



# POLITI HØGSKOLEN

## **“The abductive organised crime detective”**

*Thinking, knowledge and methodical awareness amongst specialised Norwegian organised crime detectives concerning the practical use of hypothesis-driven investigation methodology*

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# Sammendrag

**Tittel:** «Den abduktive org. krim detektiven» – Tenkning, kunnskap og metodisk bevissthet blant spesialiserte norske org. krim detektiver om praktisk bruk av hypotesedrevet etterforskningsmetodikk

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Implementeringen av hypotesedrevet etterforskningsmetodikk, og de ansette fordelene som metodikken innebærer, er noe norsk politi etterstreber. Hvordan angår dette det praktiske arbeidet for detektiver ved organisert kriminalitet? Mitt ønske er at forskningsprosjektet vil bidra med nyttige perspektiver på temaet, basert på deltakernes tenkning, kunnskap og metodisk bevissthet.

Dette prosjektet har et kvalitativt forskningsdesign. Dataene ble innsamlet gjennom semi-strukturerte, kvalitative intervjuer og et case-scenarie. Metoden som ble brukt til å analysere datamaterialet var teoridrevet tematisk analyse, med en kritisk tilnærming. Jeg har brukt et utvalg av relevant litteratur og teori som dekker sentrale aspekter innen etterforskning og organisert kriminalitet. Dette innebærer blant annet; de ulike idealene som gir høy kvalitet, etterforskning som profesjon eller håndverk, psykologiske feilkilder, proaktivt og mistankedrevet fokus, samt viktigheten av abduksjon i etterforskning.

Blant de sentrale trekkene i konklusjonen og bidraget til dette prosjektet, er at deltakerne forteller at de ikke bruker hypotesedrevet etterforskningsmetodikk i sitt arbeid, da det på én side oppfattes som unødvendig og overflødig. I deres arbeid kommer etterforskningen naturlig gjennom etterforskingsskritt og erfaring. Disse forestillingene er spesielt til stede i narkotikarelaterte saker, hvor man ofte har en mistenkt og informasjon fra skjulte etterforskningsmetoder, som gir detektivene et «godt overblikk». På en annen side uttrykker flere av detektivene at de mangler det teoretiske grunnlaget samt mangel på erfaring i den praktiske bruken av hypotesedrevet etterforskningsmetodikk. Dette tyder på at seksjon for etterforskning av organisert kriminalitet har til gode å utarbeide en god praksis for bruken av hypotesedrevet etterforskningsmetodikk.



# Abstract

**Title:** "The abductive organised crime detective" – Thinking, knowledge and methodical awareness amongst specialised Norwegian organised crime detectives concerning the practical use of hypothesis-driven investigation methodology

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The implementation of a hypothesis-driven investigative methodology, and the perceived benefits that the methodology entails, is something that the Norwegian police are striving towards. How does this concern the practical work of organised crime detectives? I hope this research project will contribute with useful perspectives on the subject based on the participants' thinking, knowledge and methodical awareness.

This research project has a qualitative design. The method for data collection was semi-structured qualitative interviews and a case scenario. The method used to analyse the data material was theory-driven thematic analysis, with a critical approach. I have used a selection of relevant literature and theory, which covers essential aspects in the area of criminal investigation and organised crime. This involves various ideals which make high-quality investigation a profession or a craft, psychosocial sources of error, proactive and offender-driven focus, and the importance for abductive inference in investigations.

Amongst the central features in the conclusion and contribution of this project is that the participants report that they do not utilise the hypothesis-driven methodology in their work, as they regard it as superfluous and, in their work, unnecessary, as the investigation evolves naturally through investigative steps and experience. These notions are mainly present in drug-related cases, where one often has a suspect and information from covert investigation methods, which gives the detectives a "good overview". On the other hand, several detectives expressed that they lack the theoretical foundation and lack experience in the practical use of the hypothesis-driven investigative methodology. These features suggest that the unit of investigation of organised crime has yet to formulate a good practice for the use of hypothesis-driven investigation methodology.



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*“Beware that, when fighting monsters, you yourself do not become a monster... for when you gaze long into the abyss. The abyss gazes also into you” – Friedrich Nietzsche*

# **1 Introduction**

One of the most central features of being defined as a skilled detective is the ability to generate and evaluate alternative explanations without favouring the initial suspicion (Fahsing & Ask, 2015; Innes, 2003). What can this be, what caused it, and why? These somewhat basic questions have been discussed amongst scholars since Aristotle. Pure objectivity in practice is, at best, very demanding – if at all possible. Nevertheless, it is a fundamental legal requirement laid upon all criminal detectives. In a study of 124 Norwegian and British police officers using a quasi-experimental design, Fahsing and Ask (2015) compared the quality of investigative decisions made by experienced detectives and novice police officers in the two countries with markedly different models for the development of investigative expertise (England and Norway). In England, accredited homicide detectives vastly outperformed novice police officers in the number of reported adequate investigative hypotheses and actions. In Norway, however, bachelor's degree educated police novices did marginally better than highly experienced homicide detectives. I found inspiration from this study that I wanted to build upon. My motivation for diving into this subject is my notion and understanding that the approach to the challenges that detective work entails distinguishes a professional detective from an untrained one. In addition, I have always been fascinated by using logic and a rational mindset to approach various problems. I am curious to how this relates to detectives working with organised crime. That is why this thesis will explore the nature of the thinking, knowledge and methodical awareness concerning the practical use of hypothesis-driven investigation methodology amongst specialised Norwegian organised crime investigators.

## **1.2 A Winning Game**

In the hunt for evidence and hard-nosed criminals, which organised crime investigations often involve, there is a risk that detectives become too focused on finding incriminating evidence against the suspect, at the expense of potentially exonerating information (Marksteiner, Ask, Reinhard, & Granhag, 2011). Evidence analysis primarily points in the affirmative direction regarding the suspicion of guilt, but strategies to try to debunk and rule out competing hypotheses are often absent. This risk is particularly present in countries with adversarial legal systems such as Norway, where, practically speaking, all the evidence in criminal investigations is organised under the police and the prosecution service. There is an

inherent risk that the legal procedure culminates in what Langbein (2003) describes as a *winning game*.

As noted by Packer (1968): “The presumption of innocence is a direction for officials of how they are to proceed, not a prediction of the outcome” (p. 161). To counter this, models and methodologies based on the alternative hypothesis are preferable. Rachlew and Fahsing (2015) point to Diesen (1994), who suggests a method based on active elimination of hypotheses competing with the accusation: “*The model’s most important attribute, is that it delimits the risk of unconscious psychological confirmation bias and operationalizes the presumption of innocence, and at the same time it reduces the guilty person’s opportunity to promote plausible counter strategies*” (s. 226).

