitte.

Deloitte. (2016b). *Report of factual findings on the review of IRRANI program components VTY and HA*, auditing firm Deloitte, Oslo.

Deloitte. (2017). *Granskning. Byggesaksavdelingen – Drammen kommune (Investigation. Building permits – Drammen municipality)*, auditing firm Deloitte, Oslo.

Desai, V. M. (2016). Under the radar: Regulatory collaborations and their selective use to facilitate organizational compliance. *Academy of Management Journal, 59*(2), 639–657.

Distriktsrevisjonen. (2007). *Rapport versjon II etter granskingsoppdrag fra styrene i Nedre Romerike Vannverk AS (NRV) og AS Sentralrenseanlegget RA-2 (RA-2) (Report on water supply unit),* Nedre Romerike Distriktsrevisjon, LIllestrøm, 30. mai 2007, 555 pages.

Dobrowen, K., & Klepp, T. (2009). *Uavhengig undersøkelse av Eckbos Legater (Investigation report about the Eckbo foundation).*www.eckbos-legater.no/content/download/479/7915/version/1/file, 119 pages.

Duane Morris. (2016). *Project House – Report, conclusions and notes from interviews with selected landlords, real estate agents and locally engaged employees of the Royal Norwegian Embassy in Hanoi*, law firm Duane Morris, Hanoi.

Eisenhardt, K. M. (1985). Control: Organizational and economic approaches. *Management Science, 31*(2), 134–149.

Ernst & Young. (2012). *Gransking av Kraft & Kultur i Sverige AB (Investigation into Kraft & Kultur in Sweden)*, 31 pages.

Ernst & Young. (2013a). *Gransking – NRVS (Investigation report on school in Moscow)*. Oslo: Ernst & Young. October 30, 52 pages.

Ernst & Young. (2013b). *Gransking – NRVS, Tilleggsrapport (Supplementary report on the investigation of the Moscow School)*. Oslo: Ernst & Young. December 20, 23 pages.

Gill, M., & Hart, J. (1997). Exploring investigative policing. *British Journal of Criminology, 37*(4), 549–567.

Gjørv, A. B., & Lund, A. S. (2013, October 24). *Gransking I Halden kommune / Enhet for plan, byggesak og geodata (Investigation into city function for plan, construction and geodata),* law firm Hjort.

Gottschalk, P., & Dean, G. (2010). Stages of knowledge management systems in policing financial crime. *International Journal of Law, Crime and Justice, 38*(3), 94–108.

Gottschalk, P., & Tcherni-Buzzeo, M. (2017). Reasons for gaps in crime reporting: The case of white-collar criminals investigated by private fraud examiners in Norway. *Deviant Behavior, 38*(3), 267–281.

Grimstad, E. (2015). *Gransking ved mistanke om korrupsjon og andre former for økonomisk kriminalitet i arbeidsforhold (Investigation at suspicion of corruption and other forms of economic crime in professional settings)*. Oslo: Gyldendal Juridisk Publishing.

Hald. (2007). *Granskingsrapport. Ledelse og styring av Øyestad helselags boligstiftelse Furuheim (Investigation report. Leadership and management of Øyestad health center housing foundation)*, law firm Hald, Arendal.

Hastings, P. (2012). *Special investigative report regarding allegations of impropriety by Dr. C. Kern Wildenthal relating to travel and entertainment expenses paid for by University of Texas Southwestern Medical Center.* New York: Park Avenue Tower.

Heyman, J., & Sailors, J. (2016). A respondent-friendly method of ranking long lists. *International Journal of Market Research, 58*(5), 693–710.

Hjort. (2013). *Gransking I Halden commune / Enhet for plan, byggesak og geodata (Investigation in Halden municipality / Section for plan building matters, and geo data)*, law firm Hjort, Oslo.

Hjort. (2016). *Rapport til styret i DNB ASA (Report to the board at DNB)*, law firm Hjort, Oslo.

Holmen. (2014). *Gransking Tomter handelsforening (Investigation Tomter Trade Association)*, auditing firm Berge Holmen, Halden.

Jarvis, L. C. (2017). Feigned versus felt: Feigning behaviors and the dynamics of institutional logics. *Academy of Management Review, 42*(2), 306–333.

Jenkin, T. A., Chan, Y. E., Skillicorn, D. B., & Rogers, K. W. (2013). Individual exploration, sensemaking, and innovation: A design for the discovery of novel information. *Decision Sciences, 44*(6), 1021–1057.

Jensen, M. C., & Meckling, W. H. (1976). Theory of the firm: Managerial behavior, agency costs and ownership structures. *Journal of Financial Economics, 3*(4), 305–360.

Kommunerevisjonen. (2006a). *Granskingsrapport Undervisningsbygg Oslo KF (Investigation report on city school maintenance service)*, Rapport 16/2006, 21 pages.

Kommunerevisjonen. (2006b). *Granskingsrapport 2 Undervisningsbygg Oslo KF (Investigation report on city school maintenance service)*, Rapport 27/2006, 36 pages.

Kommunerevisjonen. (2013). *Oslo kommunes saksbehandling i Lindebergsakene (City of Oslo handling the Lindeberg cases)*, Kommunerevisjonen i Oslo kommune, rapport 7/2013.

KomRev NORD. (2015). *Undersøkelse i Skjervøy Fiskeriutvikling (Inquiry into Skjervøy fisheries development).* Tromsø: Control authority KomRev NORD.

KPMG. (2012). *Halden kommune: Gransking av disposisjoner i Halden Ishall AS og Halden Ishall Eiendom AS (Halden municipality: Investigation of dispositions in Halden ice hall and Halden ice hall property)*. KPMG, 121 pages.

Kvale. (2013). *Innberetning til Oslo byfogdembete i bo nr. 12-197991IKON-OBYF/2 Oslo Vei AS, dets konkursbo (Report to the district court on bankruptcy of Oslo Road)*, Kvale advokatfirma (law firm), advokat/bostyrer (lawyer) Tom Hugo Ottesen, December 11, 53 pages.

Lee, F., & Robinson, R. J. (2000). An attributional analysis of social accounts: Implications of playing the blame game. *Journal of Applied Social Psychology, 30*(9), 1853–1879.

Lotteritilsynet. (2014). *Lotteritilsynets tilsynsrapport om World Ventures i Norge med varsel om stans av ulovlig pyramidevirksomhet (Lottery Agency's audit with notice of halt of illegal pyramid business)*. Førde: Norwegian Gaming Authority.

Lynx. (2011). *Briskebyrapporten (Investigation report on football stadium)*. Lynx law firm. www.hamar.kommune.no, http://www.hamar.kommune.no/getfile.php/Bilder/Hamar/Nyhetsbilder/Politikere/Briskebyrapporten,%20ikke%20sladdet_1.pdf, 267 pages.

Lynx. (2013). *1192-rapporten. Gransking av internasjonale spilleroverganger 2007–2011 (Examination of player transfers)*. Oslo: Lynx law firm, 48 pages.

Machen, M. J., & Richards, R. E. (2004). The use of fraud examiners in the battle against occupational fraud and abuse. *The Journal of Investment Compliance*, Winter, 67–71.

Meyer, M. A., & Booker, J. M. (2001). *Eliciting and analyzing expert judgment: A practical guide* (SIAM Books, ASA-SIAM Series on Statistics and Applied Probability). Philadelphia: Society for Industrial and Applied Mathematics (SIAM).

Neeley, T. B., & Dumas, T. L. (2016). Unearned status gain: Evidence from a global language mandate. *Academy of Management Journal, 59*(1), 14–43.

Nergaard, L. L. (2013a). *Gransking av Troms Kraft AS (Investigation report about Troms Kraft power company)*, Norscan Partners and law firm Grette, 9 September, 663 pages.

Nergaard, L. L. (2013b). *Sammendrag av granskingsrapport – Troms Kraft – i henhold til Nord-Troms tingretts kjennelse (Summary of investigation report – Troms Energy – in accordance with verdict by North Troms district court)*. Oslo: Consulting firm Norscan partners.

Osterburg, J. W., & Ward, R. H. (2014). *Criminal investigation: A method for reconstructing the past* (7th ed.). Waltham: Anderson Publishing.

Partirevisjonsutvalget (2016). *Oppdrag om kontroll av Demokratene i Norge (Assignment to control the Democrats in Norway)*. Oslo: Partirevisjonsutvalget.

Pontell, H. N., Black, W. K., & Geis, G. (2014). Too big to fail, too powerful to jail? On the absence of criminal prosecutions after the 2008 financial meltdown. *Crime, Law and Social Change, 61*, 1–13.

Punch, M. (2003). Rotten orchards. "Pestilence", police misconduct and system failure. *Policing and Society, 13*(2), 171–196.
PwC. (2007). *Samferdselsetaten. Undersøkelser foretatt på oppdrag fra Oslo kommune (Transport Agency. Inquiry on behalf of the City of Oslo)*, auditing firm PricewaterhouseCoopers, Oslo.
PwC. (2008a). *Granskingsrapport: Undersøkelser foretatt på oppdrag fra Oslo kommune, Byrådslederens avdeling v/Seksjon for internrevisjon (Investigation report: Examination undertaken on behalf of the City of Oslo, Department of the Mayor)*. Oslo, 21. Mai 2008, 27 pages.
PwC. (2008b). *Granskingsrapport – «Terra-saken» i Rana kommune (Investigation report – «Terra case» in Rana municipality)*. Oslo: PricewaterhouseCoopers 10. juni.
PwC. (2009). *Gransking av «Spania-prosjektet» Oslo kommune (Investigation of the Spain project in the City of Oslo)*. Oslo: PricewaterhouseCoopers, 92 sider. http://www.oslo.kommune.no/getfile.php/Byr%C3%A5det%20(BYR)/Internett%20(BYR)/Dokumenter/Rapport%20pwc.pdf
PwC. (2013a). *Utvidet revisjon av Akershus universitetssykehus HF (Investigation report about Ahus public hospital)*. Oslo: PricewaterhouseCoopers. www.ahus.no
PwC. (2013b, 11 September). *Kontrollutvalget i Stavanger v/Rogaland Kontrollutvalgssekretariat: Undersøkelse/gransking knyttet til Stavanger kommunes utbetaling av á-kontobeløp i forbindelse med den såkalte «Tyrkia-saken» (Investigation report about the Turkey case in the city of Stavanger)*. Oslo: PricewaterhouseCoopers AS, 14 pages.
PwC. (2014a). *Forsvarets logistikkorganisasjon. Rapport etter gjennomgang av salg av fartøy (Defense logistics organization. Report from the review of the sale of vessels)*, auditing firm PricewaterhouseCoopers, Oslo.
PwC. (2014b). *Hadeland og Ringerike Bredbånd. Rapport – gransking (Hadeland and Ringerike Broadband. Report – investigation)*, auditing firm PricewaterhouseCoopers, Oslo.
PwC. (2014c). *Hadeland Energi. Rapport – gransking (Hadeland Energy. Report – investigation)*, auditing firm PricewaterhouseCoopers, Oslo.
PwC. (2015). *Forsvarsdepartementet. Undersøkelse av forhold knyttet til Forsvarets avhending av fartøyer (Defense Ministry. Examination of matters related to disposal of navy vessels)*, auditing firm PricewaterhouseCoopers, Oslo.
Revisjon Midt-Norge. (2017). *Granskning. Rådmannens arbeidsavtaler (Investigation. The chief administrative officer employment contracts)*, auditing firm Revisjon Midt-Norge, Trondheim.
Roberts, L. P., & Sykes, T. A. (2017). Extending the concept of control beliefs: Integrating the role of advice networks. *Information Systems Research, 28*(1), 84–96.
Roscher, E., & Berg, H. S. (2013). *Stangeskovene AS granskingsberetning til Nedre Romerike tingrett (Investigation into Strange Forest Industries)*. Ernst & Young/Law firm Lynx, 103 pages.
Ruotsalo, T., Jacucci, G., Myllymäki, P., & Kaski, S. (2015). Interactive intent modeling: Information discovery beyond search. *Communications of the ACM, 58*(1), 86–92.
Schneider, S. (2006). Privatizing economic crime enforcement: Exploring the role of private sector investigative agencies in combating money laundering. *Policing and Society, 16*(3), 285–312.
Sentral kontrollenhet. (2016). *Gjennomgang av Utenriksdepartementets tildeling og forvaltning av tilskudd til ILPI gjennom prosjektet (Review of the State Department's allocation and management of grants to ILPI through the project)*. Oslo: Central Control Unit in the State Department.
Slottje, P., Sluijs, J. P., & Knol, A. B. (2008). *Expert elicitation: Methodological suggestions for its use in environmental health impact assessments*, RIVM Letter report. The Netherlands: National Institute for Public Health and the Environment.
Staines, Z. (2013). Managing tacit investigative knowledge: Measuring "investigative thinking styles". *Policing: An International Journal of Police Strategies & Management, 36*(3), 604–619.
Svantesson, D. J. B., & Zwieten, L. (2016). Law enforcement access to evidence via direct contact with cloud providers – Identifying the contours of a solution. *Computer Law & Security Review, 32*, 671–682.
Thommessen. (2009). *Uavhengig undersøkelse av Eckbos Legater (Independent inquiry into Eckbo's Foundation)*, law firm Thommessen, Oslo.

Valkenhoef, G., & Tervonen, T. (2016). Entropy-optimal weight constraint elicitation with additive multi-attribute utility models. *Omega, 64*, 1–12.

Valukas, A. R. (2010). *In regard Lehman Brothers Holdings Inc. to United States Bankruptcy Court in Southern District of New York*, Jenner & Block, March 11, 239 pages. http://www.nysb.uscourts.gov/sites/default/files/opinions/188162_61_opinion.pdf

Valukas, A.R. (2014, May 29). *Report to board of directors of General Motors Company regarding ignition switch recalls*, law firm Jenner & Block, 325 pages, http://www.beasleyallen.com/webfiles/valukas-report-on-gm-redacted.pdf.

Vierdal. (2012). *Rapport til Stavanger tingrett. Lundegruppen konkursbo med datterselskaper og deleide selskaper (Report to Stavanger district court. Lunde group bankruptcy with subsidiaries and partly owned companies)*, law firm Vierdal, Stavanger.

Wells, J. T. (2003). The fraud examiners. *Journal of Accountancy*, October, 76–80.

Wells, J. T. (2007). *Fraud casebook: Lessons from the bad side of business*. Hoboken: Wiley.

Wiersholm. (2011). *Granskingsrapport, oppsummering, Adecco Norge AS (Investigation report, summary, Adecco Norway AS)*, law firm Wiersholm, Oslo.

Wiersholm. (2012a). *Granskingsrapport til styret i Unibuss (Report of investigation to the board at Unibuss)*, law firm Wiersholm, Oslo.

Wiersholm. (2012b). *Notat til Verdibanken (Note to the Value Bank)*, law firm Wiersholm, Oslo.

Wiersholm. (2016). *Tilgangskontroller i NAV. Gjennomgang, analyse og forslag til forbedringer (Access controls at NAV. Review, analysis and proposals for improvement)*, law firm Wiersholm, Oslo.

Wikborg Rein. (2015). *Granskingsrapport. Kvam Auto AS (Report of investigation. Kvam Auto)*, law firm Wikborg Rein, Bergen.

Williams, J. W. (2005). Governability matters: The private policing of economic crime and the challenge of democratic governance. *Policing and Society, 15*(2), 187–211.

Williams, J. W. (2014). The private eyes of corporate culture: The forensic accounting and corporate investigation industry and the production of corporate financial security. In K. Walby & R. K. Lippert (Eds.), *Corporate security in the 21st century – Theory and practice in international perspective* (pp. 56–77). Houndmills: Palgrave Macmillan.

Chapter 13
The Investigation Business

Fraud examiners, financial crime specialists, and counter fraud specialists are in the business of private internal investigations for their clients. Six problematic issues related to their roles are discussed in this chapter: privatization of law enforcement, secrecy of investigation reports, lack of disclosure to the police, competence of private investigators, limits by investigation mandate, and the issue of regulation of the investigation business.

A number of issues, dilemmas, problems, and challenges in private inquiries are important to explore in order to understand the business of financial crime specialists. Their hidden world is problematic. It was Williams (2005) and Schneider (2006) in the journal *Policing and Society* who first described and discussed problems related to privatizing economic crime enforcement and governance of private policing of financial crime. Since their research one decade ago, few of the problems they identified have been solved. Rather, the forensic accounting and corporate investigation industry has grown rapidly without any signs of effective regulation or self-regulation. Exceptions include the emergence of the counter fraud specialist in the United Kingdom (Button et al. 2007a, b; Button and Gee 2013) and the works of voluntary organizations such as ACFE (2014) and CFCS (2013).

This chapter is important as it attempts to shed new insights into the practice of private financial crime investigators (Machen and Richards 2004; Markopolos 2010; Morgan and Nix 2003; Tunley et al. 2014; Wells 2003, 2007).

Privatization of Law Enforcement

Ever since Schneider (2006) wrote his classic article on the privatizing economic crime enforcement, the potential threat to criminal justice from private rather than public investigation, prosecution and sentencing of individuals in white-collar crime cases has steadily increased. In our context of private investigations, we apply the term private policing to capture similarities and differences with law enforcement.

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Private policing of economic crime can be detrimental to an open and democratic society where the rule of law is to be transparent. Privatization of law enforcement and criminal justice, as is currently a trend in many countries, represents a potential threat to democratic societies as all powers toward citizens in a state should be organized and managed by public authorities under democratic government control, and not by private business firms.

Schneider (2006) argues that financial crime specialists such as forensic accountants can be viewed as both a part of, and distinct from, the larger private policing sector. The focus of the private policing sector seems to stretch from the most rudimentary disorder and property crime problems all the way to complex, highly organized, and multi-jurisdictional criminal and national security problems.

Privatization of policing and private policing are not the same. Privatization occurs when something the state would do is carried out by private actors, for example, when private investigators do what police investigators would have done, if they had known about the misconduct. Private policing also includes investigations that the state would never have done or has little interest in doing. Therefore, private policing is a broader term, which includes both substitutes to public policing and supplements to public policing. Private policing is also a broader term than public policing, as it includes sorting of undesirable from desirable persons, rewarding by orderly behavior, embedding desirable conduct, reducing opportunities for disorderly conduct, and maintaining order.

Private inquiries as substitutes are of concern because they involve a privatization of police investigations of potential punishable acts. Settlement between the suspect and the nation should always be organized by formal authorities and agencies in society. The government cannot accept a privatization of such settlement procedure. Privatization of settlement between offender and community is unfortunate, not least because the company does not believe they will benefit its business if they report a person to the police who is eventually sentenced to prison.

Nevertheless, privatization of criminal justice seems not uncommon in Norway. Offenses are not reported to the police. In the Norwegian survey by Transparency International, 40% of respondents agreed with the statement that crime is not reported because companies have decided to treat such matters internally (Renaa 2012).

A typical example of privatization is mentioned by Williams (2005: 195):

> Barring an informal resolution in which the suspect voluntarily agrees to leave the company based on specific conditions, such as repayment of misappropriated assets, one of the most common legal avenues pursued in these cases is termination with cause. This falls under the auspices of employment and labor relations law.

As long as such a case is privatized, criminal laws are not applied. This course of action allows clients to stop the bleeding while protecting themselves from wrongful dismissal suits (Williams 2005).

Stenning (2000) found that the division of responsibilities for policing between public and private authorities has become increasingly blurred. Similarly,

Hoogenboom (2006) found that the blurred boundaries between public and private spheres have created confusions and inefficiencies in areas such as intelligence.

Schneider (2006) studied the phenomenon of privatizing economic crime enforcement. He found that the industry of financial crime specialists has contributed to an ongoing fragmentation of policing in society, and it has initiated a similar fragmentation of national security enforcement. The focus of the private policing sector seems to stretch from the most rudimentary disorder and property crime problems all the way to complex, highly organized and multi-jurisdictional criminal and national security issues. In some instances, there has become an overlap between public and private investigations, which has caused potential loss of evidence. In other instances, there has been constructive cooperation between private and public sector in combatting white-collar crime.

Schneider (2006: 286) argues that privatization of law enforcement is a growing business:

> It has become abundantly clear that the delivery of policing services in many countries is no longer the exclusive purview of the state. In the last 25 years, the growth of the private policing sector has been explosive and largely unfettered. Within the broad realm of private policing, researchers have overwhelmingly focused on security services (in particular, uniformed security guards and security technology). Considerably less attention has been paid to those organizations in the private sector that provide more sophisticated investigative and risk management services that target more serious and complex crimes (such as economic, computer, organized and terrorist-related crimes).

This chapter pays attention to the latter kinds of professional services firms that conduct private investigations by financial crime specialists in client organizations. Many of the financial crime specialists in professional services firms have been recruited from the police force. In Canada, these firms have recruited senior investigators from the Royal Canadian Mount Police (RCMP) as well as provincial and municipal police forces and relevant regulatory agencies to complement their accounting resources with the goal of developing a sophisticated and wide-ranging investigative capacity. In addition to forensic accountants and police detectives, these firms also employ other relevant professionals, including criminologists, security specialists, intelligence analysts, MBAs, and computer specialists (Schneider 2006).

Similar to Schneider (2006), Williams (2005) is also concerned about the potential privatization of law enforcement by financial crime specialists in private inquiries. He finds it problematic that there is a private alternative to the public policing of economic crime. He argues that one of the defining properties setting the forensic accounting and corporate investigation industry apart from other investigative agencies – namely, the public police – is its direct and immediate responsiveness to client objectives, needs, and interests. This is to be expected given the profit-driven structure of the industry and its existence in a professional market of supply and demand. As argued by Gill and Hart (1997), private policing is directly accountable to the paying customer rather than democratically elected bodies and tight legalistic procedures and constraints.

Lack of corporate social responsibility by privatization of criminal justice was illustrated in the case story reported by Norwegian daily newspaper *Bergens Tidende*, where a rich industrialist paid a sports club to withdraw a police report on embezzlement. The rich capitalist argued that since he had paid the embezzled sum of money back to the club, there was no reason anymore to report the woman to the police. The rich capitalist Trond Mohn was at the same time a major sponsor of the club, so club management decided to withdraw the report earlier filed to the police (Gjesdal 2014).

In some cases, there has become an overlap between public and private investigations, which has caused potential loss of evidence. In other instances, however, there has been constructive cooperation between private and public sector in combatting white-collar crime. The latter avenue is important to pursue for financial crime specialists. They have to understand that police investigations have priority in society and that their own role is limited by and should be supportive of police investigations.

Schneider (2006) argues that the walls that obstruct communication and mistrust and rivalries that thwart cooperation between government and the private sector policing agencies in combating crime must be torn down. The increased role of the private sector in crime control and order maintenance is not the beginning of the decline for public law enforcement. Rather, society has to rely on public resources for the rule of law in democratic societies.

Brooks and Button (2011) suggest a hybrid solution between private investigators and the police. If a suspect in an internal inquiry does not cooperate with private fraud examiners and the suspicion and evidence of white-collar crime is overwhelming, then the matter is turned over to the police.

Secrecy of Private Investigation Reports

Very often, clients and their investigators deny researchers and journalists insight into private internal investigation reports. Investigators argue that reports are the property of their clients, while clients argue that there are circumstances that prevent them from disclosing reports. In my search for private investigation reports, I met a variety of reasons why clients and their investigators denied me access to investigation reports. The reasons for secrecy fall into three main categories. First, there were reasons important to the investigated organization. Second, there were reasons important for the investigating firm. Finally, there were reasons important for the relationship between the investigated and the investigator.

Reasons important for the investigated company include:

1. *Damage*. The private investigation report includes business secrets that might be damaging to disclose to competitors.
2. *Disagreement*. Executives in the client organization disagree how to interpret the investigation report.

3. *Protection*. Many key individuals in the organization have provided sensitive information to the investigators. They need protection.
4. *Workload*. Before possible disclosure, someone needs to black out a number of words, such as names of suspected but innocent persons, which represents too much work.
5. *Discretion*. Top executives who initiated the inquiry do not like to see text about themselves leaking to the external environment.
6. *Property*. The *client* has paid investigators for the report and feels no obligation to disclose it to others.

Reasons important for the investigating firm include:

7. *Confidentiality*. Lawyers and other investigators have to respect the client-attorney privilege similar to medical doctors and psychologists.
8. *Error*. There are serious flaws, mistakes, errors, and shortcomings in the investigation report, which investigators do not want others to find out and learn about.
9. *Accusation*. The investigation report documents a number of unfounded accusations against individual persons.
10. *Failure*. Investigators were unable to answer the questions formulated by the client in the mandate.
11. *Misconduct*. Investigators ignored or violated protection against self-incrimination and other ethical guidelines.
12. *Criticism*. Investigators do not like the report to become a victim of criticism by researchers and commentators in the media.

Reasons important for the investigator-client relationship:

13. *Suspicion*. The investigation report describes suspicion toward individuals, which the client did not choose to follow up nor report to the police.
14. *Packaging*. The investigation report is impossible to read because of lack of clarity in its presentation.
15. *Termination*. The internal investigation was never completed.
16. *Evidence*. *Findings* from a private investigation can lose its value as evidence in a following police investigation and prosecution in the criminal justice system.
17. *Sensitivity*. Both client and investigator are afraid of breaking privacy law because of sensitive personal information in the report.

In addition, there is a problem of data protection legislation in some countries, which complicates the sharing of information.

Lack of Disclosure to the Police

The rule of law and criminal justice works in constitutional states by public prosecution and courts that are open to everyone to observe. If there are suspicions of violations of criminal laws in a country, it is important that knowledgeable sources communicate information about suspects to public authorities such as police investigators and public prosecutors. Disclosure of investigation reports is a necessity in cases of criminal offenses. Preferably, investigation reports should not only reach the attention of the police but also reach citizens through the media.

However, many financial crime specialists consider their reports as the sole property of their clients, since clients pay for the job and the result in the shape of investigation reports. They consider their work as a piece of consulting assignment or legal advice, which might be protected by the client-attorney privilege (Schechtman 2014).

As a key issue in private investigations, disclosure is required to ensure criminal justice by avoiding privatization of prosecution and conclusion (verdict). Therefore, all reasons for secrecy are indeed questionable in cases of obvious crime suspicions. Reasons for secrecy include damage, confidentiality, suspicion, error, accusation, failure, misconduct, packaging, disagreement, termination, protection, evidence, workload, discretion, sensitivity, property, and criticism. These are reasons for not disclosing private investigation reports to the public.

Even worse are reasons for not disclosing private investigation reports to the police. Here are some of them.

First, there is a group of reasons concerned with business and enterprise management:

1. *Control.* The client organization loses control over the subject matter. By hiring examiners from an auditing firm or law firm, the client organization pays for the investigation and is the owner of the investigation report. Thus, the client has complete control over the information that flows to and from the investigation. The client has complete control regarding the following steps or no steps at all. The client can decide to terminate the investigation or let an investigation report rest on the shelf. The client can decide whether or not to disclose investigation results. If inquiry results are handed over to the police, the client loses control over information and what happens next. When the police go into the matter, management no longer has control, and circumstances can be revealed that are unpleasant for themselves. Maybe management launched its own investigation precisely to resolve the matter internally, irrespective of whether or not criminal offenses had occurred. Management intended to clean up own mess in own house – with minimal noise and attention. External interference from the police could make internal problem-solving difficult. Police interference may damage or delay internal problem-solving processes. These are some of the reasons why control is more important to some organizations than a fair and transparent prosecution of offenses in public courts of democratic societies.

2. *Reputation.* If it becomes known that the police are investigating the case, it could lead to negative publicity and financial loss, in line with disclosure as described above. For example, law-abiding employees who are attractive on the labor market could choose to leave. Qualified external candidates could choose not to apply. While a private investigation can be communicated as something positive, a police investigation is almost always perceived in the market as something negative. The company does not want the negative publicity which a prosecution of a former chief executive typically will entail. The company will not enjoy or have any benefit from the former executive being imprisoned. Internal solution to internal crime could enhance internal confidence in the company and reduce risks of future criminal activities. External interference from the police might create an impression of the company being unable to handle and solve internal problems. If a criminal case becomes known to the police, law enforcement will typically arrive with a search warrant at company premises, and soon there will be all negative news about the company all over the media. This could make customers less reluctant to continue business with the company (Dupont 2014).
3. *Exclusion.* As long as the company is under investigation by the police, the company may be put on hold for contracts in both the public and private sectors. Customers will generally be more reserved toward the company. The same can happen with suppliers because they are uncertain about the outcome of a police investigation. Both customers and suppliers may experience criticism for entering into agreements with a company under investigation. If an investigation is followed by prosecution and conviction, and if the company is sentenced to a fine and/or executives are sentenced to prison, then the company may be permanently excluded from business with public sector organizations such as the World Bank.
4. *Effort*. Crime is not reported because it takes too much time and effort. The police will ask for all kinds of documentation and access to computers. If the police opens an investigation, then key employees will have to spend time in police interviews, and executives will have to spend time explaining to police officers how the organization operates. Instead of spending time with and for the police, the business prefers to spend time with customers and developing new products.

Next, there is a group of reasons concerned with consequences of law enforcement:

5. *Penalty.* Reaction against the company may be a reason for not going to the police. The company hopes it can keep the matter hidden and thus not losing money as they would have to pay a potential fine. Generally, the consequences of going to the police are considered greater than keeping the matter hidden.
6. *Protection*. Shielding both individuals and the organization from police investigation is yet another reason for not disclosing evidence of white-collar crime to the police. In a police investigation, people other than those who were subject to negative attention might emerge in a bad light and possibly end up being indicted,

prosecuted, and convicted. This is desirable for neither board members nor executives, especially if suspicions may turn against them. They have the power and resources to prevent critical examination of their own conduct. Generally, the outcome of a police investigation can become something completely different from what the company wants. Police involvement does more harm than benefit the business.

7. *Bargaining*. Plea bargaining is available to a varying degree in different countries. Where this option is limited or nonexistent, people will be even less reluctant to report suspicions of white-collar crime to the police. A plea bargain is an agreement in a criminal case between the prosecutor and the defendant whereby the defendant agrees to plead guilty to a particular charge in return for some concession from the prosecutor. This option is available in the United States for both fine sentences (corporations) and prison sentences (individuals). In Norway, this option is available only for fine sentences, where it is possible for corporations to reveal information to the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim) and then negotiate the magnitude of the fine. Individuals, however, are not allowed to negotiate with Økokrim for potential prison sentence reduction. Germany is similar to the United States, but documentation requirements are strict. In Italy, emphasis is put on strengthening the position of the prosecution in society, and many consider bargaining option as a step in the wrong direction. In the Netherlands, bargaining takes place without any requirement of public insight and without court control. In the United Kingdom, there are strict rules requiring public disclosure of plea bargaining agreements. In France, plea bargains can be made without any confession from the defendant, while cases involving confessions must be approved by the courts. In Sweden, there is room for dialogue between the parties. But to the extent agreements are made, they need to be approved independently by the Swedish courts (Søreide 2014).

Third, there is a group of reasons concerned with lack of trust in the police:

8. *Passivity*. Police often demonstrate passivity when approached about possible offenses. Many cases are dismissed without investigation. A survey by Norway Security Council (2014) shows that 75% of companies that responded to the survey agreed with the statement that crime is not reported because the police usually dismiss the case without proper inquiry. However, notice that in our current study, 64% of cases referred to the police resulted in convictions. Thus, this reason might have more to do with perception than reality.
9. *Competence*. Investigating white-collar crime suspicions require highly specialized expertise, which is often not available in the police at the time a potential financial crime is reported to law enforcement. For years, forensic accountants from the private sector have been used by government agencies in proceeds of crime investigations and prosecutions. Professional services firms can offer so much more than the police: risk assessments, regulatory compliance services, policy and program development, training, due diligence, detecting suspicious transactions, and asset tracking and recovery (Schneider 2006).

10. *Capacity*. There is an inability of the state to unilaterally cope with the rising tide of economic crime due to limited resources. Police officers with training in financial crime investigations are hired by professional services firms where they can double or triple their salary as financial crime specialists.

Finally, there is a group of reasons concerned with different judgment:

11. *Failure*. Just like a private investigation can fail to establish the facts, so police investigations can fail to find the truth about a negative incident. If police investigations are expected to end up in nothing, why bother involve the police, some organizations may certainly argue. Again, this perception might not reflect the reality correctly, since in about two thirds of the cases reported to the police in our sample, the perpetrators were brought to justice. Alternatively, it can be that these were the cases with the strongest evidence of wrongdoing, and thus they do not represent the other cases that were not brought to police attention.
12. *Trifle*. The organization considers what happened to be an insignificant issue. White-*collar* offenders operate with relative impunity because of widespread apathy in both private and public contexts. The organization has tolerance and leniency toward internal criminals in trusted positions. While penalty laws tell otherwise, white-collar criminals are not considered real criminals, when compared to street criminals. For both insiders and outsiders, it is not quite clear where the line can be drawn separating aggressive or inventive business practices from illegal activities. Secrecy of findings versus the police need not be a conscious act in the sense that something shall be hidden and someone shall be protected. It may be that the one who commissioned the investigation has a different perception of the severity of investigators' findings than the examiner and/or the police. An example is the military equipment manufacturer Kongsberg Group which was investigated by PwC for possible corruption in Rumania. Kongsberg Group management did not find examination results serious. They considered it to be trivial findings. That was the official explanation of chairman Jebsen and chief executive Qvam. This case became publicly known after Norwegian police had learned about it from a whistle-blower.

In the case of Betanien Foundation as presented earlier in this book, chairperson of the board, Christian Hysing-Dahl, was reluctant to report the embezzlement by the CEO to the police out of two main reasons (BDO 2014; Drammen tingrett 2014; Eikefjord 2015). First, he was afraid of losing contracts with municipalities for nursing home services. Next, he was afraid of internal negative reactions to prosecution of the popular priest.

Secrecy to the police is a far greater question in society than cost-benefit for the company involved. Private internal inquiries are of concern because they involve a privatization of police investigations of potential punishable acts.

While some private inquiries come up with trivial findings as perceived by the client, it happens that the business firmly believes there has been a crime and goes to the police with their findings. But then the police may dismiss the case, which evokes very negative reactions from the ones who reported the offense.

More frequently, however, seems the opposite to occur that the client does not think it is serious enough to go to the police. When the police learn about the case, then it turns out to be serious enough. When the police in Norway learned about a communication company having bribed officials in Rumania to get a contract, it turned out that PricewaterhouseCoopers had already investigated the matter and found misconduct. But top management at the communication company Kongsberg Group had decided not to disclose the investigation report.