This concept is something the Director of Public Prosecutions in Norway (2018) claims to be “the way to work”. In Norway, it is principally operationalised and implemented through evidence-based models in, for example, investigation plans. The Director of Public Prosecutions has, in several letters, declared that the inquiry must be purposeful and controlled from the initial phase. He has placed an increasing focus on the use of investigation plans, which may be an essential tool in the generation of hypotheses in the inquiry. Investigation plans are demanded in cases with a suspicion of murder, murder, rape, sexual assault on children, and domestic violence. However, in regard to other serious crimes, they are only recommended (2018). Organised crime would be included as another serious crime (2018, p. 5). Moreover, he instructs leaders to ensure that the investigation plans are adequate and practical unless the case is of a relatively trivial nature and that it is evident that it is unnecessary to have them (2013, 2015, 2016a). In a previous letter, he also stated the minimum requirement of an investigation plan is that it lists and specifies possible alternative explanations (2016a). In the aftermath of the so-called *Monika case*, (where an 8-year-old allegedly committed suicide, but which later became a murder case), a review ordered by the Director of Public Prosecutions made it clear that senior investigating officers must be able to set up hypotheses and reasonably operationalise them. In the same review, he stated that detectives must be critical and have the ability to consider divergent points of view and not disclose on one hypothesis (2016b).

## 1.2 The Norwegian Police and its Organisation

The Norwegian justice system consists of a "two-track system", which divides the distribution of responsibility between the National Police Directorate, which is under the Ministry of Justice, and the Director of Public Prosecutions. The National Police Directorate and the Ministry of Justice will be primarily focused on education, administrative tasks, economics, and the purely police technical, such as policing, preventive policing, and the general state of readiness. The Director of Public Prosecutions will have a primary focus on the criminal proceedings and the investigation. The prosecuting authority in Norway has three levels; the prosecution within the police, the district attorney, and the Director of Public Prosecutions as the supreme authority. The prosecution is integrated with the police service, which ensures close cooperation between police lawyers and police officers.

Organised crime is a broad concept (Larsson, 2018). The formal definition of organised crime in Norway is in the penal code, section 79, letter c (2005), and is considered as an "organised criminal group", which involves a "collaboration between three or more people, which has a primary purpose of committing an act that may be punishable by a sentence of imprisonment of at least three years, or which is based on activities consisting of to a not insignificant degree the commission of such acts". Three or more people that are collaborating in the conduction of serious crime is also in the European definition. However, this definition is immensely wide ranging and gives opportunities for various assessments and interpretations, and it does not distinguish between the various violations of the law. In society, the term is often associated with "evil", and frequently aimed towards the criminal or the person to a higher degree than the organisational aspects (Larsson, 2018). The typical forms of organised crime in the Nordic countries are entrepreneurial, small, flexible, and insular - they work best when covert and discreet (Korsell & Larsson, 2011). The Nordic countries also have a low level of crime, a high and shared standard of living, and effectively working welfare systems, which will naturally have an effect on the organised crime committed. This will also have an effect on how attractive the Nordic countries are to transnational crimes (Larsson, 2018).

The educational requirement to become a police officer is a bachelor's degree from the Norwegian Police University College. With this degree, it is possible to work either as a street officer or a criminal detective. In Norway, the generalist or "omnicompetent" police officer is the ideal – an officer that can tackle any technical police challenges. There has always been a

strong focus on operative police training. The majority of all police officers are obligated to complete a yearly training course with firearms and other tactical training. Now, more recently, a prominent focus has been placed on the field of investigation. In 2016 a three-year plan was implemented to lift the investigation field.

### **1.3 The long-awaited lift of the field of investigation**

This three-year plan, starting in 2016, and finishing in 2018, *the action plan for a lift of the field of investigation* (Politidirektoratet, 2016), would gradually implement various phases that have contributed to raising the quality of the Norwegian investigation nationally, which in turn would increase the public's security under the rule of law. In addition, the action plan emphasises steps to raise the status of the investigation field and elaborate upon investigating as a profession. The plan has 20 steps distributed across the areas of “control and administration”, “management and culture”, “competence, learning, career”, “interaction and working process”, “organising”, and “digitalisation and EDB support”. With these steps, the Norwegian police force will achieve a lift in the investigation field. One of the measures under the “competence, learning, career” aspect is step number seven, “yearly obligatory training”, which is highly relevant to this project. This step aims to increase the quality and effectiveness of investigation work through training and exercises. It is considered to be the first step on the road to a defined minimum standard for investigation within the Norwegian police force. This step was implemented in 2017, and encompasses the various aspects of investigation work, i.e. hypothesis-driven investigation methodology, and how to practically work with it by utilising tools such as Indicia. Indicia is a police software application used to administrate investigative projects, as well as the database for intelligence.

## **2 Theory and previous research**

This chapter will touch upon some of the important aspects of the criminal investigation. In chapter 2.1, I will present some of the ideals for criminal investigations, i.e. that they are to be of high quality, while conserving the rule of law and the presumption of innocence. Chapter 2.2 will cover the understanding of policing as “a craft”, which makes it difficult for the criminal investigation to be considered a profession. However, it has tendencies that may indicate the opposite. Chapter 2.3 will look at the proactive approach to the investigative strategies which organised crime is characterised to undertake. The detectives are required to be aware of

psychological pitfalls, e.g. “confirmation bias” and “tunnel vision”, which I will explain in chapter 2.4. This will bring us to chapter 2.5, concerning the “offender-driven case construction”, which involves creating narratives that support the suspect's guilt. The last chapter, chapter 2.6, will include the investigative cycle and other models for the investigative process. These chapters will contribute to cover my theoretical base for analysing and discussing the collected data material.

## **2.1 Ideals for criminal investigation**

There are several elements, regulations, legislations, rules and expectations that govern the areas of activity regarding criminal investigations. The Director of Public Prosecutions (2018) points out that the criminal treatment concerning investigations, prosecutions, and execution of convictions, is to be of a high quality, effective, and have a high solve rate, that ensures criminals receive adequate reactions, and innocents are not convicted. The police are to be trusted by society. They must safeguard both the obligation to investigate and the requirement for objectivity. The Director of Public Prosecutions also states that the criminal justice system must facilitate ethical reflections and professional contradictions. He also expresses that everyone within the police force has an independent responsibility to maintain updated professionalism within their area of responsibility, and be conscious of the quality of their work. The public expects the police to have high professional standards, where detectives are skilled, and fundamental flaws do not occur in investigations (Monckton-Smith, Adams, Hart, & Webb, 2013). Besides this, the police constantly face new and more complex forms of crimes and technology, and always have economic pressure to produce more and better results for less money (Diderichsen, 2013). An important aspect the Director of Public Prosecutions highlights about the requirement of high quality is that it is not result-mandatory, but effort-mandatory (2018), which correlates with the argument that police investigations should have a dominant focus on the process rather than the product (Carson, 2011). Where the product might be a piece of evidence in court, the process would be how that evidence was secured.

In the first stage of a criminal case, the police will investigate to provide the necessary information, in order to determine *"whether an indictment should be preferred"*, and, *"serve as a preparation for the trial of the case"* (1981), by having a “purposive” collection of information (Myhrer, 2015; Riksadvokaten, 1999). To ensure that people are not unnecessarily exposed to suspicion or inconvenience, the detectives must investigate as efficiently as possible,



both for and against, when a person is under suspicion (1981). According to the Criminal Procedure Act, section 224, the prosecution and the police are obligated to investigate when there are “reasonable grounds” to investigate a possible criminal matter (1981). This obligation has two sides. Firstly, that criminal investigations are conducted when they should be, and secondly, if the terms of the law are not covered, that *the rule of law* ensures that the people involved are not subjected to the stress that investigations may create (Myhrer, 2015). The concept of the rule of law concerns ensuring the *correct material outcome*, which the Criminal Procedure Act demands through the *principle of material truth*. The principle of material truth is described as the mainstay of the criminal process, and in short, states that decisions made in criminal cases must be drawn based on what has actually happened, i.e. the truth (Rui, 2014). During criminal investigations, many decisions involving risk are made, e.g. the risk of an innocent being convicted or the culprit going free (Carson, 2011; Hestehave, 2013). In every step of the investigation, the detectives must be aware of information that appears to be materially correct. On an individual level, one of the worst mistakes a society can make is to convict an innocent (Rachlew, 2009; Rui, 2014). These mistakes are often labelled as a "murder of justice", but in reality, they are a miscarriage of justice. However, it is also essential that the rule of law ensures that actual culprits are convicted. The fact that guilty people are convicted and innocent people “go free” will reflect upon the population's trust in the justice system (Rui, 2014). This gives detectives a more prominent reason to be aware of, and use, hypothesis-based approaches in their work, as well as raise the quality and professionalisation of the investigation.

### ***The fundamentals of hypothesis testing***

According to the hypothesis-based approach to investigation, the detectives will, throughout the investigation, and perhaps especially in the early stages, continuously make decisions and generate one or more hypotheses based on the information collected, the value of that information, and the information's potential to be considered evidence. A *hypothesis* is an assumption of connections between phenomena to be investigated through the collection of information. It is preliminary, and provides mental support to imagine what might be found through examination (Johannessen, Tufte, & Christoffersen, 2010; Olsvik, 2014). There are two fundamental strategies for testing a hypothesis: *confirmation* and *falsification*. Confirmation means that detectives are looking for information which corresponds to and supports the durability with an established hypothesis. Falsification means that the detectives are looking for information that logically cannot occur if the established hypothesis is true (Ask, 2013;

Bjerknes, Fahsing, & Bergum, 2018). The best starting point for detectives is to have a mindset to falsify the hypothesis because it is often through the exclusion of any hypotheses that may indicate innocence that it is possible to answer the question of guilt more substantially (Bjerknes et al., 2018; Monckton-Smith et al., 2013; Rachlew & Fahsing, 2015). Testing of hypotheses is required to facilitate *the presumption of innocence* (Aall, 2015). Both in Norwegian and European criminal law, the police have a statutory duty to treat and deem all individuals as innocent until guilt is proven by law (*European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950; *Grunnloven - Grl. - bokmål*, LOV-1814-05-17). Nevertheless, the very pretence of innocence has a long history stretching back to the 13th century, when the essential phrase "innocent until proven guilty" was born (Pennington, 2003). In practice, this means that all criminal cases are required to have at least one hypothesis based on a realistic possibility that the suspect is innocent, often labelled the "innocent hypothesis" (Bjerknes et al., 2018; Kolflaath, 2015).

## **2.2 The tendency towards professionalisation of criminal investigation**

Criminal investigation is a field that receives significant attention in both the media and fiction. The detective tends to be portrayed as a possessor of an extraordinary, pragmatic knowledge of crimes, with an exceptional ability to decode and understand criminal behaviour, using "deduction", such as the well-known fictional representation of the detective, Sherlock Holmes (Diderichsen, 2013; Innes, 2003; Rønn, 2013). "Detective mythology" is a term Innes (2003) uses to describe such an effect, and how the role of the detective is portrayed as a sanctification of "real" policing. However, the same "enthusiasm" for detectives' professional status has yet to be achieved in the world of academia. When the academic literature attempts to describe "policing", terms such as "common sense" (Diderichsen, 2013), "police eye" (Finstad, 2003), "the nose" (Diderichsen, 2013; Rønn, 2013), and "craft" (Diderichsen, 2013; Fahsing, 2013; Innes, 2003) are often used. What these terms have in common is that they emphasise practical policing and intuition, rather than theoretical knowledge and academic learning (Diderichsen, 2013; Innes, 2003).

Common sense is a cognitive trait that most people in a society share, where the skills are so widely used it is believed that all members of society possess them. A skill turns into common sense at the moment when everyone shares, or believes they are sharing it

(Diderichsen, 2013). Common sense is often associated with unskilled work, which is a term used when qualifications are not provided, other than those which all members of society are believed to have. Therefore, in fields where people rely on common sense, they are assumed to contain only limited forms of theoretical education. In legal traditions, Koflaath believes that there is a broad perception that evidence assessment is something all upstanding adult people can perform responsibly using their common sense (2015). “The nose” refers to a particular talent and instinct to find clues that others cannot find. It is built up through many years of experience in the police force, and it is often referred to the senior investigator’s lengthy experience. “The nose” resembles the “police eye” which refers to experienced police officers’ ability to “read” and interpret encounters with citizens and other situations from a police angle (Diderichsen, 2013). The assumption that the police work has a “nose” weakens the notion that anyone can perform these tasks with common sense (Diderichsen, 2013).

Nevertheless, the most prevalent notion of policing is arguably as a “craft”. “The craft” is taught by a master, who will be the apprentice’s access to the field of knowledge. The master shall pass on the trade to the apprentice by being a role model, guiding and helping the apprentice through assignments, teaching the apprentice the required concepts, as well as passing on the standards and quality requirements set for the product. The quality of the product refers to the knowledge and expertise possessed by the professional. However, it is not the professional who determines the quality of the product, but rather the user of the product. In order to assess the quality of the product, it is necessary to have considerable professional knowledge. Such professional knowledge enables the master to guide the apprentice. The fact that the master must explain to the apprentice how and why one solves a given task, is what primarily distinguishes “the craft” from “common sense”, “the eye” and “the nose”. This is because it defines the ideal of certain forms of knowledge and learning processes that can be acquired through general rules, procedures, and theory. Traditionally, the craft may be organised in two ways, namely training in the workplace, or formal education where teachers are typically educated in the craft, rather than pedagogical or academic education.

It is pervasive in the Norwegian police force, both in work and in education, that the policeman is considered to be a generalist. The criminal investigation is traditionally not regarded as an independent discipline, but one of the many activities entailed in police duties. The classic understanding of policing is based on the idea of the "omnicompetent" police officer, who, with short- or medium-term education, can handle all the different police issues

and methods equally well (Fahsing, 2013; Stelfox, 2011). Considering the detective as a generalist is well-matched with policing as a "craft". Several sources have argued that the understanding of "the craft", and the hierarchical structure of the police, makes it difficult for police work to be considered a profession (Diderichsen, 2013; Hestehave, 2013; Stelfox, 2011). The view of policing as a craft was reinforced in the late 1970s and early 1980s when it was found that the most essential criterion for a successful outcome in an investigation was the quality and quantity of the information provided by the public (Fahsing, 2013; Innes, 2003).