Williams (2005) suggests the introduction of more rigorous protocols for the transfer of cases between the public and private sectors as well as the enactment of clearer guidelines for working relationships between industry practitioners and the police.

Again in addition, there is a problem of data protection legislation in some countries, which complicates the sharing of information.

Several theories can explain lack of disclosure to the police. When neutralization theory is applied, we can find the neutralization technique of denial of responsibility in several of the reasons.

Competence of Private Investigators

The competence of financial crime specialists and fraud examiners is varying to an extent that it represents a threat to the rule of law, privacy, and democracy. Some private investigators seem very professional, while others are not, as illustrated by the lifting of the cloak on a largely hidden world of investigations showing some of the key aspects of the cases, the key events, and the key results. Especially lawyers seem to suffer the danger of making many mistakes in private investigations, since they are not trained detectives.

The Institute of Counter Fraud Specialists (ICFS) was founded as a result of the United Kingdom government's initiative to professionalize public sector fraud investigation. The institute exists to further the cause of fraud prevention and detection across all sectors of the United Kingdom and abroad. The membership of the ICFS is made up of accredited counter fraud specialists who have successfully completed the government's professionalism in security training (Button et al. 2007a, b; Button and Gee 2013). In the accredited counter fraud specialist handbook by Tunley et al. (2014), mandatory elements of the accreditation are covered.

Tunley et al. (2014) stress the importance of the following elements to develop the competence of private investigators:

- A prescribed professional training which develops investigative skills
- A common ethical framework for the deployment of those skills
- A professional accreditation board to regulate those who are accredited as a result of successfully completing the professional training
- A center of excellence to innovate and to highlight emerging best practice

While the government in the United Kingdom took the initiative and is involved in the requirements to and training of fraud specialists, it is all left to the private sector in the United States. Both ACFS and CFCS (2013) are voluntary programs by practitioners. In addition, the US training seems to be much more recipe oriented, where normative messages on what investigators should do dominate their manuals. There seems to be a lack of academic link to research and evidence related to private investigation performance. ACFE Norway Chapter had 14 certified and 15 active normal members in 2014. About 90% of the members work in public or private auditing functions.

In the United Kingdom, the brief overview by Button et al. (2007a, b) illustrates the innovative development of partnerships between counter fraud agencies and universities in developing lifelong learning routes that lead to professional qualifications. Button et al. (2007b) argue that the CFS has become the most common type of fraud investigators in the United Kingdom.

Gill and Hart (1997) argue that to achieve professional status, investigators have to lift their competence to quite different levels. This is a particular challenge in countries such as Norway, where people are not required to undergo any form of training in order to set up as private investigators.

Competence can be defined as the sum of knowledge, skills, and attitudes. While knowledge can be acquired in a school setting, skills and attitudes are mainly developed in practical training. Knowledge is defined as information combined with reflection, interpretation, and context.

Financial crime specialists have to develop their thinking styles, so that different thinking styles can be applied to different situations. Distinctions can be made between the method thinking style for correct and by-the-book inquiries, the challenge thinking style for stakeholder considerations, the skill thinking style for relationships, and the risk thinking style for complete unorthodox procedures. Often, a combination of all these four thinking styles is needed in an investigation, but the importance of each of them will depend on the situation.

Private investigators need to have the competence to successfully apply a number of strategies: knowledge strategy for understanding and insights, information strategy for evidence, system strategy for analysis, method strategy for information collection, and value shop strategy for investigation procedure.

Limits by Investigation Mandate

The client defines a mandate for the investigation, and the investigation has to be carried out according to the mandate. The mandate tells investigators what to do. The mandate defines tasks and goals for the inquiry. The mandate is an authorization to investigate a specific issue or several specific issues by reconstructing the past.

The mandate can be part of the blame game, where the client wants to blame somebody while at the same time diverge attention from somebody else (Datner

2011; Eberly et al. 2011; Farber 2010; Hein 2014; Hood 2011; Keaveney 2008; Lee and Robinson 2000; Shepherd et al. 2011; Slyke and Bales 2012). Some are too powerful to blame (Pontell et al. 2014). The mandate can be part of a rotten apple or rotten barrel approach, where attention is either directed at individuals or at systems failure (Ashforth et al. 2008; Gonin et al. 2012; Keaveney 2008; O'Connor 2005; Punch 2003). Anchoring of suspicion can be unintentionally or purposely be misplaced in the mandate.

Unfortunately, many private investigators blame the mandate for not doing a proper job. They argue that they only did what they were told to do. However, the investigator is not obliged to accept the mandate. If the mandate is way off what the investigator thinks is fair and ethically right, it is appropriate for the investigator not to accept the assignment. If the mandate is unacceptable but the client is willing to change it, then client and investigators modify the mandate so that it is acceptable to both parties. Risking losing the contract might be a concern, but integrity is more important in the long run for financial crime specialists.

The inquiry has to be carried out according to the mandate. If investigators identify new leads that are not consistent with the mandate, they have to check it out and get it approved by the client. If the client disapproves and investigators find the lead critical, investigators may choose to terminate the assignment.

The mandate represents a mutual initial assessment of what needs to be done in the investigation. As the examination progresses, initial assumptions may prove wrong, incomplete, or misleading, making both client and investigators willing to rewrite the mandate or add issues to the mandate. Revising a mandate or adding corrections to the mandate is not uncommon and should be done whenever appropriate. A mandate may turn out to be both incomplete and misleading, thereby requiring a revision or an addendum.

A badly formulated mandate can be misleading for investigators and also represents possible avenues for opportunistic behaviors by investigators. Rather than getting to the core of the matter, an investigation may end up avoiding touching and inflamed issues. Rather than spending resources on difficult issues, investigators may end up solving the simple issues, thereby completing the assignment quickly and making a business profit on the project. Investigators can take advantage of positions of professional authority and power as well as opportunity structures (Kempa 2010).

Principles for Regulation

In most countries, the investigation business is completely unregulated. While police investigations are regulated, the private equivalent is not subject to oversight. There may be some guidelines for professionals in the business, such as auditors and lawyers, but the investigation business as such is free of laws, regulations, and oversight that could tell them what to do and how to do it.

Table 13.1 Testing of suggested principles

#	Suggested principles for regulating the private investigation business	A	S
1	A private investigator in fraud examination who conceals or withholds information relating to suspected financial crime from the police commits a punishable offense	5.1	1.5
2	A private investigator in fraud examination utilizing an unfair method or disproportionate method commits an offense, even if the method or procedure itself is not illegal	3.0	1.2
3	A private investigator in fraud examination should be authorized, certified, and registered	5.5	1.6
4	A private investigator in fraud examination who performs the inquiry in conflict with a police investigation commits an offense	4.1	1.4
5	Attorneys and others, who perform private investigations and uncover likely financial crime, cannot hide behind the client-attorney privilege, because such secrecy is an offense	3.8	1.5
6	A private investigator in fraud examination, who causes unreasonable harm to anyone during the inquiry or as a consequence of the inquiry, is liable to the victim	3.8	1.6
7	A private investigator in fraud examination has an independent responsibility if necessary to move beyond the mandate if suspected financial crime exacerbate during the inquiry	5.2	1.3
8	The examiner shall complete the investigation and even cover the cost of the inquiry if a stronger suspicion of financial crime has occurred and if the client is not willing to pay for the extension	3.5	1.8
9	The report of investigation shall document that the examiner has established if, how, where, when, and why and by whom misconduct or crime was committed to substantiated suspects' guilt as well as innocence	5.5	1.2
10	The investigator has an independent duty to regret later against persons who turned out to be innocent by a formal statement of apology	4.5	1.8
11	A private investigator in fraud examination who poses as police officer, assumes a police role, or pretends with police authority commits an offense	5.3	1.3
12	A victim of a private inquiry may seek damage compensation in a fund financed by the investigation business	4.1	1.4
13	An investigated person shall have full access to information that the private investigator has registered about the person	5.0	1.8

A average score, *S* standard deviation

To develop principles for the regulation of fraud examinations by the investigation business, a number of ideas were developed and tested. The test was performed by presenting suggested principles to business school students who in the spring term 2017 attended a financial crime course on private internal inquiries. Students were asked to what extent they agreed or disagreed with each statement.

Results are presented in Table 13.1. There are a total of 13 suggested principles that students scored on a scale from 1 (completely disagree) to 7 (completely disagree) where 4 then means that the respondent neither agrees nor disagrees.

Students agree with the first statement, since they had an average score (A) of 5.1 with a standard deviation (S) of 1.5. Students on average disagree with the second principle. Overall, students agree with 9 out of 13 principles. It is interesting to note

that students agree the most with a principle concerning authorization, certification, and registration of private investigators and with a principle concerning requirements for the contents of an investigation report.

On the other hand, students disagree most strongly with a principle suggesting that a private investigator in fraud examination utilizing an unfair method or disproportionate method commits an offense, even if the method or procedure itself is not illegal.

As measured by the standard deviation, students disagree among themselves mostly regarding statements 8, 10, and 13 that are concerned with completion of investigation, apology, and access to information, respectively. Students agree among themselves mostly regarding statements 2 and 9 that are concerned with investigation methods and investigation reports, respectively.

Students were also asked in an open-ended question to suggest his or her principle for regulating the investigation business. Not all students filled in a response, and these are the responses received from students (with comments in brackets):

1. The examiner is entitled to economic dividends as a result of the suspect in the organization being convicted. (Disagree; as neither the client nor the police seems obliged to pay a dividend in this situation).
2. There should be some guidelines for what should be included in an investigation and how to investigate. (Agree; but this statement is in itself no guideline).
3. Requirement to follow Bar Association guidelines for investigations. (Agree; as the Norwegian Bar Association has indeed documented some guidelines that mainly look at the legal side, such as right of contradiction and right to remain silent to avoid self-incrimination).
4. Openness around the inquiry that allows the innocent to more easily defend themselves. (Agree; to the extent that the openness is toward the innocent and not openness in general about individuals that are subject to an investigation).
5. Examiners conducting the investigation must have expertise in the area they will examine, for example, have insights into bribers and bribed when investigating corruption. (Agree; as there is a variety of investigation assignments that vary in the area of expertise needed).
6. It should not be possible for the client to limit the inquiry by mandate and payment. A liability for the client may occur if the investigator will need to do more than the mandate suggests and then finds something. (Agree; to the extent that the liability is agreed between client and examiner in advance of the investigation).
7. An investigator is allowed to use illegal means when there is suspicion of economic crime. (Disagree; a private investigator should always work consistent with the law, similar to police investigators who have special rules and regulations that apply to their activities).
8. A private investigator is obliged – unless there are special circumstances such as privacy – to disclose the investigation report to the media so that control of the report is secured. (Agree; since organizational transparency is particularly

important when people in the organization are suspected of misconduct and crime).

9. Reports should be public. (Agree; disclosure should not only be to the media but also to the public in general, to avoid journalistic shortcuts for the audience).
10. All investigations should be kept public to ensure general trust in companies affected by economic crime. All those who commit economic crime should be caught by the justice system, so that they learn and get the implications for their actions. (Agree; since private investigations can be defined as a substitute for public investigations, or at least as a preliminary investigation ahead a potential public investigation by the police).
11. A private investigator should follow strong ethical and moral guidelines in dealing with an inquiry and to the extent it does not conflict with the law be open about the results by publishing them. (Agree; ethical standards and investigation transparency are both important issues in the regulation of the investigation business).
12. Investigation reports shall be published. (Agree; as transparency is often lacking but very important).
13. The private investigator should explicitly inform all parties if the report is biased because the inquiry was done with the best interests of the client in mind, rather than the objective truth in mind. I think much of the problem lies in the relationship between examiner and client as seller and buyer of examination. Thus the relationship should be based on an understanding that avoids an examination to suffer under an economic motivation. (Agree; many reports seem to be the product of a loyalty of the investigator to the paying client and thus seem to be subjective).
14. The client is required to cover expenses, if the investigator will go beyond the mandate on suspicion of financial crime. (Agree; the client rather than the investigator should pay. This is in line with students' disagreement with statement 8 in Table 13.1, where a principle suggests that the investigator rather than the client should pay).
15. An investigator shall be independent and impartial in relation to both principal and suspects. (Agree; an examination is to reconstruct the past to find evidence both in favor of and in disfavor of suspects).
16. In an investigation, the right people should be interviewed. It seems that in many fraud examinations, only a few people are interviewed. These people are often hung out in the report. By interviewing more individuals, you can get a different view of the case. (Agree; as convenience samples rather than strategic samples of people for interviews seem to be frequently applied).
17. Loyalty to both the police and the mandate is important. A principle may be that the police should always be notified. (Agree; if suspicion of crime arises, then investigators should be obliged to notify the police, even if clients disagree).
18. Examiners should be able to report further if there is good reason for it. (Agree; a good reason is typically a strong suspicion of white-collar crime).

19. An examiner shall notify a person being examined and that the person is examined. (Disagree; in terms of the timing of information, where preliminary inquiries may prevent suspects from being informed).
20. An investigator shall at very strong suspicion of economic crime be entitled to claim the rest of the examination covered financially by the client. (Agree; as the client rather than the investigator should cover the costs, which is in disagreement with statement 8 in Table 13.1).
21. All internal investigations should be made public, with or without the consent of the client as the principal. The purpose is to make the social consequence of white-collar crime so significant that it may prevent other potential offenders in the future. (Agree; public awareness of elite wrongdoings may prevent other elite members from committing white-collar crime).
22. An investigation report should be written by an external author to ensure an objective assessment of the matter. (Agree; this is kind of obvious, since we define investigators as external who are hired by the client).
23. The investigation should be done by external parties without motive. (Agree; again this is obvious in our understanding of private internal investigations by outside fraud examiners).
24. Relevant expertise for carrying out the investigation should be a requirement. Unbiased examiners shall not be acquaintances of those being investigated. All investigation reports should be public. (Agree; as competence and transparency are two important issues in private internal investigations).
25. All investigations must have at least one person who is considered an expert with leading knowledge about critical issues in question. (Agree; the contingent approach to examinations implies that relevant examiner background depends on the specific challenges and issues at hand).
26. My suggestion is that information must be readily available. (Agree; but hard to interpret, may be an issue of transparency and publicity).
27. Several examiners should work more together to avoid partisan opinions and injustice. (Agree; as two or more investigators have to argue their assumptions, hypotheses, and conclusions).
28. All investigation reports that reveal irregularities should be public and be recorded in a register, so as to achieve the most uniform practice in cases and in consequences of reports. (Agree; this is yet another reason for making private internal investigations publicly available).

Based on responses to 13 suggested principles in Table 13.1 as well as 28 suggestions above, there seems to be some major principles emerging:

Principle 1: Organizational Transparency Results from private internal investigations must be made known to the media and the public in general. The purpose is to inform and to prevent future occurrences. There should be no more secrecy preventing society from learning about misconduct and crime in private and public organizations.

Principle 2: Law Enforcement Any suspect of financial crime should be reported to the police to be given a fair trial in the court after a professional police investigation and considerations by a prosecutor. There should be no more privatization of law enforcement whereby offenders are allowed to leave through the back door in the organization.

Principle 3: Cost Overrun If investigators have to continue their examinations beyond the agreed financial limit to collect solid evidence of crime, then the client has to pay for the extra expenses occurring. However, if investigators were on the wrong track, then they have to cover cost overruns themselves.

Principle 4: Formal Qualification A private investigator in fraud examination should be authorized, certified, and registered. An exam should be a requirement in addition to yearly updates on research results and new developments.

Student Evaluations

The need to regulate and professionalize the private investigation business becomes evident when reports of investigations are evaluated. A number of evaluations have already been presented in this book. Here an additional evaluation is added, which is based on student term papers. Based on student term papers in a financial crime class, a sample of investigation reports are allocated to levels in a maturity model. Overall, student evaluations of fraud examinations indicate that fraud examiners have a long way to go before their investigations can be characterized as innovative, optimal, profitable, strategic, extraordinary, outstanding, provident, value-oriented, advanced, learning-focused, valuable, irreversible, truth-based, socially responsible, exceptional, excellent, or perfect.

Stages of growth models for maturity levels can be applied to assess and evaluate a variety of phenomena (e.g., Röglinger et al. 2012; Solli-Sæther and Gottschalk 2015). In this section, we apply the concept of maturity levels to evaluate private internal investigations by fraud examiners (Brooks and Button 2011; Button and Gee 2013; Button et al. 2007a, b; Schneider 2006; Williams 2005). The purpose of this section is to develop characteristics of investigations at different maturity levels.

This research is important, since reports of investigations tend to be kept secret and never are disclosed to the media or the public or even law enforcement (Gottschalk and Tcherni-Buzzeo 2017). Exceptions in the United States include Valukas' (2010) investigation at Lehman Brothers and Valukas' (2014) investigation at General Motors.

Based on publicly available investigation reports completed in 2016 and 2017 in Norway, a class of students in a business school was asked to evaluate maturity levels in their term paper in the spring of 2017. Student evaluations are presented in this article to illustrate the diversity of maturity levels in private internal investigations.

We have selected a few publicly available reports of investigations that were written by fraud examiners in private internal investigations in 2016. We make a short presentation of these reports here, before we move to students' evaluations of these investigations.

Telenor VimpelCom Investigation

Deloitte (2016) investigated Norwegian telecom company Telenor concerning Telenor's oversight and handling of the company's ownership in the Dutch telecom company VimpelCom. VimpelCom admitted to corruption related to investments in Uzbekistan.

Telenor executives were on the Supervisory Board of VimpelCom.

Deloitte (2016: 2) identified misconduct, but no crime:

> Several serious red flags in connection with VimpelCom's entry into the Uzbekistan telecom market were identified and discussed at a board meeting in December 2005 and at a board meeting in October 2007. Undoubtedly, such red flags should significantly raise the Supervisory Board's duty of care with regard to the proposed transactions and agreements related to the entry into the Uzbekistan telecom market.

Drammen Municipality Investigation

Deloitte's (2017) review was based on the control committee's mandate, which essentially deals with organizational conditions. Deloitte had to take into account that there was a police investigation going on in parallel. Investigators from Deloitte collected data through document analysis, interviews, and review of 58 building cases, which had been processed in the municipality's building permit department. Two employees in the department were already charged for corruption by Norwegian police.

DNB Bank Investigation

Hjort (2016) was to carry out a fraud examination of Norwegian bank DNB's knowledge of and involvement in tax havens such as the Seychelles. Investigators concluded that there was misconduct, but no crime. Investigators suggested that there was misconduct because the bank's tax haven practice was damaging the corporate reputation for the bank. The main perspective applied by investigators was corporate reputation.

Police Immigration Investigation

KPMG (2016) was to carry out a fraud examination among executives in the Norwegian Police Immigration Unit based on concerns expressed by whistle-blowers. Whistle-blowers attempt to disclose information about what they perceive as illegal, immoral, or illegitimate practices (Atwater 2006; Bjørkelo et al. 2011; Vadera et al. 2009; Vadera and Aguilera 2015). However, management at the immigration unit turned the internal investigation against the main whistle-blower. Concerning the working climate, investigators did not blame managers but suggest instead that there are serious conflicts involving the main whistle-blower who was also an ombudsman in the organization (KPMG 2016: 2):

> From September 2015 until summer 2016, the ombudsman's notices, reports and use of media to promote his own views indicate that the accusations against the three were repeated, and that the accusations escalated severely. We have conducted two interviews with the ombudsman, who in June 2016 chose to withdraw his explanations. The ombudsman has thus not wanted to contribute to help investigate matters that he himself had reported.
>
> The repeated allegations and patterns of action of the ombudsman are in our view regarded as misconduct. In our view, a major part of the ombudsman's conduct goes beyond the right to waive and the requirement for proper warning procedures. As of September 2015, this involves serious integrity violations of police employees who are particularly dependent on trust.

Nordea Bank

Mannheimer (2016) investigated Scandinavian bank Nordea, which is headquartered in 19 countries around the world, operating through full-service branches, subsidiaries, and representative offices. Nordea International Private Banking has its headquarters in Luxembourg with branches in Switzerland and Singapore. Nordea is the largest bank in Scandinavia. Nordea has despite warnings from the Swedish Financial Supervisory Authority been active in offshore structures in tax havens as leaked in the Panama Papers. The Nordea section in Luxembourg has in the years 2004–2014 founded nearly 400 offshore companies in Panama, the British Virgin Islands and the Seychelles for its customers. The Swedish authority has pointed out that there are serious deficiencies in how Nordea monitors money laundering as well as tax havens.

Mannheimer (2016: 11) identified misconduct, but no crime:

> The investigation has found deficiencies in the procedures regarding renewal of Powers of Attorney (POA). In at least seven cases investigation has shown that backdated documents have been requested or provided during the last six years, which is illegal when it aims at altering the truth. The previous backdating of a POA took place in 2012, and the backdating of a proxy took place in 2014. However, to be convicted of the criminal offence of forgery or of use of forgery, certain conditions need to be met cumulatively. These conditions do not all seem to be met for the cases at hand. At least one of the conditions seems not to be met,

which is the clear benefit or illicit advantage of the employee asking for backdating, the bank or another third party or causing prejudice or potential prejudice to a third party.

Grimstad Municipality

BDO (2016) was to investigate how the largest private supplier of healthcare services to the municipality got all the contracts. The report of investigation states that management in the municipality has known of the violations of public procurement regulations for several years without doing anything that could correct the deviant practice. Investigators emphasize in the report that the scope of the illegal agreements would never have been known, if it had not been for the local newspaper's investigative journalism into the matter. However, investigators did not get to the bottom of the case because the municipality provided very limited funding to the fraud examiners.

In the financial crime class in a business school in Norway in the spring term 2017, students were asked to evaluate a report of investigation from a private internal investigation by fraud examiners. Students had to identify and retrieve a publicly available report that was completed in 2016 or 2017. A total of 93 evaluation term papers were submitted by 190 students who were allowed to write there evaluations alone or in groups of two or three students.

Students were asked first to develop their own maturity models with five stages and then assign their respective investigation reports to one of the levels in the model in Fig. 13.1.

1. *The investigation was a chaos*. The investigation caused more confusion than before the examination was initiated. The investigation was insufficient, inadequate, surface-oriented, a waste of time, useless, passive, unprofessional, worthless, immature, unacceptable, bad, meaningless, fruitless, awful, and chaotic. The investigation was a failure and a disaster.
2. *The investigation was a mess*. Nothing came out of the investigation. The investigation was random, amateur, formalities focused, somewhat good, sufficient, descriptive, problem-oriented, neutral, unsystematic, inadequate, activity-oriented, shortsighted, fruitless, deviations-oriented, reactive, questions-oriented, and messy. The investigation lacked scrutiny, was a collection of information without analysis, and was filled with assumptions.
3. *The investigation was a disclosure*. Some new facts was identified and documented in the investigation. The investigation was focused, competence-oriented, average, biased, targeted, systematized, integrated, moderate, indifferent, standard, competent, cause-based, revealing, and disclosure-oriented. The investigation was problem-oriented and limited by the mandate.
4. *The investigation was a clarification*. The investigation was able to reconstruct past events and sequences of events. The investigation was responsible, detailed, conscientious, sufficient, professional, neutral, unprejudiced, integrated,

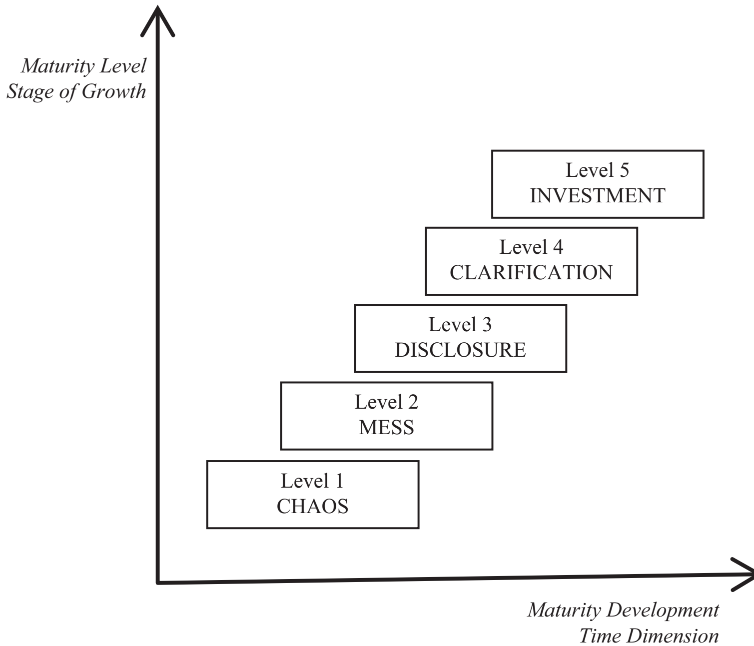

Fig. 13.1 Maturity model for internal private investigations with five stages

proactive, preventive, mature, competent, systematic, professional, explorative, immaculate, expedient, truth-seeking, facts-based, complete, independent, and clarifying. The investigation added value.

5. *The investigation was an investment*. The investigation made a valuable contribution to the organization, where investigation benefits exceed investigation costs. The investigation was 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 was a masterpiece and enrichment for the client and society.

The words used above to describe each stage are all derived from the student term papers.

Students were also asked to grade the investigation based on a scale from A to F, where A is a top grade and F is a failing grade. There were 4 A, 27 B, 22 C, 21 D, and 7 E, while there were no F, and 12 term papers were lacking a grade from the students. Students assigned the best grade A to Deloitte's (2017) investigation of corruption in Drammen Municipality and to Mannheimer's (2016) investigation of tax haven practices at Nordea Bank in Sweden.

Similarly, students were asked to place the investigation on the maturity scale from level 1 to level 5. One investigation was placed at level 1 chaos, 10 investigations were placed at level 2 mess, 23 investigations were placed at level 3 disclosure,

21 investigations were placed at level 4 clarification, and 6 investigations were placed at level 5 investment. Thirty-two out of 93 term papers were lacking a level indication from the students. Students assigned the highest level 6 to Deloitte's (2017) investigation of corruption in Drammen Municipality and to Mannheimer's (2016) investigation of tax haven practices at Nordea Bank in Sweden.

We expected to find strong correlation between grade and maturity, and so we did: A correlation coefficient of 0.749** implies that a higher maturity level is strongly correlated with a better grade from students.

It is also interesting to study correlation between grades that the students received from examiners and the grade students assigned internal investigations. 17 student term papers got the grade A, and there were 19 B, 22 C, 18 D, 9 E, and 8 F. Interestingly enough, the correlation coefficient is −0.276** that implies a negative evaluation of private investigations by students who wrote good terms papers. This result might be explained by the fact that good student answers found several issues in the investigation reports that could be problematized.

The number of students on each term paper could influence student assessments. Correlation analysis indicates that there is no significant covariation between the number of students and the grade students give to investigations. There is, however, a significant covariation between the number of students and the maturity levels that students assign to investigations. This covariation is negative with a coefficient of −0.300*, which implies that more students on the term paper are more skeptical to the maturity of internal investigations. This might be explained by more students finding more flaws in private internal investigation reports.

A final correlation analysis might be to study whether groups of two or three students perform better or worse than single students in terms of grades from examiners. A somewhat surprising result is that more students on the term paper caused declining performance as the correlation coefficient between grade and students is −0.215*. The examiner places the same requirements on term papers written by one student and by several students.

One possible explanation for this somewhat surprising result is that people who join groups tend to expect more from others than from themselves. Thereby, subtasks may fall between chair and not picked up by anybody. Another explanation might be that weak students prefer to join groups to make sure that they survive the exam.

We return now to the publicly available reports of investigations available to students for their term papers. In Table 13.2, the client organization for the private internal investigation is listed first, followed by the auditing firm or law firm that conducted the fraud examination. The following column lists students' assessment of the investigations in terms of grade. Students found the investigation by Mannheimer (2016) to be most successful and the investigation by KPMG (2016) to be least successful by assigning average grade of B+ and D, respectively. This result is also reflected in the next column, where the average maturity levels are 4.5 and 2.4 for Mannheimer (2016) and KPMG (2016), respectively.

Those students who evaluated the Drammen Municipality investigation by Deloitte (2017) handed in the best term papers (average grade B+), while students

Table 13.2 Students' evaluation of internal investigations in their term papers

#	Client organization for investigation	Fraud examiner for investigation	Ex. grade	Ex. matur.	# of papers	Paper grade
1	Telenor VimpelCom	Deloitte (2016)	C	3.4	17	C+
2	Drammen Municipality	Deloitte (2017)	B⁻	4.1	32	B+
3	DNB Bank	Hjort (2016)	D+	2.6	22	C+
4	Police immigration	KPMG (2016)	D	2.4	7	C+
5	Nordea Bank	Mannheimer (2016)	B+	4.5	2	B
6	Grimstad Municipality	BDO (2016)	D+	3.3	7	C⁻
–	Others	–	–	–	6	–
–	*Average/Total*		*C*	*3.3*	*93*	*C*

who evaluated the Grimstad municipality investigation handed in the worst term papers (average grade C-).

As listed in Table 13.2, the most popular investigation report among students was the Deloitte (2017) investigation at Drammen Municipality that was evaluated in 32 student papers.

In conclusion, based on terms papers by students in a financial crime class in a business school in Norway, maturity levels for private internal investigations by fraud examiners were defined. Sample investigations were assigned to different levels in the maturity model. Student evaluations indicate that fraud examiners have a long way to go before their investigations can be characterized as innovative, optimal, profitable, strategic, extraordinary, outstanding, provident, value-oriented, advanced, learning-focused, valuable, irreversible, truth-based, socially responsible, exceptional, excellent, and perfect.

References

ACFE. (2014). *Report to the nations on occupational fraud and abuse, 2014 global fraud study*. Austin: Association of Certified Fraud Examiners.

Ashforth, B. E., Gioia, D. A., Robinson, S. L., & Trevino, L. K. (2008). Re-reviewing organizational corruption. *Academy of Management Review, 33*(3), 670–684.

Atwater, K. (2006). Whistleblowers enforce procurement ethics. *American City & County*, published October 23. http://americancityandcounty.com/mag/whistleblowers-enforce-procurement-ethics

BDO. (2014). *Gransking av Stiftelsen Betanien Bergen (Examination of the Foundation Betanien Bergen) – Anonymisert og revidert sammendrag (Anonymised and revised summary)*, auditing firm BDO, Oslo, 10 pages.

BDO. (2016). *Rapport til kontrollutvalget. Undersøkelse om kjøp av helsetjenester i Grimstad kommune (Report to the control committee. Review of health services procurement in Grimstad municipality)*, auditing firm BDO, Oslo.

Bjørkelo, B., Einarsen, S., Nielsen, M. B., & Matthiesen, S. B. (2011). Silence is golden? Characteristics and experiences of self-reported whistleblowers. *European Journal of Work and Organizational Psychology, 20*(2), 206–238.

Brooks, G., & Button, M. (2011). The police and fraud investigation and the case for a nationalized solution in the United Kingdom. *The Police Journal, 84*, 305–319.

Button, M., & Gee, J. (2013). *Countering fraud for competitive advantage – The professional approach to reducing the last great hidden cost*. Chichester: Wiley.

Button, M., Frimpong, K., Smith, G., & Johnston, L. (2007a). Professionalizing counter fraud specialists in the UK: Assessing progress and recommendations for reform. *Crime Prevention and Community Safety, 9*, 92–101.

Button, M., Johnston, L., Frimpong, K., & Smith, G. (2007b). New directions in policing fraud: The emergence of the counter fraud specialists in the United Kingdom. *International Journal of the Sociology of Law, 35*, 192–208.

CFCS. (2013). *CFCS Certification Examination Study Manual* (4th ed.). Miami: Certified Financial Crime Specialist, Association of Certified Financial Crime Specialists.

Datner, B. (2011). *The blame game – How the hidden rules of credit and blame determine our success or failure*. New York: Free Press.

Deloitte. (2016). *Review – Ownership VimpelCom Telenor ASA*, signed Anne Helsingeng (partner, attorney-at-law) and Ingebret G. Hisdal (partner, special advisor). Oslo: Deloitte.

Deloitte. (2017). *Granskning. Byggesaksavdelingen – Drammen kommune (Investigation. Building permits – Drammen municipality)*, auditing firm Deloitte, Oslo.

Drammen tingrett. (2014, October 24). 14-035842MED-DRAM, *Drammen tingrett* (Drammen District Court).

Dupont, B. (2014). Private security regimes: Conceptualizing the forces that shape the private delivery of security. *Theoretical Criminology, 18*(3), 263–281.

Eberly, M. B., Holley, E. C., Johnson, M. D., & Mitchell, T. R. (2011). Beyond internal and external: A dyadic theory of relational attributions. *Academy of Management Review, 36*(4), 731–753.

Eikefjord, E. (2015). Dom som tilslører (Court ruling that covers up), daily Norwegian newspaper. *Bergens Tidende*, Wednesday, Janyary 28, p. 14.

Farber, N. E. (2010). *The blame game – The complete guide to blaming – How to play and how to quit*. Minneapolis: Bascom Hill Publishing Group.

Gill, M., & Hart, J. (1997). Exploring investigative policing. *British Journal of Criminology, 37*(4), 549–567.

Gjesdal, E. D. L. (2014). –Det er tull av Mohn (–This is bullshit from Mohn), local Norwegian daily newspaper *Bergens Tidende*, Sunday, December 7, p. 8.

Gonin, M., Palazzo, G., & Hoffrage, U. (2012). Neither bad apple nor bad barrel: How the societal context impacts unethical behavior in organizations. *Business Ethics: A European Review, 21*(1), 31–46.

Gottschalk, P., & Tcherni-Buzzeo, M. (2017). Reasons for gaps in crime reporting: The case of white-collar criminals investigated by private fraud examiners in Norway. *Deviant Behavior, 38*(3), 267–281.

Hein, M. (2014). *The blame game.*www.heinsights.com/.../theblamegamev2.doc

Hjort. (2016). *Rapport til styret i DNB ASA (Report to the board at DNB)*, law firm Hjort, Oslo.

Hood, C. (2011). *The blame game – Spin, bureaucracy, and self-preservation in government*. Princeton: Princeton University Press.

Hoogenboom, B. (2006). Grey intelligence. *Crime, Law and Social Change, 45*, 373–381.

Keaveney, S. M. (2008). The blame game: An attribution theory approach to marketer-engineer conflict in high-technology companies. *Industrial Marketing Management, 37*, 653–663.

Kempa, M. (2010). Combating white-collar crime in Canada: Serving victim needs and market integrity. *Journal of Financial Crime, 17*(2), 251–264.