### ***Indicators of the criminal investigation as a profession***

A profession is generally defined by higher education, and often autonomous professionals with a specialised knowledge that only the practitioners of the profession possess, e.g. doctors and lawyers. The profession, through its monopoly status in the field of work, is expected to serve ideals that are more important than the personal and economic interests of its members. They are expected to have a more overarching public interest in the area in which the profession finds itself and contribute to good professional ethics. A professional practitioner is expected to be able to contribute to developing the profession further, through theoretical understanding and methodological solutions, as opposed to "the craft", which has the function of creating a conceptual formation, and explaining the practice so that one can act on given rules in given situations. In professionally dominated organisations, a less hierarchical structure will allow for "peer-review" (Diderichsen, 2013).

Because the characteristics of a detective emphasise a rational, logical, and systematic approach to solving investigative problems, several scholars argue that investigation leans more towards a profession than a "craft", as well as other police-related tasks (Innes, 2003). An investigation is an intellectualised form of work, in which the investigator must have good background knowledge of societal matters, and a mindset that reflects the methodological access to the investigative work (Hestehave, 2013; Stelfox, 2009). The field of investigation has evolved into a unique discipline, where the investigator must always consider miscarriages of justice and pitfalls, as well as technological and procedural changes. The development in technology, biological forensics, and other modern possibilities, provides colossal source materials, often with ambitious and uncertain information, which requires the detectives to have expertise in a variety of techniques, the processing of information, and making relevant decisions (Bjerknes et al., 2018; Fahsing, 2013; Innes, 2011; Stelfox, 2011). Moreover,

investigative work is characterised as a higher degree of autonomy and a lower degree of visibility and surveillance than patrol work (Ericson, 1993). Speaking of criminal investigation as a profession, we may also consider the investigative strategies, i.e. reactive and proactive, and specialised forms of investigation, i.e. investigation of organised crime (Diderichsen, 2013).

### **2.3 Organised crime and the proactive approach to investigative strategies**

The majority of police investigations are reactive and considered to be the traditional style of investigation. It is a response to something that has happened, preferably a criminal act, e.g., a homicide, an assault, or a theft (Hestehave, 2013; Innes, 2011; Rønn, 2013; Shepherd & Griffiths, 2013). It is a demand-led style of policing, as it often involves responding to crimes reported by the public (Clark, 2011; Maguire, 2011; Roberts, 2011). Identifying the suspect will be the primary focus (Riksadvokaten, 2018). As mentioned, research from the 1970s and 1980s found that the most important criterion for a successful outcome in an investigation was the quality and quantity of the information provided by the public (Fahsing, 2013; Innes, 2003, p. 8). From the mid-1980s, there was increasing frustration at not being able to be more efficient in crime-fighting, despite the expansion of personnel and technology. Many of the arguments were that *reactive* techniques were not capable of producing the required evidence, as the criminals had become more careful and professional (John & Maguire, 2011). As a result, the focus shifted towards the criminals, rather than the crime, and *proactive* techniques (Clark, 2011; John & Maguire, 2011).

Organised crime is often characterised and described as proactive, as this style of investigation is proven to be exceptionally effective in combatting typical types of organised crime, e.g. drug trafficking, and smuggling (Clark, 2011; Hestehave, 2013; Innes, 2011; Lewis, 2011; Roberts, 2011). Reactive approaches to these types of crime may often be inadequate since they generally occur covertly, and are more advanced, global and transboundary (Hestehave, 2013; Lewis, 2011). Reactive crimes often have one or several victims, in contrast to proactive investigations which are often “victimless” (Newburn, Williamson, & Wright, 2011), with individuals inside criminal organisations who might be too disinterested, or too afraid, to speak out (Lewis, 2011). Criminals involved in serious and organised crime utilise modern technology and use increasingly sophisticated and professional methods to accomplish their objectives, which requires this to be matched with equally sophisticated tactics and

methods from the police (Hestehave, 2013; John & Maguire, 2011). A proactive approach, in contrast to a reactive one, is often initiated by the police rather than the public (Newburn et al., 2011), as well as the focus being primarily on the offender rather than the offence (Lewis, 2011; Maguire, 2011; Tilley, Robinson, & Burrows, 2011). It is often characterised as being future- and plan-orientated (Maguire, 2011; Shepherd & Griffiths, 2013). Proactive investigations often utilise intelligence, along with covert methods such as surveillance, telephone control, and informants to gather further intelligence and evidence. Covert methods are usually applied before an arrest, but also to discover serious crimes, or individuals that are likely to engage in serious criminal activities that are possible to prevent (Clark, 2011; Hestehave, 2013; Innes, 2011). Regardless of whether the investigation is reactive, or perhaps especially proactive, detectives might be prone to heuristics and psychological pitfalls.

## **2.4 Heuristics and psychological pitfalls – the risk of “confirmation bias”**

Research shows there are several psychological pitfalls, e.g. “confirmation bias” and “tunnel vision”, that may occur when lacking the cognitive capacity to identify all possible alternatives before starting to evaluate and integrate information into a decision (Fahsing & Ask, 2015). One may also become less objective, and question the correctness of the decided choice if it has been selected from several possible alternatives (Gollwitzer, Heckhausen and Steller, cited in Ask, 2013). An inherent tendency for humans is to become attached to information that sounds the most correct and draw quick conclusions to hold on to (Fahsing & Ask, 2015).

All individuals, including detectives, prosecutors, and judges, have several cognitive simplification strategies, also called heuristics, when dealing with a greater volume of information. Heuristics are incredibly useful and often entail correct assessments of the world around us (Kahneman, 2011). However, heuristics also have the potential to reduce the detective’s ability to conduct systematic and reliable investigations (Ask, 2013; Bjercknes et al., 2018; Klamberg, 2011; Kolflaath, 2015). “Availability”, “representativeness”, and “confirmation tendency” are among others, some of the heuristics used (Bjercknes et al., 2018). *Availability* argues that people have an unconscious facility to emphasise the first thing that comes to mind as being the best and most representative alternative. The more easily a detective manages to imagine something, the more he or she will automatically consider this to be more

likely, which in turn suggests that it is harder to imagine something that seems less likely. This may affect investigations by virtue of the fact that the first option is significantly more emphasised than the less available option. *Representativeness* estimates the probability based on the detective's perception of what is most typical of a situation, an object or a person. There is not necessarily a connection between this perception and the likelihood that the perception will occur. *Confirmation tendency* means emphasising or preferring information that confirms existing perceptions, assumptions, attitudes, and thoughts. A risk with this cognitive simplification is that it may ignore information that suggests the detective should change their thoughts and perceptions in an investigation. The degree to which detectives involve and expose themselves to something in the investigation, e.g. when the police have decided to arrest a person, may increase the risk of confirmation bias, and possibly contribute to indirectly making them more certain of the case. This can potentially lead to an unconscious need to justify any "errors" in the investigation and make it harder to consider other alternative explanations (Fahsing & Ask, 2013).