KPMG. (2016). *Politiets utlendingsenhet. Faktaundersøkelse og vurdering (Police immigration service. Facts investigation and assessment)*, auditing firm KPMG, Oslo.

Lee, F., & Robinson, R. J. (2000). An attributional analysis of social accounts: Implications of playing the blame game. *Journal of Applied Social Psychology, 30*(9), 1853–1879.

Machen, M. J., & Richards, R. E. (2004). The use of fraud examiners in the battle against occupational fraud and abuse. *The Journal of Investment Compliance*, Winter, 67–71.

Mannheimer Swartling. (2016). *Governance Review, Report to Nordea Bank AB*, law firm (advokatbyrå) Mannheimer Swartling, Stockholm www.nordea.com, 20 pages.

Markopolos, H. (2010). *No one would listen – A true financial thriller*. Hoboken: Wiley.

Morgan, M., & Nix, W. (2003). CPA perceptions of the marketability, career enhancements and quality of services of certified fraud examiners. *The Southern Business and Economic Journal, 3*, 31–50.

Norway Security Council. (2014). *Moerketallsundersoekelsen (Shadow numbers survey)*. Norwegian Business Association Security Council. http://www.nsr-org.no/om-nsr/

O'Connor, T. R. (2005). Police deviance and ethics. In *Part of web cited, megaLinks in criminal justice*. http://faculty.ncwc.edu/toconnor/205/205lect11.htm

Pontell, H. N., Black, W. K., & Geis, G. (2014). Too big to fail, too powerful to jail? On the absence of criminal prosecutions after the 2008 financial meltdown. *Crime, Law and Social Change, 61*, 1–13.

Punch, M. (2003). Rotten orchards. "Pestilence", police misconduct and system failure. *Policing and Society, 13*(2), 171–196.

Renaa, H. (2012). *Norges integritetssystem – ikke helt perfekt? (Norway's integrity system – Not quite perfect?).* Oslo: Transparency International. www.transparency.no

Röglinger, M., Pöppelbuss, J., & Becker, J. (2012). Maturity models in business process management. *Business Process Management Journal, 18*(2), 328–346.

Schechtman, J. (2014). Are internal bribery probes private? Attorney-client privilege protections over corporate investigations led by outside law firms are eroding. *The Wall Street Journal*, October 11. http://online.wsj.com/articles/are-internal-bribery-probes-private-1413157700

Schneider, S. (2006). Privatizing economic crime enforcement: Exploring the role of private sector investigative agencies in combating money laundering. *Policing and Society, 16*(3), 285–312.

Shepherd, D. A., Patzelt, H., & Wolfe, M. (2011). Moving forward from project failure: Negative emotions, affective commitment, and learning from the experience. *Academy of Management Journal, 54*(6), 1229–1259.

Slyke, S. V., & Bales, W. D. (2012). A contemporary study of the decision to incarcerate white-collar and street property offenders. *Punishment & Society, 14*(2), 217–246.

Solli-Sæther, H., & Gottschalk, P. (2015). Stages-of-growth in outsourcing, offshoring and backsourcing: Back to the future? *The Journal of Computer Information Systems, 55*(2), 88–94.

Søreide, T. (2014). Forhandle med Økokrim? (Negotiate with the National Authority for Investigation and Prosecution of Economic and Environmental Crime?), daily Norwegian business newspaper *Dagens Næringsliv*, Wednesday, December 17, p. 3.

Stenning, P. C. (2000). Powers and accountability of private police. *European Journal of Criminal Policy and Research, 8*, 325–352.

Tunley, M., Whittaker, A., Gee, J., & Button, M. (2014). *The accredited counter fraud specialist handbook*. Chichester: Wiley.

Vadera, A. K., & Aguilera, R. V. (2015). The evolution of vocabularies and its relation to investigation of white-collar crimes: An institutional work perspective. *Journal of Business Ethics, 128*, 21–38.

Vadera, A. K., Aguilera, R. V., & Caza, B. B. (2009). Making sense of whistleblowing's antecedents: Learning from research on identity and ethics programs. *Business Ethics Quarterly, 19*(4), 553–586.

Valukas, A. R. (2010). *In regard Lehman Brothers Holdings Inc. to United States Bankruptcy Court in Southern District of New York*, Jenner & Block, March 11, 239 pages. http://www.nysb.uscourts.gov/sites/default/files/opinions/188162_61_opinion.pdf

Valukas, A.R. (2014, May 29). *Report to board of directors of General Motors Company regarding ignition switch recalls*, law firm Jenner & Block, 325 pages, http://www.beasleyallen.com/webfiles/valukas-report-on-gm-redacted.pdf.

Wells, J. T. (2003). The fraud examiners. *Journal of Accountancy*, October, 76–80.

Wells, J. T. (2007). *Fraud casebook: Lessons from the bad side of business*. Hoboken: Wiley.

Williams, J. W. (2005). Governability matters: The private policing of economic crime and the challenge of democratic governance. *Policing and Society, 15*(2), 187–211.

Conclusion

Internal investigations should uncover the truth about misconduct or crime without damaging innocent employees. It is a serious matter when an executive is alleged to be violating organizational rules or state laws. Typical elements of an inquiry include collection and examination of written and recorded evidence, interviews with suspects and witnesses, data in computer systems, and network forensics.

A good witness interview is one that enables the discovery of as many relevant facts as possible and an accurate assessment of the witness's credibility. The most accurate – and therefore most useful – interview report is one that is prepared very soon after the interview and based on the recollections and notes of participants.

Internal inquiries may take many forms, depending upon the nature of the conduct at issue and the scope of the investigation. There should be recognition at the outset of any investigation that certain materials prepared during the course of the investigation may eventually be subject to disclosure to law enforcement authorities or other third parties. The entire investigation should be conducted with an eye toward preparing a final report.

As evidenced in this book, private fraud examiners take on complicated roles in private internal investigations and often fail in their struggle to reconstruct the past in objective ways characterized by integrity and accountability.

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References

ACFE. (2008). *2008 Report to the nation – On occupational fraud & abuse.* Austin: Association of Certified Fraud Examiners.

ACFE. (2014). *Report to the nations on occupational fraud and abuse, 2014 global fraud study*. Austin: Association of Certified Fraud Examiners.

ACFE. (2016). *CFE code of professional standard*. Association of Certified Fraud Examiners. www.acfe.com/standards/

Adler, P. S., & Kwon, S. W. (2002). Social capital. Prospects for a new concept. *Academy of Management Review, 27*(1), 17–40.

Advokatforeningen. (2007). *Retningslinjer for private granskinger (Guidelines for private investigations)*. Oslo: Advokatforeningen (Norwegian Bar Association).

Aguilera, R. V., & Vadera, A. K. (2008). The dark side of authority: Antecedents, mechanisms, and outcomes of organizational corruption. *Journal of Business Ethics, 77*, 431–449.

Albrecht, C. C., Albrecht, W. S., & Dunn, J. G. (2001). Can auditors detect fraud: A review of the research evidence. *Journal of Forensic Accounting, II*, 1–12.

Albrecht, W., Albrecht, C., Albrecht, C., & Zimbelman, M. (2011). *Fraud examination.* Cengage Learning. www.cengage.com

Alibux, A. N. R. N. (2015). Criminogenic conditions, bribery and the economic crisis in the EU: A macro level analysis. *European Journal of Criminology, 12*(1), 1–21.

Anders, S. B. (2006, August). Website of the month: Association of Certified Fraud Examiners. *The CPA Journal, 76*(8), 71.

Ånestad, M. (2016). Formålet var å ramme gammel ledelse (The purpose was to harm the previous management), daily Norwegian newspaper *Dagens Næringsliv*, Monday, November 7, p. 10.

Ashforth, B. E., Gioia, D. A., Robinson, S. L., & Trevino, L. K. (2008). Re-reviewing organizational corruption. *Academy of Management Review, 33*(3), 670–684.

Atwater, K. (2006). Whistleblowers enforce procurement ethics. *American City & County*, published October 23. http://americancityandcounty.com/mag/whistleblowers-enforce-procurement-ethics

Bakken, J. B., Eriksen, M. R., & Hoemsnes, A. (2016). Ba om juridiske råd (Asked for legal advice), daily Norwegian business newspaper. *Dagens Næringsliv*, Wednesday, August 17, p. 10.

Bapna, R., Gupta, A., Rice, S., & Sundararajan, A. (2017). Trust and the strength of ties in online social networks: An exploratory field experiment. *MIS Quarterly, 41*(1), 115–130.

Baxter, J., Dempsey, J., Megone, C., & Lee, J. (2012). *Practical solutions for organisations seeking to promote and encourage integrity.* University of Leeds. icaew.com/academic

BDO. (2011). *Rapport til Lotteri- og stiftelsestilsynet vedr. gransking av stiftelsen Fadderbarnas Framtid (Investigation report about the foundation for adopted childrens' future)*, BDO, Erling

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https://doi.org/10.1007/978-3-319-68916-6

Grimstad and Morten Thorkildsen. https://lottstift.no/stiftelsestilsynet/files/2011/12/Rapport-til-Stiftelsestilsynet-fra-BDO-vedr-gransking-av-Fadderbarnas-Framtid.pdf, 46 pages.
BDO. (2013a). *Gjennomgang av anskaffelsesprosessen, konsulentinnleie og habilitet i Gassnova SF (Investigation report about procurement in Gassnova)*, 27 pages.
BDO. (2013b). *Gjennomgang av økonomiske bidrag til NVHF Forlag (Examination of economic support to NVHF Publishing)*, BDO, 20 pages.
BDO. (2014a). *Gransking av Stiftelsen Betanien Bergen (Examination of the Foundation Betanien Bergen) – Anonymisert og revidert sammendrag (Anonymised and revised summary)*, auditing firm BDO, Oslo, 10 pages.
BDO. (2014b). *Rapport til Norges idrettsforbund (Report to the Norwegian Sports Federation) – Faktautredning av enkelte opplysninger i boken "Fotballagenten" (Facts study of certain information in the book "The Football Agent")*, BDO, Oslo, powerpoint presentation, 4 pages.
BDO. (2014c). *Undersøkelse av påstander om inhabilitetsforhold i Andebu kommune (Investigation into allegations of disqualification in Andebu municipality).* BDO, Oslo, 23 pages.
BDO. (2014d). *Investigative report to the Coatesville Area School District.* http://casd.schoolwires.net/cms/lib8/PA01916452/Centricity/Domain/513/Forensic%20Audit.pdf, 54 pages.
BDO. (2016). *Rapport til kontrollutvalget. Undersøkelse om kjøp av helsetjenester i Grimstad kommune (Report to the control committee. Review of health services procurement in Grimstad municipality)*, auditing firm BDO, Oslo.
Beasley, M. S. (2003). SAS No. 99: A new look at auditor detection of fraud. *Journal of Forensic Accounting, IV*, 1–20.
Becker, T. E. (1998). Integrity in organizations: Beyond honesty and conscientiousness. *Academy of Management Review, 23*(1), 154–161.
Benson, M. E. (2013). Editor's introduction – White-collar crime: Bringing the offender back in. *Journal of Contemporary Criminal Justice, 29*(3), 324–330.
Benson, M. L., & Simpson, S. S. (2015). *Understanding white-collar crime: An opportunity perspective*. New York: Routledge.
Berkeley. (2013). *Report of investigation – Analysis of the National Futures Association's audits of Peregrine Financial Group Inc*. Berkeley Research Group, published January 29. http://www.nfa.futures.org/news/BRG/report_of_investigation.pdf, 160 pages.
Berry, L. L., Seiders, K., & Grewal, D. (2002). Understanding service convenience. *Journal of Marketing, 66*, 1–17.
Bie, F. (2012). *Rapport til Stavanger tingrett (Report to district court in Stavanger)*. Stavanger: Vierdal advokatfirma (law firm).
Bjelland, P. C., Franke, K., & Årnes, A. (2014). Practical use of approximate hash based matching in digital investigations. *Digital Investigation*. https://doi.org/10.1016/j.diin.2014.03.003
Bjørkelo, B., Einarsen, S., Nielsen, M. B., & Matthiesen, S. B. (2011). Silence is golden? Characteristics and experiences of self-reported whistleblowers. *European Journal of Work and Organizational Psychology, 20*(2), 206–238.
Blickle, G., Schlegel, A., Fassbender, P., & Klein, U. (2006). Some personality correlates of business white-collar crime. *Applied Psychology. An International Review, 55*(2), 220–233.
Block, A. A. (2001). *The organized criminal activities of the Bank of Credit and Commerce International: Essays and documentation*. Dondrecht: Kluwer Academic Publishers.
Bogen, T. (2008). *Hvor var du, historien om mitt liv (Where were you, the story of my life)*. Oslo: Schibsted Publishing.
Bookman, Z. (2008). Convergences and omissions in reporting corporate and white collar crime. *DePaul Business & Commercial Law Journal, 6*, 347–392.
Bosse, D. A., & Phillips, R. A. (2016). Agency theory and bounded self-interest. *Academy of Management Review, 41*(2), 276–297.
Bradshaw, E. A. (2015). "Obviously, we're all oil industry": The criminogenic structure of the offshore oil industry. *Theoretical Criminology, 19*(3), 376–395.
Breen, K. M., & Guberman, P. A. (2012). *Special investigative report regarding allegations of impropriety by Dr. C. Kern Wildenthal relating to travel and entertainment expenses paid for*

by University of Texas Soutwestern Medical Center, Paul Hastings LLP, University of Texas. http://www.lrl.state.tx.us/scanned/archive/2012/18224.pdf, 365 pages (main report 46 pages).
Brightman, H. J. (2009). *Today's white-collar crime. Legal, investigative, and theoretical perspectives*. New York: Routledge, Taylor & Francis Group.
Brooks, G., & Button, M. (2011). The police and fraud investigation and the case for a nationalized solution in the United Kingdom. *The Police Journal, 84*, 305–319.
Brustad, L., & Hustadnes, H. (2016). –Bjerke har forsømt lederansvaret uansett (-Bjerke has neglected the management responsibility regardless), daily Norwegian newspaper *Dagbladet.* www.dagbladet.no, published April 11.
Bucy, P. H., Formby, E. P., Raspanti, M. S., & Rooney, K. E. (2008). Why do they do it?: The motives, mores, and character of white collar criminals. *St. John's Law Review, 82*, 401–571.
Button, M., & Gee, J. (2013). *Countering fraud for competitive advantage – The professional approach to reducing the last great hidden cost*. Chichester: Wiley.
Button, M., Frimpong, K., Smith, G., & Johnston, L. (2007a). Professionalizing counter fraud specialists in the UK: Assessing progress and recommendations for reform. *Crime Prevention and Community Safety, 9*, 92–101.
Button, M., Johnston, L., Frimpong, K., & Smith, G. (2007b). New directions in policing fraud: The emergence of the counter fraud specialists in the United Kingdom. *International Journal of the Sociology of Law, 35*, 192–208.
Campbell, F. (1997). Journalistic construction of news: Information gathering. *New Library World, 98*(2), 60–64.
Carozza, D. (2009, May/June). Chasing Madoff. *Fraud Magazine.* http://www.fraud-magazine.com/article.aspx?id=313
Carson, D. (2013). Investigations: What could, and should, be taught? *The Police Journal, 86*(3), 249–275.
Cebula, R. J. (2012). Revisiting property crime and economic conditions: An exploratory study to identify predictive indicators beyond unemployment rates – Comment. *The Social Science Journal, 49*, 314–316.
Ceccato, V., & Benson, M. L. (2016). Tax evasion in Sweden 2002–2013: Interpreting changes in the rot/rut deduction system and predicting future trends. *Crime, Law and Social Change, 66*, 217–232.
CFCS. (2013). *CFCS Certification Examination Study Manual* (4th ed.). Miami: Certified Financial Crime Specialist, Association of Certified Financial Crime Specialists.
Chaffey, D., & White, G. (2011). *Business information management* (2nd ed.). London: Prentice Hall.
Chester Grand Jury. (2014). *Chester County 18th Investigating Grand Jury's report re: Coatesville Area School District*. Court of Common Pleas of Chester County. http://casd.schoolwires.net/cms/lib8/PA01916452/Centricity/Domain/513/Grand%20Jury%20Report%20CASD.pdf, 114 pages.
Coburn, N. F. (2006). Corporate investigations. *Journal of Financial Crime, 13*(3), 348–368.
Cohan, W. D. (2016). In memoir, Erin Callan steps back from Lehman legacy. *The New York Times*, www.nytimes.com, published May 13.
Collier, J. E., & Kimes, S. E. (2012). Only if it is convenient: Understanding how convenience influences self-service technology evaluation. *Journal of Service Research, 16*(1), 39–51.
Colquitt, J. A., & Zapata-Phelan, C. P. (2007). Trends in theory building and theory testing: A five-decade study of the academy of management journal. *Academy of Management Journal, 50*(6), 1281–1303.
Corkery, M. (2010). Lehman Brothers: Here is a copy of the court examiner's report. *The Wall Street Journal*, published March 11. http://blogs.wsj.com/deals/2010/03/11/lehman-brothers-heres-a-copy-of-the-court-examiners-report/. Downloaded December 2, 2014.
Cornish, D. B., & Clarke, R. V. (2003). Opportunities, precipitators and criminal decisions: A reply to Wortley's critique of situational crime prevention. *Crime Prevention Studies, 16*, 41–96.