Confirmation bias is regarded as the most widespread and leading cause of fallacies in a criminal investigation (Ask, 2013), and it is an obvious pitfall in terms of objectivity and the rule of law. Confirmation bias can arise in two different ways. Firstly, when examining a hypothesis, we would look for evidence that confirms the established hypothesis. Secondly, when detectives have ambiguous information that allows for more than one interpretation, they will choose the interpretation that matches the established hypothesis. The matched information often tends to be overestimated. Tunnel vision is a typical result of confirmation bias, e.g. the detectives only focus on a specific hypothesis, or a single suspect, and ignore other possibilities (Findley and Scott, cited in Ask, 2013).

When detectives are in the process of "constructing a narrative", they may be subject to confirmation bias if they interpret new information in a way that supports the narrative (Innes, 2011). It has been shown in several cases that detectives are focused on finding incriminating evidence against the suspect, and information that could potentially lead to acquittal is not being sought or treated with the same focus (Fahsing & Ask, 2015). This traditional view has an "offender-based" approach to the investigation.

## **2.5 Case construction and proactive, offender-driven investigation**

Case construction occurs when someone becomes a suspect in an investigation, searching and weaving together selective pieces of information that will support the suspicion rather than continuing to apply focus on what has actually happened, i.e. the truth (Carson, 2011, p. 412; Maguire, 2011; Newburn et al., 2011; Savage & Milne, 2011). When a suspect is identified, there will be a shift in the investigation, regardless of the type, nature and focus of the investigation (Innes, 2011). Some researchers argue that the notion of case construction includes all aspects of the investigation, not only the treatment of suspects, but also victims, witnesses, police interview techniques, and how the police make each aspect fit their case (Savage & Milne, 2011). The construction of a case story involves individual pieces of information, compiled from various sources, combined, ordered and represented through the interpretation of detectives (Innes, 2003; Newburn et al., 2011). The narrative needs to cover the legal frame and be plausible and believable (Innes, 2011).

Humans have an inherent motivation to draw inferences and make conclusions based on what we understand from a given amount of information. If we do not do this, it may feel uncomfortable. That is why everyone, including detectives, instinctively develops narratives in chronological order based on the context of information. If the information is presented in a non-chronological order, the brain will still attempt to mentally rearrange the information so that it becomes a chronological sequence of events (Ask, 2013). Investigative work aims to produce simplified, chronological, and coherent narratives of incidents, that may be used in court (Ask, 2013; Innes, 2003; Kolflaath, 2015; Maguire, 2011). Case narratives also assist detectives as “sense-making” during the investigation, by organising their present and future actions, lines of inquiry, leads pursued, and decisions, as well as predicting possible issues that they are likely to encounter (Innes, 2003, 2011). The stories include evidence and often large amounts of information. The evidence makes sense, gains value and is justified within the framework of a narrative – one cannot avoid narratives when addressing the evidence (Innes, 2003; Kolflaath, 2015). Another function of the narrative is to attempt to anticipate the elements of the investigation that may be contested by the suspects and their defence lawyers, to counter them in order to undermine the suspect's credibility (Innes, 2011). Furthermore, in extreme “closed mindset” cases, to also suppress or exclude evidence that is beneficial for the suspect, because it does not fit the initial narrative (Innes, 2003). Some scholars argue that detectives, in retrospect, have “created crime” in the process of investigating, e.g. with creativity and



persuasion, that makes suspects give accounts in a way that meets the legal requirements for proof of a criminal act, and that they are guilty of it (Ericson, 1993; Maguire, 2011).

Stories are central to criminal cases. If the court is to believe the suspect is guilty “beyond a reasonable doubt”, then it is vital that they understand the story of the crime (Innes, 2011). In a trial, prosecutors will usually try to have a defendant convicted by presenting a sequence of events implicating conviction. The defence will often create an alternative narrative based on the defendant's explanation. The court will use these stories and the evidence presented to make an overall assessment (Kolflaath, 2015). Court systems with adversarial systems have received criticism because the truth is less important than the narrative told by each lawyer. Instead of trying to find the truth, both sides will try to undermine the veracity of the opponent's explanation or the strength of their evidence (Monckton-Smith et al., 2013). The investigation will generally gather sufficient evidence to fulfil what is required by law for conviction before it is presented in court (Ask, 2013). Everything must be in order and prepared in an appropriate way to ensure a successful outcome when the prosecution presents the case in court (Brookman & Innes, 2013), and come forward with this one positive hypothesis that the suspect is guilty (Carson, 2011). If the story provides a picture of a complete and coherent narrative of the offence, the investigation will be considered a success. However, if contradictory information emerges, the story must be revised (Ask, 2013). The suspects, with their defence, have a right to “equality of arms”, meaning that the police and prosecution by section 242 in the Criminal Procedure act (1981), must disclose all evidence at its disposal, in order to achieve a fair trial. Nevertheless, in proactive investigations, this might prove challenging, as often the boundaries and starting point of the investigation may be unclear due to the use of covert methods, e.g. informants and “stakeouts” (Clark, 2011).

Concerning “case construction” Wagenaar, Van Koppen and Crombag (1993), found that there were distinctions between the starting point of offence-driven (reactive), and offender-driven (proactive) investigations. As explained by Christianson and Granhag:

*“In offence-driven investigations, the starting point is the information that is available at the time of the investigation. A narrative about the case later emerges as new information is collected. The characteristic of this type is that there is always information available that controls the construction of the case narrative. Instead, in offender-driven investigations, there is a starting point of a narrative created at an early*

*stage. Often based on a suspect being put in connection with a crime without objective evidence that binds him or her to the act. Instead of the information controlling the narrative's construction, the hypothetical narrative searches for affirmative information.” (Christianson & Granhag, 2008, p. 164)*

The accuracy of the original suspicion must be precise from the very start in order to ensure a successful offender-driven investigation. The reason for this is because it has been found that suspicion made on erroneous grounds through, e.g. confirmation bias, often leads to wrongfully or questionable convictions (1993).

### ***The “prolific offender”***

Past involvement in deviant and criminal activity will often be used by the police to build and reinforce a criminal case. Throughout the investigation, and as the case against the suspect is strengthened, the suspect will have increasingly stigmatising labels placed on them (Innes, 2003). “Prolific offenders” refers to the uneven distribution of offending, or the “80/20-rule” which says that 20% of offenders are responsible for 80% of crime (Hestehave, 2013). This often makes the focus of police activity and intelligence gathering shift towards active and “known criminals”, who have previously built up a set of convictions, in the hope of uncovering recent criminal activities, and sometimes without any evidence to link them to specific offences (Hestehave, 2013; Maguire, 2011). The police may also look at the “criminal career” of these individuals, which focuses on the offenders’ “modus operandi” (MO), as well as an assumption that they will show similar behaviour throughout a series of offences (Monckton-Smith et al., 2013). International studies have found that people in gangs commit five times more crimes than people who are not in a gang, and seven times more violent crime than non-gang members (Lemos, cited by Hestehave, 2013). Moreover, “forensic awareness”, may show that the offender is aware of forensics and evidence, which may suggest that they have had previous encounters with the criminal justice system (Monckton-Smith et al., 2013). When a person denies criminal charges, it is more often the actual, rather than the legal, part of the guilt question that presents challenges (Kolflaath, 2015). There must be an interaction between the evidence gathered before suspicion can be put on an individual (Carson, 2011). The focus should be to assess inference chains from evidence, rather than assessing how good the narrative is. Instead of finding an explanation about something, one should consider an explanation for

something. Such a perception of evidence assessment will build on a general assumption that everything that is in the case has an explanation (Kolflaath, 2015).

### ***The call for the abductive detective***

Detectives are both encouraged and required by law to have alternative hypotheses, and not follow this “one verifying and offender-based narrative”, particularly in the early stages, but also during the investigation. There is a broad consensus among the research community that the use of an abductive investigation process to think and consider which other alternatives and contesting narratives that may be fitting, resulting in the best, most plausible, explanation to the evidence is the preferred approach (Bjerknes et al., 2018; Carson, 2011; Fahsing & Ask, 2013; Innes, 2011). This is in accordance with the legislative interventions of the Director of Public Prosecutions (2018), and the Criminal Procedure Act, section 226 (1981). Innes (2011) uses the term “narrative reasoning” as a process when explaining the detective’s cognitive requirements in major investigations, to make sense of the conflicting, ambiguous, and contingent information. *The abductive inference* is an essential factor in narrative reasoning. “Reasoning” is described as the process of thinking in a logical way (Hornby, Wehmeier, Ashby, Turnbull, & McIntosh, 2005). The three methods of reasoning are deductive, inductive, and abductive inference. In the modern criminal investigation, inference of abductive reasoning is the preferred course of action (Bjerknes et al., 2018; Fahsing, 2016; Innes, 2011; Rønn, 2013). The feature that distinguishes abductive reasoning from the others is that it seeks to identify the best, most plausible, explanation for a set of observations or circumstances, using the information the detectives have at that current time, with the possibility to be falsified if new information appears. Unlike deductive reasoning, where it is possible to obtain an absolute conclusion from the facts presented, inductive reasoning uses already known and founded information to identify general rules and principles, and, in a similar manner to abductive reasoning, the inference can be falsified, but abductive reasoning differs from inductive reasoning, as the inference in abductive reasoning will be drawn from qualified, and pragmatic guessing (Bjerknes et al., 2018; Fahsing, 2016; Newburn et al., 2011; Rønn, 2013). As mentioned earlier, for Sherlock Holmes, his extraordinary skill of deduction enabled him to make solid conclusions based on his observations and the use of small and crucial details (Diderichsen, 2013; Fahsing, 2016; Rønn, 2013) (Diderichsen, 2013; Fahsing, 2016; Rønn, 2013). But in the real world, this is not practical because detectives often have to work with ambiguous and uncertain information, which is lacking in the literary world of Holmes and his

guaranteed conclusions (Bjerknes et al., 2018; Innes, 2011). In order to comprehend this, criminal investigations might benefit from investigative models, methods, and rules.

## **2.6 The Investigative Cycle as a comprehensive model for the investigative process**

When solving problems in an investigation, the detective should define detailed questions, as in the fundamental “5 W’s and H”, which in short asks, “Who did What, How, When, Where and Why” (Bjerknes et al., 2018). These questions are also implemented in the “Investigative Cycle” (Fahsing, 2016), a model set up as a cyclical process that aims to systematically examine and abductively divide the investigative process into six c’s (6 C’s); Collect, Check, Connect, Construct, Consider, and Consult. The Investigative Cycle should be a repetitive process so long as information enters the circle, and the hypotheses require further investigation (Bjerknes et al., 2018). When **collecting**, the detectives gather all available and assumed relevant information, while having a professional focus on the process of how evidence is secured. **Checking** involves that detectives control the information for relevance, accuracy, and reliability. In this phase, the detectives should be able to prioritise important information, identify information gaps, and actively use the “ABC principle”. The ABC principle is a model and rule which states that detectives shall: “A – Assume nothing, B – Believe nothing, and C – Challenge/Check everything” (Cook & Tattersall, 2016). It aims to encourage the detectives to challenge both the meaning and the reliability of everything collected through the investigation; no matter how obvious it appears (NPIA, 2012). During **Connecting**, the detectives analyse and connect information from different sources. To aid in this phase, the detectives might organise and structure the information into a visual timeline or a matrix. One of the most fundamental activities used when investigating is to systematically cross-check information from different sources to disclose the same question, preferably in a hypothesis matrix (Bjerknes et al., 2018; Hestehave, 2013). This may enable the detectives to visually consider multiple verifiable information that may draw or contribute to closure to an explanation, i.e. a hypothesis. To create a hypothesis matrix, one might align the central hypothesis in a horizontal axis, and then in a vertical axis, and add generated questions and verifiable information. A created question or verifiable information may cross-match with one or several of the hypotheses, which results in either falsifying, confirming or neither. The detectives can document these outcomes by, for instance, using colour-coding; green to signal support or “confirmation”, red to signal contradiction or “falsification”, and yellow to signal

that the connection had no effect. The aspect of a hypothesis matrix would also be important to the **Consult** phase, as detectives should always have an ongoing assessment of the evidence accessible, as conclusions are rarely, if ever, certain in an investigation. When **constructing**, the detectives construct all relevant and competing hypotheses from the available information, while actively using the 5 W's and H, and should have an open mind. **Considering** is when the detectives assess how they can test all the hypotheses suitable for both verifying and falsifying. **Consulting** requires the detectives to consult with others to take a critical look at how their own work, assessments, and decisions, as well as a second opinion, might contribute with new knowledge, expose blind spots, discover unidentified risks, etc. (Bjerknes et al., 2018; Fahsing, 2016).

It is important to understand that these methods may not necessarily solve the case or eradicate every possibility for psychological error. However, it might contribute to counteracting them and help the detectives to make good decisions (Bjerknes et al., 2018). The investigative process requires that detectives have awareness, good background knowledge and an openness towards the investigative risks they might encounter (Bjerknes et al., 2018; Carson, 2011; Kolflaath, 2015). Detectives should at all times be aware of their limitations; “the gut feeling is not always representative” (Bjerknes et al., 2018). By adopting effective countermeasures, such as hypothesis testing and the use of the Investigative Cycle, detectives will attempt to reach the best possible result. If the measures lead to an acquittal, it only indicates professionalism, rather than doing a poor job in not managing to reach a conviction (Bjerknes et al., 2018).

## **3 Methodologies and data collection**

In this chapter, I will present the choices of design and method for this project. Following this, I will discuss the reliability and validity of this project. Furthermore, I will describe the selection of informants, how I collected the data and how I performed the analysis. Lastly, I will present my ethical considerations to this project, including that I am researching “my own” profession.