Corsianos, M. (2003). Discretion in detectives' decision making and 'high profile' cases. *Police Practice and Research, 4*(3), 301–314.
Dalane, J., & Olsen, D. L. (2006). *Granskingsrapport – ledelse og styring av Øyestad helselags boligstiftelse Furuheim (Investigation report about the foundation Furuheim for elderly)*, law firm Hald, Dalane & Heimvik, Arendal, 164 pages.
Dalseide. (2006). *Rapport fra Granskingsutvalget for IKT-kontrakter i Forsvaret oppnevnt av Kongen i statsråd 6. januar 2006, avgitt 16. juni 2006 (Report from examination committee for ICT contracts in the Military appointed by the King in Government January 6, 2006, submitted June 16, 2006)*, 184 pages.
Datner, B. (2011). *The blame game – How the hidden rules of credit and blame determine our success or failure*. New York: Free Press.
Davidsen, E., & Sandvik, K. T. (2011). *Undersøkelse av bekymringsmelding vedrørende psykiatridivisjonen, til styret i Sykehuset Innlandet HF, Oslo 21. juni 2011 (Investigation into complaints about the psychiatry division in Hospital Inland)*, 15 pages.
Dawson, G. S., Denford, J. S., Williams, C. K., Preston, D., & Desouza, K. C. (2016). An examination of effective IT governance in the public sector using the legal view of agency theory. *Journal of Management Information Systems, 33*(4), 1180–1208.
Dean, G. (2005). *The cognitive psychology of police investigators.* Conference paper, School of Justice Studies, Faculty of Law, Queensland University of Technology, Brisbane.
Dean, G., Fahsing, I. A., Gottschalk, P., & Solli-Sæther, H. (2008). Investigative thinking and creativity: An empirical study of police detectives in Norway. *International Journal of Innovation and Learning, 5*(2), 170–185.
Deloitte. (2010). *Norsk Tipping – Granskingsrapport av 16. august 2010 (Investigation report about Norwegian betting company)*. https://www.norsk-tipping.no/forsiden/nytt_fra_selskapet/26819.cms, 61 pages.
Deloitte. (2012). *Rapport Kragerø Fjordbåtselskap AS – Gransking (Report Kragerø Fjord Boat Company – Investigation)*, 109 pages.
Deloitte. (2016a). *Review – Ownership VimpelCom Telenor ASA*, signed Anne Helsingeng (partner, attorney-at-law) and Ingebret G. Hisdal (partner, special advisor). Oslo: Deloitte.
Deloitte. (2016b). *Report of factual findings on the review of IRRANI program components VTY and HA*, auditing firm Deloitte, Oslo.
Deloitte. (2017). *Granskning. Byggesaksavdelingen – Drammen kommune (Investigation. Building permits – Drammen municipality)*, auditing firm Deloitte, Oslo.
Desai, V. M. (2016). Under the radar: Regulatory collaborations and their selective use to facilitate organizational compliance. *Academy of Management Journal, 59*(2), 639–657.
DeScioli, P., & Bokemper, S. (2014). Voting as a counter-strategy in the blame game. *Psychological Inquiry, 25*, 206–214.
Dhami, M. K. (2007). White-collar prisoners' perceptions of audience reaction. *Deviant Behavior, 28*, 57–77.
Distriktsrevisjonen. (2007). *Rapport versjon II etter granskingsoppdrag fra styrene i Nedre Romerike Vannverk AS (NRV) og AS Sentralrenseanlegget RA-2 (RA-2) (Report on water supply unit),* Nedre Romerike Distriktsrevisjon, LIllestrøm, 30. mai 2007, 555 pages.
Dobrowen, K., & Klepp, T. (2009). *Uavhengig undersøkelse av Eckbos Legater (Investigation report about the Eckbo foundation).* www.eckbos-legater.no/content/download/479/7915/version/1/file, 119 pages.
Douglas, H. (2004). The irreducible complexity of objectivity. *Synthese, 138*(3), 453–473.
Drage, K., & Olstad, T. (2008). *Ekstern revisor og økonomisk kriminalitet – En analyse av revisors ansvar og brukernes forventninger (External auditor and financial crime – An analysis of auditor responsibility and user expectations)*. Oslo: BI Norwegian School of Management.
Drammen tingrett. (2014, October 24). 14-035842MED-DRAM, *Drammen tingrett* (Drammen District Court).

Duane Morris. (2016). *Project House – Report, conclusions and notes from interviews with selected landlords, real estate agents and locally engaged employees of the Royal Norwegian Embassy in Hanoi*, law firm Duane Morris, Hanoi.

Duggar, J. W. (2009). The role of integrity in individual and effective corporate leadership. *Journal of Academic & Business Ethics*, Holy Family University. www.aabri.com

Dupont, B. (2014). Private security regimes: Conceptualizing the forces that shape the private delivery of security. *Theoretical Criminology, 18*(3), 263–281.

Eberl, P., Geiger, D., & Assländer, M. S. (2015). Repairing trust in an organization after integrity violations. The ambivalence of organizational rule adjustments. *Organization Studies, 36*(9), 1205–1235.

Eberly, M. B., Holley, E. C., Johnson, M. D., & Mitchell, T. R. (2011). Beyond internal and external: A dyadic theory of relational attributions. *Academy of Management Review, 36*(4), 731–753.

Eikefjord, E. (2015). Dom som tilslører (Court ruling that covers up), daily Norwegian newspaper. *Bergens Tidende*, Wednesday, Janyary 28, p. 14.

Eisenhardt, K. M. (1985). Control: Organizational and economic approaches. *Management Science, 31*(2), 134–149.

Ekeberg, E. (2016a). Kritisk til granskinger (Critical to investigations), daily Norwegian newspaper. *Klassekampen*. www.klassekampen.no, published May 27.

Ekeberg, E. (2016b). Visste om lyssky kontoer (Knew about shady accounts), daily Norwegian newspaper *Klassekampen*, Friday, July 22, pp. 4–5.

Ekeberg, E. (2016c). Nordea fant lovbrudd (Nordea found law violations), daily Norwegian newspaper *Klassekampen*, Tuesday, July 26, pp. 12–13.

Ekeberg, E. (2016d). Tar paradisene i forsvar (Takes havens in defense), daily Norwegian newspaper *Klassekampen*, Wednesday, July 27, pp. 10–11.

Ekeberg, E. (2016e). Skuffet over Telenor-toppen (Disappointed of Telenor top), daily Norwegian newspaper *Klassekampen*, Thursday, July 28, pp. 6–7.

Eriksen, T. S. (2010). *Arven etter Ole Christian Bach – et justismord (The legacy of Ole Christian Bach – A miscarriage of justice)*. Oslo: Norgesforlaget Publishing.

Ernst & Young. (2012). *Gransking av Kraft & Kultur i Sverige AB (Investigation into Kraft & Kultur in Sweden)*, 31 pages.

Ernst & Young. (2013a). *Gransking – NRVS (Investigation report on school in Moscow)*. Oslo: Ernst & Young. October 30, 52 pages.

Ernst & Young. (2013b). *Gransking – NRVS, Tilleggsrapport (Supplementary report on the investigation of the Moscow School)*. Oslo: Ernst & Young. December 20, 23 pages.

Fabian, J. (2001). *Ethnographic objectivity revisited: From rigor to vigor, Anthropology with an attitude: Critical essays* (pp. 11–32). Stanford, CA: Stanford University Press.

Fahsing, I. A. (2016). *The making of an expert detective: Thinking and decising in criminal investigations*. Gothenburg: Department of Psychology. University of Gothenburg.

Farber, N. E. (2010). *The blame game – The complete guide to blaming – How to play and how to quit*. Minneapolis: Bascom Hill Publishing Group.

Farquhar, J. D., & Rowley, J. (2009). Convenience: A services perspective. *Marketing Theory, 9*(4), 425–438.

Farrell, B. R., & Healy, P. (2000). White collar crime: A profile of the perpetrator and an evaluation of the responsibilities for its prevention and detection. *Journal of Forensic Accounting, I*, 17–34.

FBI. (2014). *Five former employees of Bernard L. Madoff Investment Securities found guilty in Manhattan Federal Court on all counts*. Federal Bureau of Investigation. www.fbi.gov

Fosse, G., & Magnusson, G. (2004). *Mayday Mayday! – Kapteinene først i livbåtene! (Mayday Mayday! –The captains first in the lifeboats)*. Oslo: Kolofon Publishing.

Fremmerlid, T. (2014a). Har levert politianmeldelse (Has delivered police report), daily Norwegian local newspaper *Romerikes Blad*, www.rb.no, published February 9.

Fremmerlid, T. (2014b). BI-professor lite imponert over granskingen av Moskva-skolen – Burde gått dypere (BI professor little impressed by the investigation of the Moscow school – Should gone deeper), daily Norwegian local newspaper *Romerikes Blad*, Thursday, April 24, p. 4.

Fremmerlid, T. (2014c). Anmeldelsen av Rune Grahn henlagt (Case against Rune Grahn dismissed), daily Norwegian local newspaper *Romerikes Blad*, www.rb.no, published August 19.

Füss, R., & Hecker, A. (2008). Profiling white-collar crime. Evidence from German-speaking countries. *Corporate Ownership and Control, 5*(4), 149–161.

Gill, M., & Hart, J. (1997). Exploring investigative policing. *British Journal of Criminology, 37*(4), 549–567.

Gilligan, G. (2009). PEEPing at PEPs. *Journal of Financial Crime, 16*(2), 137–143.

Gjesdal, E. D. L. (2014). –Det er tull av Mohn (–This is bullshit from Mohn), local Norwegian daily newspaper *Bergens Tidende*, Sunday, December 7, p. 8.

Gjørv, A. B., & Lund, A. S. (2013, October 24). *Gransking I Halden kommune / Enhet for plan, byggesak og geodata (Investigation into city function for plan, construction and geodata),* law firm Hjort.

Goldschmidt, J., & Anonymous. (2008). The necessity of dishonesty: Police deviance, 'making the case' and the public good. *Policing and Society, 18*(2), 113–135.

Gonin, M., Palazzo, G., & Hoffrage, U. (2012). Neither bad apple nor bad barrel: How the societal context impacts unethical behavior in organizations. *Business Ethics: A European Review, 21*(1), 31–46.

Gottfredson, M. R., & Hirschi, T. (1990). *A general theory of crime*. Stanford: Stanford University Press.

Gottschalk, P. (2017). Convenience in white-collar crime: Introducing a core concept. *Deviant Behavior, 38*(5), 605–619.

Gottschalk, P., & Dean, G. (2010). Stages of knowledge management systems in policing financial crime. *International Journal of Law, Crime and Justice, 38*(3), 94–108.

Gottschalk, P., & Tcherni-Buzzeo, M. (2017). Reasons for gaps in crime reporting: The case of white-collar criminals investigated by private fraud examiners in Norway. *Deviant Behavior, 38*(3), 267–281.

Green, B. A., & Podgor, E. (2014). Unregulated internal investigations: Achieving fairness for corporate constituents. *Boston College Law Review, 54*(1), 73–126.

Grimstad, E. (2015). *Gransking ved mistanke om korrupsjon og andre former for økonomisk kriminalitet i arbeidsforhold (Investigation at suspicion of corruption and other forms of economic crime in professional settings)*. Oslo: Gyldendal Juridisk Publishing.

Haines, F. (2014). Corporate fraud as misplaced confidence? Exploring ambiguity in the accuracy of accounts and the materiality of money. *Theoretical Criminology, 18*(1), 20–37.

Hald. (2007). *Granskingsrapport. Ledelse og styring av Øyestad helselags boligstiftelse Furuheim (Investigation report. Leadership and management of Øyestad health center housing foundation)*, law firm Hald, Arendal.

Hammond, J. S., Keeney, R. L., & Raiffa, H. (1998). The hidden traps in decision making. *Harvard Business Review, 76*(5), 47–58.

Hansen, L. L. (2009). Corporate financial crime: Social diagnosis and treatment. *Journal of Financial Crime, 16*(1), 28–40.

Hastings, P. (2012). *Special investigative report regarding allegations of impropriety by Dr. C. Kern Wildenthal relating to travel and entertainment expenses paid for by University of Texas Southwestern Medical Center.* New York: Park Avenue Tower.

Haverstick, M. H., Seiberling, M. E., Stengel, T. M., Madden, A. R., & Damiani, S. T. (2014a). Investigative Report to the Board of School Directors for the Coatesville Area School District. *Conrad O'Brien PC.* http://casd.schoolwires.net/cms/lib8/PA01916452/Centricity/Domain/513/Conrad%20OBrien%20Investigative%20Report.pdf, 194 pages.

Haverstick, M. H., Seiberling, M. E., Stengel, T. M., Madden, A. R., & Damiani, S. T. (2014b). Supplement to Investigative Report to the Board of School Directors for the Coatesville Area School District. *Conrad O'Brien PC*. http://casd.schoolwires.net/cms/lib8/PA01916452/Centricity/Domain/513/Supplement to the Conrad OBrien Investigative Report.pdf, 66 pages.

Heath, J. (2008). Business ethics and moral motivation: A criminological perspective. *Journal of Business Ethics, 83*, 595–614.

Hein, M. (2014). *The blame game.* www.heinsights.com/.../theblamegamev2.doc

Herrington, V., & Roberts, K. (2012). Addressing psychological vulnerability in the police suspect interview. *Policing, 6*(2), 177–186.

Heyman, J., & Sailors, J. (2016). A respondent-friendly method of ranking long lists. *International Journal of Market Research, 58*(5), 693–710.

Higgins, E. T. (1997). Beyond pleasure and pain. *American Psychologist, 52*, 1280–1300.

Hjort. (2013). *Gransking I Halden commune / Enhet for plan, byggesak og geodata (Investigation in Halden municipality / Section for plan building matters, and geo data)*, law firm Hjort, Oslo.

Hjort. (2016). *Rapport til styret i DNB ASA (Report to the board at DNB)*, law firm Hjort, Oslo.

Holmen. (2014). *Gransking Tomter handelsforening (Investigation Tomter Trade Association)*, auditing firm Berge Holmen, Halden.

Holtfreter, K. (2015). General theory, gender-specific theory, and white-collar crime. *Journal of Financial Crime, 22*(4), 422–431.

Hood, C. (2011). *The blame game – Spin, bureaucracy, and self-preservation in government*. Princeton: Princeton University Press.

Hoogenboom, B. (2006). Grey intelligence. *Crime, Law and Social Change, 45*, 373–381.

Hovland, K. M., & Gauthier-Villars, D. (2015). VimpelCom bribery investigations spark Telenor review. *The Wall Street Journal*. www.wsj.com, published November 5.

Huff, M. J., & Bodner, G. E. (2013). When does memory monitoring succeed versus fail? Comparing item-specific and relational encoding in the DRM paradigm. *Journal of Experimental Psychology: Learning, Memory, and Cognition, 39*(4), 1246–1256.

Huff, R., Desilets, K., & Kane, J. (2010). *The national public survey on white collar crime*. National White Collar Crime Center. Fairmont, www.nw3c.org

Huisman, W., & Erp, J. (2013). Opportunities for environmental crime. *British Journal of Criminology, 53*, 1178–1200.

Hurrell, S. A. (2015). Rethinking the soft skills deficit blame game: Employers, skills withdrawal and the reporting of soft skills gaps. *Human Relations, 69*(3), 605–628.

Hustadnes, H. (2015). –Brekke må gå før sommeren (-Brekke must leave before the summer), daily Norwegian newspaper *Dagbladet*, Friday, December 11, p. 10.

Inspector General. (2012). Final investigation report of sub-recipient Padakhep Manabik Unnayan Kendra (PMUK) – Bangladesh. *The Office of the Inspector General*, Report No.: GF-IG-11-025. www.theglobalfund.org/.../OIG_GFOIG11025InvestigationBangladesh_Report_en.pdf, 32 pages.

Ionescu, L. (2010). Madoff's fraudulent financial scheme, his decades-long swindle, and the failure of operational risk management. *Economics, Management, and Financial Markets, 5*(3), 239–244.

Irwin, N. (2016). Is 'Brexit' Europe's Lehman Brothers Moment? *The New York Times*. www.nytimes.com, published June 28.

Iver, N., & Samociuk, M. (2006). *Fraud and corruption: Prevention and detection*. Farnham: Gower Publishing.

Jans, M., Lybaert, N., & Vanhoof, K. (2010). Internal fraud risk reduction: Results of a data mining case study. *International Journal of Accounting Information Systems, 11*, 17–41.

Jans, M., Werf, J. M., Lybaert, N., & Vanhoof, K. (2011). A business process mining application for internal transaction fraud mitigation. *Expert Systems with Applications, 38*(10), 13351–13359.

Jans, M., Alles, M., & Vasahelyi, M. (2013). The case of process mining in auditing: Sources of value added and areas of application. *International Journal of Accounting Information Systems, 14*(1), 1–20.

Jarvis, L. C. (2017). Feigned versus felt: Feigning behaviors and the dynamics of institutional logics. *Academy of Management Review, 42*(2), 306–333.

Jenkin, T. A., Chan, Y. E., Skillicorn, D. B., & Rogers, K. W. (2013). Individual exploration, sensemaking, and innovation: A design for the discovery of novel information. *Decision Sciences, 44*(6), 1021–1057.