### **3.1 The design of this project**

In order to answer the research question, I had to make several considerations and choices. I chose to have an overall qualitative design based on the recommendations of Braun and Clarke (2013, pp. 43-56). This subchapter will present the methodical approaches used to collect the data and method of analysis. Following this, I will discuss which considerations are made for this research project’s ontological and epistemological baselines.

#### ***3.1.1 The qualitative interview***

In my study of how organised crime detectives practise the hypothesis-driven investigation methodology, it was crucial to apply an approach that allowed the participants to explore a variety of perspectives and nuances on the subject, without being rigidly limited to respond to fixed and pre-designed categories where vital information could be lost. Qualitative research is well suited for identifying an in-depth understanding of the perspectives and “life worlds”, of the participants and for revealing social patterns in a small population (Krumsvik, 2014, p. 21). Moreover, a fundamental aspect of qualitative research is that it has a foundation to consider more than one correct version of reality or knowledge (Braun & Clarke, 2013). Therefore, I considered a semi-structured qualitative interview to be a suitable data collection method to examine my research question.

With semi-structured interviews, I have the flexibility to adjust and adapt the wording and phrasing of the interview questions, as well as the order in which the questions are asked. The interview will become more contextual and responsive to the participants than, for example, a structured form, and I will give them opportunities to discuss the aspects and perspectives on the subjects that are important to them (Braun & Clarke, 2013).

According to Braun and Clarke (2013), qualitative interviews are suitable as a method of collecting data in cases where the research questions are designed to examine constructions understood as the interpretation of the reality that is under scrutiny (2013). I consider my focus on the participants' thinking, knowledge, and methodical awareness on hypothesis-driven methodology as an attempt to uncover precisely the construction or production of a specific reality in the Norwegian organised crime unit.

Furthermore, this qualitative study has a *critical* approach, which means I will strive to explore and interpret the collected data in order to understand the elements or causes that contribute to the statements and replies of the participants. It does not take the data at face value, which means that the focus will be on my interpretations of the data material, rather than the interpretations of the participants themselves (Braun & Clarke, 2013). I found support in a *critical-based* approach, as I wanted to examine the data with previous research, and not with the participants' attitudes, and subjective opinions to hypothesis-driven methodology, which would lean more towards an experiential approach (2013).

As a tool for the interview, I used a fictional case. The methodical foundation of this approach has already been performed by Fahsing and Ask (2015). I will return to this in chapter 3.5.3.

### ***3.1.2 Thematic analysis***

*Thematic analysis (TA)* was the method used to analyse the collected data. TA is a method for identifying and analysing patterned meanings within the dataset in relation to a research question (Braun & Clarke, 2006, p. 6). It has been described as an easy method to use, and it is suitable for nearly any type of study concerning the research question, data and sampling approach (2013, p.50). That is why one of the key elements that Braun and Clarke emphasise in relation to TA is its flexibility. However, with this flexibility, TA is simply a method for data analysis, and not a whole framework for performing analytic scholarships, unlike pattern-based discourse analysis, grounded theory and interpretative phenomenological analysis, which are bound to a particular theoretical customisation (Braun & Clarke, 2013). My sample size of six participants was also sufficient for TA, where the recommended number of interviews is 6-20 depending on the scope of the study (Braun & Clarke, 2013, p. 48).

It is important to decide on what level of meaning the themes in the analysis should be identified (Boyatzis, 1998). I have chosen a latent approach to the data (Braun & Clarke, 2013), where the themes and codes are identified out of my assumptions and interpretation of the participants' statements through my own theoretical and conceptual frameworks. It is also called research-derived, as my focus will be to interpret what the participants have said, rather than reflect on their language and concepts, which would be more semantic, or data-driven (Braun & Clarke, 2013). However, in practice, the distinction between the latent versus semantic approach is not "pure", as both approaches contain more or less both elements. In relation to this, I have chosen a predominantly deductive framework to the analysis, which involves identifying themes with a theoretical orientation to the data material, and the researcher's questions are driving the analysis, by exploring particular theoretical ideas (Braun & Clarke, 2013). The analysis should be theory-driven, developed in a "top-down" fashion, and have a critical and interrogative approach. At the same time, it is essential to emphasise that the analysis will also, to some extent, be shaped by the realities and meanings of the participants, which will have an inductive or "bottom-up", data-driven impact on the data. Braun and Clarke suggest that a thematic analysis can often be combined with both bottom-up and top-down approaches (2013).

### ***3.1.3 Ontological and epistemological baselines***

It is important to consider which epistemological and ontological framework I will operate within, as my assumptions of how I should understand the data material will come into play. Epistemological theories concern the perceptions of how we acquire knowledge about the world, and how knowledge can be generated (Johannesen, et al., 2010, p. 54, cited by Hollis 1994, and Braun & Clarke, 2013). They examine the nature of knowledge, which leads to what we really know about "the reality" – how to go about acquiring knowledge about society and people (Tjora, 2012). Ontological theories, on the other hand, relate to our existence and how the philosophical positions of how the social world looks are interpreted and practised (Johannesen, et al., 2010, p. 54, cited by Hollis 1994, and Braun & Clarke, 2013), and are a premise of humanity and society that is taken for granted in a study (Tjora, 2012).

I tried to conduct this study within the epistemic position of constructionism (conceptual and interpretative), which argues that our knowledge of the world is constructed or produced as a result of various discourses and systems of meaning that exist in our society (Braun &



Clarke, 2013). That means there is no absolute truth to knowledge (as opposed to, for example, a positivist-inspired position), it is not pre-determined or waiting to be discovered through research but has a non-foundational view of knowledge. Constructionism is also characterised by ontological theories such as relativism, which argue that the reality can be constructed in multiple ways into “knowledge”, in contrast to a more realist position which would have a foundation of one true knowledge (Braun & Clarke, 2013). In this sense, constructionism in a research position does not make the knowledge as "made up" or "anything goes" – it has (or should have) an empirical process grounded in data, be founded on some kind of understanding, with a critical stance regarding how truth and knowledge are perceived (Braun & Clarke, 2013). Braun and Clarke characterise the researcher as a sculptor concerning constructionism. That means the researcher, as a sculptor, is involved in the production of reality. The "reality" in this metaphor is the material used to make the sculpture (2013, p.29).

With these methods and baselines, I will actively engage in the process and the data as a researcher. I will examine the data material through current theoretical frameworks, which will be suited to my research question based on the theoretical understanding of how detectives perceive their thinking, knowledge, and methodical awareness to the practical use of hypothesis-driven investigation methodology.