Jensen, M. C., & Meckling, W. H. (1976). Theory of the firm: Managerial behavior, agency costs and ownership structures. *Journal of Financial Economics, 3*(4), 305–360.

Johnsen, L. (2015). Presidenten (The President), Norwegian football review *Josimar*, 4, pages 20–52.

Johnsen, L., & Melnæs, H. (2016). De frikjente (The acquitted). Norwegian football review *Josimar* 1: 1–176.

Johnson, J. W., & Payne, J. (1986). The decision to commit a crime: An information-processing analysis. In D. Cornish & R. Clark (Eds.), *The reasoning criminal: Rational choice perspectives of offending* (pp. 170–185). New York: Springer Verlag.

Johnson, G. G., & Rudesill, C. L. (2001). An investigation into fraud prevention and detection of small businesses in the United States: Responsibilities of auditors, managers, and business owners. *Accounting Forum, 25*(1), 56.

Jones, E. (2000). Remaking the firm: How KM is changing legal practice, *Knowledge Management Magazine*. http://www.kmmag.com/

Jones, S. (2014). Internal report details GM ignition coverup, *World Socialist Web Site*, published June 14. http://www.wsws.org/en/articles/2014/06/14/genm-j14.html, downloaded December 2, 2014.

Kahneman, D. (2011). *Thinking fast and slow*. New York: Farrar, Straus and Giroux Publishing.

Karevold, K. I. (2017). De beste jukser (The clever cheat), bimonthly Norwegian financial magazine *Kapital*, issue 7, p. 135.

Keaveney, S. M. (2008). The blame game: An attribution theory approach to marketer-engineer conflict in high-technology companies. *Industrial Marketing Management, 37*, 653–663.

Kempa, M. (2010). Combating white-collar crime in Canada: Serving victim needs and market integrity. *Journal of Financial Crime, 17*(2), 251–264.

Kennedy, D. B. (2013). Applications of forensic sociology and criminology to civil litigation. *Journal of Applied Social Science, 7*(2), 233–247.

Kerik, B. B. (2005). *From jailer to jailed – My journey from correction and police commissioner to inmate #84888-054.* New York: Threshold Editions.

Kessler, R. (2012). *The secrets of the FBI*. New York: Broadway Paperbacks, Random House.

Killinger, B. (2010). *Integrity: Doing the right thing for the right reason*. Montreal: McGill-Queen's University Press.

Kommunerevisjonen. (2006a). *Granskingsrapport Undervisningsbygg Oslo KF (Investigation report on city school maintenance service)*, Rapport 16/2006, 21 pages.

Kommunerevisjonen. (2006b). *Granskingsrapport 2 Undervisningsbygg Oslo KF (Investigation report on city school maintenance service)*, Rapport 27/2006, 36 pages.

Kommunerevisjonen. (2013). *Oslo kommunes saksbehandling i Lindebergsakene (City of Oslo handling the Lindeberg cases)*, Kommunerevisjonen i Oslo kommune, rapport 7/2013.

KomRev NORD. (2015). *Undersøkelse i Skjervøy Fiskeriutvikling (Inquiry into Skjervøy fisheries development).* Tromsø: Control authority KomRev NORD.

Koppen, M. V., Poot, C. J., & Blokland, A. A. J. (2010). Comparing criminal careers of organized crime offenders and general offenders. *European Journal of Criminology, 7*(5), 356–374.

Korosec, K. (2015). Ten times more deaths linked to faulty switch than GM first reported. *Fortune.* www.fortune.com, published August 24.

Kouchaki, M., & Desai, S. D. (2015). Anxious, threatened, and also unethical: How anxiety makes individuals feel threatened and commit unethical acts. *Journal of Applied Psychology, 100*(2), 360–375.

KPMG. (2012). *Halden kommune: Gransking av disposisjoner i Halden Ishall AS og Halden Ishall Eiendom AS (Halden municipality: Investigation of dispositions in Halden ice hall and Halden ice hall property)*. KPMG, 121 pages.

KPMG. (2016). *Politiets utlendingsenhet. Faktaundersøkelse og vurdering (Police immigration service. Facts investigation and assessment)*, auditing firm KPMG, Oslo.

Kvale. (2013). *Innberetning til Oslo byfogdembete i bo nr. 12-197991IKON-OBYF/2 Oslo Vei AS, dets konkursbo (Report to the district court on bankruptcy of Oslo Road)*, Kvale advokatfirma (law firm), advokat/bostyrer (lawyer) Tom Hugo Ottesen, December 11, 53 pages.

Langset, M., Ertesvåg, F., & Ensrud, S. (2016). BI-professor: –Det vil bli rettssaker (BI professor: –There will be court cases), daily Norwegian newspaper *VG*, Wednesday, April 6, p. 7.

Langton, L., & Piquero, N. L. (2007). Can general strain theory explain white-collar crime? A preliminary investigation of the relationship between strain and select white-collar offenses. *Journal of Criminal Justice, 35*, 1–15.

Lee, G., & Fargher, N. (2013). Companies' use of whistle-blowing to detect fraud: An examination of corporate whistle-blowing policies. *Journal of Business Ethics, 114*, 283–295.

Lee, F., & Robinson, R. J. (2000). An attributional analysis of social accounts: Implications of playing the blame game. *Journal of Applied Social Psychology, 30*(9), 1853–1879.

Leiter, B. (1993). Objectivity and problems of jurisprudence. *Texas Law Review, 72*, 186–209.

Lewis, C., Brooks, G., Button, M., Shepherd, D., & Wakefield, A. (2014). Evaluating the case for greater use of private prosecutions in England and Wales for fraud offences. *International Journal of Law, Crime and Justice, 42*(1), 3–15.

Lind, H., Hjelm, J., & Lind, M. (2007). Privacy surviving data retention in Europe? *W3C workshop on languages for privacy policy negotiation and semantics-driven enforcement*. www.w3.org.

Liu, G., & Ren, H. (2017). Ethical team leadership and trainee auditors' likelihood of reporting client's irregularities. *Journal of Financial Crime, 24*(1), 157–175.

Liu, D., Ray, G., & Whinston, A. B. (2010). The interaction between knowledge codification and knowledge-sharing networks. *Information Systems Research, 21*(4), 892–906.

Lord, N. (2016). Establishing enforcement legitimacy in the pursuit of rule-breaking 'global elites': The case of transnational corporate bribery. *Theoretical Criminology, 20*(3), 376–399.

Lotteritilsynet. (2014). *Lotteritilsynets tilsynsrapport om World Ventures i Norge med varsel om stans av ulovlig pyramidevirksomhet (Lottery Agency's audit with notice of halt of illegal pyramid business)*. Førde: Norwegian Gaming Authority.

Lynx. (2011). *Briskebyrapporten (Investigation report on football stadium)*. Lynx law firm. www.hamar.kommune.no, http://www.hamar.kommune.no/getfile.php/Bilder/Hamar/Nyhetsbilder/Politikere/Briskebyrapporten,%20ikke%20sladdet_1.pdf, 267 pages.

Lynx. (2013). *1192-rapporten. Gransking av internasjonale spilleroverganger 2007–2011 (Examination of player transfers)*. Oslo: Lynx law firm, 48 pages.

Machen, M. J., & Richards, R. E. (2004). The use of fraud examiners in the battle against occupational fraud and abuse. *The Journal of Investment Compliance*, Winter, 67–71.

Mai, H. T. X., & Olsen, S. O. (2016). Consumer participation in self-production: The role of control mechanisms, convenience orientation, and moral obligation. *Journal of Marketing Theory and Practice, 24*(2), 209–223.

Majid, S., & Arntsen, E. O. (2016). ILPI-saken: Milliontilskudd fra UD kan ha vært ulovlig (The ILPI case: Millions in grants may have been illegal), daily Norwegian newspaper *VG*, www.vg.no, published December 1.

Mannheimer Swartling. (2016). *Governance Review, Report to Nordea Bank AB*, law firm (advokatbyrå) Mannheimer Swartling, Stockholm www.nordea.com, 20 pages.

Markopolos, H. (2010). *No one would listen – A true financial thriller*. Hoboken: Wiley.

McKenndal, M. A., & Wagner, J. A. (1997). Motive, opportunity, choice, and corporate illegality. *Organization Science, 8*, 624–647.

McMahon, R., Pence, D., Bressler, L., & Bressler, M. S. (2016). New tactics in fighting financial crimes: Moving beyond the fraud triangle. *Journal of Legal, Ethical and Regulatory Issues, 19*(1), 16–25.

Meerts, C. (2014). Empirical case studies of corporate security in international perspective. In K. Walby & R. K. Lippert (Eds.), *Corporate security in the 21st century – Theory and practice in international perspective* (pp. 97–115). Hampshire: Palgrave Macmillan.

Megill, A. (1994). Introduction: Four senses of objectivity. In A. Megill (Ed.), *Rethinking objectivity* (pp. 1–21). Durham: Duke University Press.

Merzagora, I., Pennati, A., & Travaini, G. V. (2014). Psychology and psychopathology of white collar crime. In S. Caneppele & F. Calderoni (Eds.), *Organized crime, corruption and crime prevention* (pp. 169–178). Heidelberg: Springer Verlag.

Meyer, M. A., & Booker, J. M. (2001). *Eliciting and analyzing expert judgment: A practical guide* (SIAM Books, ASA-SIAM Series on Statistics and Applied Probability). Philadelphia: Society for Industrial and Applied Mathematics (SIAM).

Michel, P. (2008). Financial crimes: The constant challenge of seeking effective prevention solutions. *Journal of Financial Crime, 15*(4), 383–397.

Michel, C., Cochran, J. K., & Heide, K. M. (2016). Public knowledge about white-collar crime: An exploratory study. *Crime, Law and Social Change, 65*, 67–91.

Montella, E. C. (2016). *Full circle: A memoir of leaning in too far and the journey back*. Sanibel: Triple M Press.

Morgan, M., & Nix, W. (2003). CPA perceptions of the marketability, career enhancements and quality of services of certified fraud examiners. *The Southern Business and Economic Journal, 3*, 31–50.

Moyes, G. D., & Baker, C. R. (2003). Auditor's beliefs about the fraud detection effectiveness of standard audit procedures. *Journal of Forensic Accounting, IV*, 199–216.

Mutchler, J. (2003). Independence and objectivity: A framework for research opportunities in internal auditing. *Research Opportunities in Internal Auditing*, 231–268.

Nagel, T. (1989). *The view from nowhere*. Oxford: Oxford University Press.

Neeley, T. B., & Dumas, T. L. (2016). Unearned status gain: Evidence from a global language mandate. *Academy of Management Journal, 59*(1), 14–43.

Nergaard, L. L. (2013a). *Gransking av Troms Kraft AS (Investigation report about Troms Kraft power company)*, Norscan Partners and law firm Grette, 9 September, 663 pages.

Nergaard, L. L. (2013b). *Sammendrag av granskingsrapport – Troms Kraft – i henhold til Nord-Troms tingretts kjennelse (Summary of investigation report – Troms Energy – in accordance with verdict by North Troms district court)*. Oslo: Consulting firm Norscan partners.

Newman, R. (2009). Computer forensics fraud investigations. *Journal of Forensic Studies in Accounting and Business*, Winter, 69–81.

Nichols, C. (2011). Addressing inept SEC enforcement efforts: Lessons from Madoff, the hedge fund industry, and title IV of the Dodd-Frank Act for U.S. and global financial systems. *Northwestern Journal of International Law & Business, 31*, 637–698.

Nietzsche, F. (1997). On the uses and disadvantages of history of life. In D. Breazeale (Ed.), *Untimely meditations*. Cambridge: Cambridge University Press.

Niland, K. (2014). GM lawyers under federal criminal investigation for allegedly concealing ignition switch evidence. *RightingInjustice*, published August 26. http://www.rightinginjustice.com/news/2014/08/26/gm-lawyers-under-federal-criminal-

Nolasco, C. A. R. I., Vaughn, M. S., & Carmen, R. V. (2013). Revisiting the choice model of Ponzi and Pyramid schemes: Analysis of case law. *Crime, Law and Social Change, 60*, 375–400.

Nordea. (2016). *Report on investigation of Nordea private banking in relation to offshore structures*. Nordea Group Compliance and Group Operational Risk, Stockholm. www.nordea.com, 12 pages.

Norway Security Council. (2014). *Moerketallsundersoekelsen (Shadow numbers survey)*. Norwegian Business Association Security Council. http://www.nsr-org.no/om-nsr/

Nystuen, G., & Waszink, C. (2016). Stolte av vårt kjernevåpenprosjekt (Proud of our nuclear weapons project), daily Norwegian newspaper *VG*, www.vg.no, published October 10.

O'Connor, T. R. (2005). Police deviance and ethics. In *Part of web cited, megaLinks in criminal justice*. http://faculty.ncwc.edu/toconnor/205/205lect11.htm

Olsen, A. B. (2007). *Økonomisk kriminalitet: avdekking, gransking og forebygging (Financial crime: Detection, investigation and prevention)*. Oslo: Universitetsforlaget.

Onna, J. H. R., Geest, V. R., Huisman, W., & Denkers, J. M. (2014). Criminal trajectories of white-collar offenders. *Journal of Research in Crime and Delinquency, 51*, 759–784.

Osterburg, J. W., & Ward, R. H. (2014). *Criminal investigation: A method for reconstructing the past* (7th ed.). Waltham: Anderson Publishing.

Øvrebø, T. (2004). Nyhetsproduksjon – kjønn og makt. En studie av endring i Dagsavisen 2000–2003. (News production – sex and power. A study of change in Dagsavisen (Norwegian Daily

Newspaper) 2000–2003). *Hovedoppgave i Medievitenskap* (Master thesis in Media Science). Universitetet i Oslo (University of Oslo).

Partirevisjon. (2016). *Oppdrag om kontroll av Demokratene i Norge (Assignment to control the Democrats in Norway)*. Oslo: Partirevisjonsutvalget.

Peacocke, C. (2009). Objectivity. *Mind, 118*(471), 739–769.

Pennsylvania. (1974, March). *Report on the police corruption and the quality of law enforcement in Philadelphia*. The Pennsylvania Crime Commission. https://www.ncjrs.gov/App/publications/abstract.aspx?ID=25640, 456 pages.

Pickett, K. H. S., & Pickett, J. M. (2002). *Financial crime investigation and control*. New York: Wiley.

Piquero, N. L., & Benson, M. L. (2004). White collar crime and criminal careers: Specifying a trajectory of punctuated situational offending. *Journal of Contemporary Criminal Justice, 20*, 148–165.

Podgor, E. S. (2007). The challenge of white collar sentencing. *The Journal of Criminal Law and Criminology, 97*(3), 1–10.

Pontell, H. N., Black, W. K., & Geis, G. (2014). Too big to fail, too powerful to jail? On the absence of criminal prosecutions after the 2008 financial meltdown. *Crime, Law and Social Change, 61*, 1–13.

Porter, T. M. (1996). *Trust in numbers: The pursuit of objectivity in science and public life*. Princeton: Princeton University Press.

Powers, W. C., Troubh, R. S., & Winokur, H. S. (2002). *Report of investigation by the special investigative committee of the board of directors of Enron Corporation*, published February 1. http://news.findlaw.com/wsj/docs/enron/sicreport/, 218 pages.

Pratt, T. C., & Cullen, F. T. (2005). Assessing macro-level predictors and theories of crime: A meta-analysis. *Crime and Justice, 32*, 373–450.

Punch, M. (2003). Rotten orchards. "Pestilence", police misconduct and system failure. *Policing and Society, 13*(2), 171–196.

PwC. (1991). *Report on Sandstrom SA under section 41 of the Banking Act 1987*. PricewaterhouseCoopers. http://file.wikileaks.info/leak/sandstorm-bcci-report-1881.pdf, 22 + 28 = 50 pages.

PwC. (2007a). *Economic crime: People, culture and controls*, the 4th biennial global economic crime survey, United States of America. PricewaterhouseCoopers. www.pwc.com/crimesurvey

PwC. (2007b). *Samferdselsetaten. Undersøkelser foretatt på oppdrag fra Oslo kommune (Transport Agency. Inquiry on behalf of the City of Oslo)*, auditing firm PricewaterhouseCoopers, Oslo.

PwC. (2008a). *Granskingsrapport: Undersøkelser foretatt på oppdrag fra Oslo kommune, Byrådslederens avdeling v/Seksjon for internrevisjon (Investigation report: Examination undertaken on behalf of the City of Oslo, Department of the Mayor)*. Oslo, 21. Mai 2008, 27 pages.

PwC. (2008b). *Granskingsrapport – «Terra-saken» i Rana kommune (Investigation report – «Terra case» in Rana municipality)*. Oslo: PricewaterhouseCoopers 10. juni.

PwC. (2009). *Gransking av «Spania-prosjektet» Oslo kommune (Investigation of the Spain project in the City of Oslo)*. Oslo: PricewaterhouseCoopers, 92 sider. http://www.oslo.kommune.no/getfile.php/Byr%C3%A5det%20(BYR)/Internett%20(BYR)/Dokumenter/Rapport%20pwc.pdf

PwC. (2013a). *Utvidet revisjon av Akershus universitetssykehus HF (Investigation report about Ahus public hospital)*. Oslo: PricewaterhouseCoopers. www.ahus.no

PwC. (2013b, 11 September). *Kontrollutvalget i Stavanger v/Rogaland Kontrollutvalgssekretariat: Undersøkelse/gransking knyttet til Stavanger kommunes utbetaling av á-kontobeløp i forbindelse med den såkalte «Tyrkia-saken» (Investigation report about the Turkey case in the city of Stavanger)*. Oslo: PricewaterhouseCoopers AS, 14 pages.

PwC. (2014a). *Forsvarets logistikkorganisasjon. Rapport etter gjennomgang av salg av fartøy (Defense logistics organization. Report from the review of the sale of vessels)*, auditing firm PricewaterhouseCoopers, Oslo.

PwC. (2014b). *Hadeland og Ringerike Bredbånd. Rapport – gransking (Hadeland and Ringerike Broadband. Report – investigation)*, auditing firm PricewaterhouseCoopers, Oslo.

PwC. (2014c). *Hadeland Energi. Rapport – gransking (Hadeland Energy. Report – investigation)*, auditing firm PricewaterhouseCoopers, Oslo.

PwC. (2015). *Forsvarsdepartementet. Undersøkelse av forhold knyttet til Forsvarets avhending av fartøyer (Defense Ministry. Examination of matters related to disposal of navy vessels)*, auditing firm PricewaterhouseCoopers, Oslo.

Ragothaman, S. C. (2014). The madoff debacle: What are the lessons? *Issues in Accounting Education, 29*(1), 271–285.

Rajao, R., & Georgiadou, Y. (2014). Blame games in the Amazon: Environmental crises and the emergence of a transparency regime in Brazil. *Global Environmental Politics, 14*(4), 97–115.

Reed, G. E., & Yeager, P. C. (1996). Organizational offending and neoclassical criminology. Challenging the reach of a general theory of crime. *Criminology, 34*(3), 357–382.

Renaa, H. (2012). *Norges integritetssystem – ikke helt perfekt? (Norway's integrity system – Not quite perfect?).* Oslo: Transparency International. www.transparency.no

Rendal, S., & Westerby, T. (2010). *Hvilke forventninger har revisor i forhold til brukere av finansiell informasjon når det gjelder revisors plikter til forebygging og avdekking av misligheter? (What expectations does the auditor have in relation to users av financial information concerning auditor responsibility for prevention and detection of misconduct?)*. Oslo: [S. Rendal].

Resodihardjo, S. L., Carroll, B. J., Eijk, C. J. A., & Maris, S. (2015). Why traditional responses to blame games fail: The importance of context, rituals, and sub-blame games in the face of raves gone wrong. *Public Administration, 94*(2), 350–363.

Revisjon Midt-Norge. (2017). *Granskning. Rådmannens arbeidsavtaler (Investigation. The chief administrative officer employment contracts)*, auditing firm Revisjon Midt-Norge, Trondheim.

Roberts, L. P., & Sykes, T. A. (2017). Extending the concept of control beliefs: Integrating the role of advice networks. *Information Systems Research, 28*(1), 84–96.

Röglinger, M., Pöppelbuss, J., & Becker, J. (2012). Maturity models in business process management. *Business Process Management Journal, 18*(2), 328–346.

Roscher, E., & Berg, H. S. (2013). *Stangeskovene AS granskingsberetning til Nedre Romerike tingrett (Investigation into Strange Forest Industries)*. Ernst & Young/Law firm Lynx, 103 pages.

Ruotsalo, T., Jacucci, G., Myllymäki, P., & Kaski, S. (2015). Interactive intent modeling: Information discovery beyond search. *Communications of the ACM, 58*(1), 86–92.

Schechtman, J. (2014). Are internal bribery probes private? Attorney-client privilege protections over corporate investigations led by outside law firms are eroding. *The Wall Street Journal*, October 11. http://online.wsj.com/articles/are-internal-bribery-probes-private-1413157700

Schneider, S. (2006). Privatizing economic crime enforcement: Exploring the role of private sector investigative agencies in combating money laundering. *Policing and Society, 16*(3), 285–312.

SEC. (2002). *Report of Investigation Pursuant to Section 21 (a) of the Securities Exchange Act of 1934: Motorola, Inc*. U.S. Securities and Exchange Commission. http://www.sec.gov/litigation/investreport/34-46898.htm

SEC. (2013). *Enforcement manual*. Securities and Exchange Commission, Division of Enforcement. http://www.sec.gov/divisions/enforce/enforcementmanual.pdf, 141 pages.

Sentral kontrollenhet. (2016). *Gjennomgang av Utenriksdepartementets tildeling og forvaltning av tilskudd til ILPI gjennom prosjektet (Review of the State Department's allocation and management of grants to ILPI through the project)*. Oslo: Central Control Unit in the State Department.

Shepherd, D. A., Patzelt, H., & Wolfe, M. (2011). Moving forward from project failure: Negative emotions, affective commitment, and learning from the experience. *Academy of Management Journal, 54*(6), 1229–1259.

Shi, W., Connelly, B. L., & Hoskisson, R. E. (2017). External corporate governance and financial fraud: Cognitive evaluation theory insights on agency theory prescriptions. *Strategic Management Journal, 38*(6), 1268–1286.

Sidley. (2010). *Report of investigation regarding procurement practices at the office of the chief technology officer of the District of Columbia*, Sidley Austin LLP, July 14, DRAFT, 60 pages, http://assets.bizjournals.com/cms_media/washington/pdf/Sidley%20Report.pdf

Siegel, L. (2009). *Introduction to criminal justice*. Belmont: Wadsworth Cengage Learning.

Silverstone, H., & Sheetz, M. (2003). *Forensic accounting and fraud investigation for non-experts*. Hoboken: Wiley.

Singleton, T. W., Singleton, A. J., Bologna, G. J., & Lindquist, R. J. (2006). *Fraud auditing and forensic accounting*. Wiley.

Siponen, M., & Vance, A. (2010). Neutralization: New insights into the problem of employee information security policy violations. *MIS Quarterly, 34*(3), 487–502.

Sismondo, S. (2010). *An introduction to science and technology studies*. New York: John Wiley & Sons.

Skjetne, O. L., & Vikøyr, H. (2017). Hareide om bistandsrapport: -Skremmende (Mr. Hareide about aid report: -Frightening), daily Norwegian newspaper *VG*. www.vg.no, published May 30.

Slottje, P., Sluijs, J. P., & Knol, A. B. (2008). *Expert elicitation: Methodological suggestions for its use in environmental health impact assessments*, RIVM Letter report. The Netherlands: National Institute for Public Health and the Environment.

Slyke, S. V., & Bales, W. D. (2012). A contemporary study of the decision to incarcerate white-collar and street property offenders. *Punishment & Society, 14*(2), 217–246.

Smith, G. (2009). Citizen oversight of independent police services: Bifurcated accountability, regulation creep, and lessons learning. *Regulation & Governance, 3*, 421–441.

Solli-Sæther, H., & Gottschalk, P. (2015). Stages-of-growth in outsourcing, offshoring and back-sourcing: Back to the future? *The Journal of Computer Information Systems, 55*(2), 88–94.

Sonnier, B. M., Lassar, W. M., & Lassar, S. S. (2015). The influence of source credibility and attribution of blame on Juror Evaluation of liability of industry specialist auditors. *Journal of Forensic & Investigative Accounting, 7*(1), 1–37.

Søreide, T. (2014). Forhandle med Økokrim? (Negotiate with the National Authority for Investigation and Prosecution of Economic and Environmental Crime?), daily Norwegian business newspaper *Dagens Næringsliv*, Wednesday, December 17, p. 3.

Srinivasa, K. G., Venugopal, K. R., & Patnaik, L. M. (2007). A self-adaptive migration model genetic algorithm for data mining applications. *Information Sciences, 177*, 4295–4313.

Stadler, W. A., Benson, M. L., & Cullen, E. T. (2013). Revisiting the special sensitivity hypothesis: The prison experience of white-collar inmates. *Justice Quarterly, 30*(6), 1090–1114.

Staines, Z. (2013). Managing tacit investigative knowledge: Measuring “investigative thinking styles”. *Policing: An International Journal of Police Strategies & Management, 36*(3), 604–619.

Stenning, P. C. (2000). Powers and accountability of private police. *European Journal of Criminal Policy and Research, 8*, 325–352.

Stewart, N., & Nakamura, D. (2007). 2 More D.C. Tax workers removed, *The Washington Post*. www.washingtonpost.com, published Saturday, November 10.

Sundström, M., & Radon, A. (2015). Utilizing the concept of convenience as a business opportunity in emerging markets. *Organizations and Markets in Emerging Economies, 6*(2), 7–21.

Sutherland, E. H. (1939). White-collar criminality. *American Sociological Review, 5*, 1–12.

Sutherland, E. H. (1949). *White-Collar Crime*. New York: Holt, Rinehart and Winston Publishing.

Sutherland, E. H. (1983). *White collar crime – The uncut version*. New Haven: Yale University Press.

Svantesson, D. J. B., & Zwieten, L. (2016). Law enforcement access to evidence via direct contact with cloud providers – Identifying the contours of a solution. *Computer Law & Security Review, 32*, 671–682.

Sykes, G., & Matza, D. (1957). Techniques of neutralization: A theory of delinquency. *American Sociological Review, 22*(6), 664–670.

Szalma, J. L., & Hancock, P. A. (2013). A signal improvement to signal detection analysis: Fuzzy SDT on the ROCs. *Journal of Experimental Psychology: Human Perception and Performance, 39*(6), 1741–1762.

Tanum, A. C. (2016, April 11). *DNB Luxembourg – Redegjørelse fra styret (DNB Luxembourg – Statement from the board),* brev til Nærings- og fiskeridepartmentet ved statsråd Monica Mæland (letter to industry and fishery department attention minister Monica Mæland).

Taylor, T. Z., Elison-Bowerrs, P., Werth, E., Bell, E., Carbajal, J., Lamm, K. B., & Velazquez, E. (2013). A Police Officer's Tacit Knowledge Inventory (POTKI): Establishing construct validity and exploring applications. *Police Practice & Research, 14*(6), 478–490.

Thommessen. (2009). *Uavhengig undersøkelse av Eckbos Legater (Independent inquiry into Eckbo's Foundation)*, law firm Thommessen, Oslo.

Tong, S. (2009a). Introduction: A brief history of crime investigation. In S. Tong, R. Bryant, & M. Hovath (Eds.), *Understanding criminal investigation* (pp. 1–10). Chichester: Wiley.

Tong, S. (2009b). Professionalising investigation. In S. Tong, R. Bryant, & M. Hovath (Eds.), *Understanding criminal investigation* (pp. 197–216). Chichester: Wiley.

Trahan, A. (2011). Filling in the gaps in culture-based theories of organizational crime. *Journal of Theoretical and Philosophical Criminology, 3*(1), 89–109.

Trumpy, J. (2016). Avgått Telenor-direktør i ny havn (Resigned Telenor executive in new harbor), daily Norwegian business newspaper *Dagens Næringsliv*, Thursday, July 14, p. 16.

Tunley, M., Whittaker, A., Gee, J., & Button, M. (2014). *The accredited counter fraud specialist handbook*. Chichester: Wiley.

Turhani, A. (2015). Management education for professional integrity: The case of economics faculty. *Journal of International Academic Research for Multidisciplinary, 3*(3), 353–378.

Utenriksdepartementet. (2016, December 8). *Rapport: Gjennomgang av Utenriksdepartementets tildeling og forvaltning av tilskudd til ILPI gjennom prosjektet QZA-11/0341 Nuclear Weapons Project (Report: Review of Ministry of Foreign Affairs' allocation and management and grants to ILPI through the project QZA-11/0341 Nuclear Weapons Project)*. Oslo: Sentral kontrollenhet (Central Control Unit), Ministry of Foreign Affairs.

Vadera, A. K., & Aguilera, R. V. (2015). The evolution of vocabularies and its relation to investigation of white-collar crimes: An institutional work perspective. *Journal of Business Ethics, 128*, 21–38.

Vadera, A. K., Aguilera, R. V., & Caza, B. B. (2009). Making sense of whistleblowing's antecedents: Learning from research on identity and ethics programs. *Business Ethics Quarterly, 19*(4), 553–586.

Valkenhoef, G., & Tervonen, T. (2016). Entropy-optimal weight constraint elicitation with additive multi-attribute utility models. *Omega, 64*, 1–12.

Valukas, A. R. (2010). *In regard Lehman Brothers Holdings Inc. to United States Bankruptcy Court in Southern District of New York*, Jenner & Block, March 11, 239 pages. http://www.nysb.uscourts.gov/sites/default/files/opinions/188162_61_opinion.pdf

Valukas, A.R. (2014, May 29). *Report to board of directors of General Motors Company regarding ignition switch recalls*, law firm Jenner & Block, 325 pages, http://www.beasleyallen.com/webfiles/valukas-report-on-gm-redacted.pdf.

Vargas-Hernandez, J., Leon-Arias, A., & Valdez-Zepeda, A. (2013). Enhancing leadership integrity effectiveness strategy through the institutionalization of an organizational management integrity capacity system. *Contemporary Legal and Economic Issues, 4*, 293–332.

Vaughan, D. (2007). Beyond macro- and micro-levels of analysis, organizations, and the cultural fix. In H. N. Pontell & G. L. Geis (Eds.), *International handbook of white-collar and corporate crime*. New York: Springer.

Vierdal. (2012). *Rapport til Stavanger tingrett. Lundegruppen konkursbo med datterselskaper og deleide selskaper (Report to Stavanger district court. Lunde group bankruptcy with subsidiaries and partly owned companies)*, law firm Vierdal, Stavanger.

Wagner, R. E. (2011). Gordon Gekko to the rescue? Insider trading as a tool to combat accounting fraud. *University of Concinnati Law Review, 79*, 973–1017.

Wells, J. T. (2003). The fraud examiners. *Journal of Accountancy*, October, 76–80.
Wells, J. T. (2007). *Fraud casebook: Lessons from the bad side of business*. Hoboken: Wiley.
Welsh, D. T., Oronez, L. D., Snyder, D. G., & Christian, M. S. (2014). The slippery slope: How small ethical transgressions pave the way for larger future transgressions. *Journal of Applied Psychology, 100*(1), 114–127.
Wiersholm. (2011). *Granskingsrapport, oppsummering, Adecco Norge AS (Investigation report, summary, Adecco Norway AS)*, law firm Wiersholm, Oslo.
Wiersholm. (2012a). *Granskingsrapport til styret i Unibuss (Report of investigation to the board at Unibuss)*, law firm Wiersholm, Oslo.
Wiersholm. (2012b). *Notat til Verdibanken (Note to the Value Bank)*, law firm Wiersholm, Oslo.
Wiersholm. (2016). *Tilgangskontroller i NAV. Gjennomgang, analyse og forslag til forbedringer (Access controls at NAV. Review, analysis and proposals for improvement)*, law firm Wiersholm, Oslo.
Wikborg Rein. (2015). *Granskingsrapport. Kvam Auto AS (Report of investigation. Kvam Auto)*, law firm Wikborg Rein, Bergen.
Wildman, J. L., Salas, E., & Scott, C. P. R. (2014). Measuring cognition in teams: A cross-domain review. *Human Factors, 56*(5), 911–941.
Williams, J. W. (2005). Governability matters: The private policing of economic crime and the challenge of democratic governance. *Policing and Society, 15*(2), 187–211.
Williams, C. C. (2006a). *The hidden enterprise culture: Entrepreneurship in the underground economy*. Cheltenham: Edward Elgar Publishing.
Williams, H. E. (2006b). *Investigating white-collar crime*. Springfield: Thomas Publisher.
Williams, J. W. (2008). The lessons of Enron: Media accounts, corporate crimes, and financial markets. *Theoretical Criminology, 12*(4), 471–499.
Williams, J. W. (2014). The private eyes of corporate culture: The forensic accounting and corporate investigation industry and the production of corporate financial security. In K. Walby & R. K. Lippert (Eds.), *Corporate security in the 21st century – Theory and practice in international perspective* (pp. 56–77). Houndmills: Palgrave Macmillan.
Wilmer and PwC. (2003). *Report of Investigation by the special investigative committee of the Board of Directors of WorldCom Inc*., Wilmer, Cutler & Pickering (Counsel) and PricewaterhouseCoopers LLP (Accounting Advisors). http://www.sec.gov/Archives/edgar/data/723527/000093176303001862/dex991.htm, downloaded February 8, 2015, 345 pages.
WilmerHale and PwC. (2008). *Report of Investigation submitted by the Council of the District of Columbia*. Wilmer Cutler Pickering Hale and Dorr LLP (Counsel) and PricewaterhouseCoopers LLP (Forensic Accounting Advisors). http://www.dcwatch.com/govern/otr081215.pdf. Downloaded February 8, 2015, 126 pages.
Xie, Y., & Keh, H. T. (2016). Taming the blame game: Using promotion programs to counter product-harm crises. *Journal of Advertising, 45*(2), 211–226.
Yearwood, D. L., & Koinis, G. (2011). Revisiting property crime and economic conditions: An exploratory study to identify predictive indicators beyond unemployment rates. *The Social Science Journal, 48*, 145–158.
Yukl, G. A., & Fleet, D. D. (1992). Theory and research on leadership in organizations. In M. D. Dunnett & L. M. Hough (Eds.), *Handbook of industrial and organizational psychology* (pp. 147–197). Palo Alto: Consulting Psychologist Press.
Zagorin, P. (2001). Francis Bacon's concept of objectivity and the idols of the mind. *British Journal of Historical Science, 34*(4), 379–393.

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