### **3.2 Reliability and validity**

In order to ensure a viable research project, it needs to be reliable and valid. Reliability is based on the accuracy of the inquiry, the use of data, how these data are obtained and how they are processed (Johannessen et al., 2010). It is often related to the question of whether a result can be reproduced at another time by another researcher – it is considered to be of high reliability if the results are the same (Johannessen et al., 2010). According to Johannessen et al., reliability in qualitative research will not be as central as is the case in quantitative research, which specifically addresses how data materials are collected in larger quantities and numbers (2010). Qualitative research (like this research project) which collects data with words, will have an acknowledgement of the possibility of multiple realities, or have a "context-bound nature of reality" (Braun & Clarke, 2013). However, "reliability" is also believed to be applied as a criterion for quality in qualitative research (Braun & Clarke, 2013; Tjora, 2012) if we look at it more broadly as being about the "trustworthiness" or "dependability" of how the methods collected and analysed the data. Tjora argues that research can be strengthened by reflecting on

whether the researcher can influence the results by having something in common with the informants, a unique understanding or prior knowledge, or exceptional engagement (2012, p. 204), which I would have done by being an organised crime detective.

Validity in research will try to ensure how well and relevantly collected data represent a phenomenon from reality (Johannessen, et al., 2010, p. 69). In the same way as reliability, validity is also problematic in qualitative research, given the possible acknowledgement on multiple realities (Braun & Clarke, 2013). Tjora has another way of looking at validity that fits in well with the assessment of the quality of qualitative research. He argues that validity should help the researcher to see if the answers he or she finds in the research project answer the questions the researcher tried to ask. He says that, in assessing the validity, it is crucial to have a clear academic framework for the research, that issues and research questions weigh heavily in the choice of method (2012, p. 206). I have also followed Braun and Clarke's (2013, p. 287) 6-point checklist for a good thematic analysis to increase the validity of the project.

### **3.3 Participants and recruitment**

According to Braun and Clarke, in a small project, a sufficient number of participants would be N=6-10 when collecting data with interviews (2013). That is why I wanted six organised crime detectives, working within the section of investigation of organised crime, to participate in this project. In order to find participants, I contacted the police superintendent at the organised crime unit. I requested that the expert field coordinator could assist in selecting six participants based on the criteria of being an organised crime detective, with an interest in volunteering to participate in the project. The aim for doing this was to some degree to maintain an objective "face value", and not picking my "favourites".

I received the names from the coordinator of the six participants that volunteered and contacted them personally to schedule the time and place for the interview. The participants were presented with as little information as possible about the goals and contents of the research project before meeting in the interview. This was because I wanted to delimit the risk of obtaining an uneven selection, as some of the participants might prepare by reading up on the subject before the interview. I considered the selection to be suitably homogeneous, since all interviewees were working in a specialised crime unit, working on the same types of cases, and were in the same work environment, which is vital to ensure in a pattern-based analysis with a

smaller selection (Braun & Clarke, 2013). I initially thought, if necessary, to differentiate the participants by more experienced and less experienced detectives, but refrained from this as the group had the same approximate span of years working at the unit.

This research project estimates the participants in unity. Because of the size of the group, it has reduced value to compare them as individuals.

## **3.5 The collection of data**

### ***3.5.1 The guide for the interview and preparations***

I used the recommendations of Braun and Clarke (2013, pp. 84-86) when creating the interview guide. I prepared the interview guide by creating questions based on the project's research question, and the essential areas concerning previous research on the subject. This resulted in a long list of questions which I, with the help of my supervisor, shortened considerably by excluding and fusing similar questions. I was careful not to pose the research questions as interview questions but instead developed focused, simple, "non-leading", and concrete questions that all had a relation to the project's research question. I planned the interview as I would plan a police interview, and divided it into three sections: introducing questions, specified questions, and closing questions – where the participant was given the opportunity to express or describe things they were not asked about but considered still relevant to the themes. I tried to the best of my ability to organise the questions with an overall topic, and have a logical thread throughout the interview, with each question starting as open, and gradually closing in with more problematic, challenging, and sensitive questions. After finishing the draft of the guide, it was thoroughly reviewed by me, by asking myself for each interview question, "Does this contribute to answering my research question?" I also conducted a mock interview with my wife.

After the first interview, I reviewed the guide again, but chose to continue with the same questioning as it gave me the data I wanted (Braun & Clarke, 2013). There were some misunderstandings with several participants during the questions about models for hypothesis-driven investigation methodology. However, these were quickly clarified, and the data were collected to a satisfactory degree. As mentioned, the interview was designed to be semi-structured, so the participants were first asked a concrete and pre-designed question from the

guide, while there was room for unscheduled follow-up questions (Braun & Clarke, 2013, p. 78).

### ***3.5.2 Doing the interviews***

An essential prerequisite for the success of the interviews is managing to create a relaxed feel where the participants feel it is okay to talk openly (Tjora, 2012). In a qualitative interview, it is vital to have a good structure. Tjora divides structure into three phases: 1) warming up, 2) reflection, and 3) rounding off. It will also be necessary for the interview situation that the location of the interview takes place somewhere without undue noise and other types of possible interruption. The location was the participants' workplace, and the room used was a secluded interrogation room, with a low risk of being disturbed. The participants were asked if they found the location to be comfortable and safe, which they did. The participants had the option of conducting the interview outside of the police station, e.g. by me visiting them at home or going to a café. However, all participants wanted to conduct the interviews within the work area.

The interviews took place between 10.08.18 and 16.08.18. I did more than one interview a day, which is not advised as interviews may be tiring, and the researcher might lose focus, as well entailing the danger of mixing sessions (Braun & Clarke, 2013, p. 90). However, I felt I was fully alert and focused on every interview, and even felt more prepared as I benefited from new experiences taken from every interview to the next interview. Each interview had a duration of approximately an hour. Before the interview, the participants received an information and consent form (appendix 2). In the information and consent form, they were given brief and limited information about the project, information about the duration of the interview, and were ensured confidentiality, and told that an audio recorder would be used. All the interviews started with chatting and warming up. For all interviews I was conscious of showing the same interest and empathy to all participants, giving them non-evaluative fillers, e.g. "mhm", and "ah" (Braun & Clarke, 2013, p. 96). I focused on asking open-ended questions in order to make the participants respond using their own words (Braun & Clarke, 2013, pp. 79-80). I noted timestamps in the interview guide for how much time I could use on each topic, to ensure progression, which could vary from a minute to ten minutes. Between the working with the case scenario, and the primary interview, each participant was given a five-minute break.

### ***3.5.3 The fictional case***

As mentioned, this study has also drawn inspiration from (Fahsing & Ask, 2015), where they had the informants look at a case. Just as with Fahsing and Ask, the case presented was a fictional one, rather than a case from “real life”. Through using a fictional case, there is no risk that the case is known or has been worked on by any of the participants, and it may be easier for the participants to respond to it, as they do not have to worry about not disclosing confidential information.

I created the fictional case to resemble a typical and frequent organised crime case – Customs controlled a truck containing narcotics at the border. The police were alerted, and they made a decision to proceed with a controlled delivery (appendix 3). After reading through the case, the participants were asked to make a set of hypotheses and how they wanted to structure and control them. Before presenting the case to the participants, they were informed that the case was fictional. They were also encouraged to “think out loud” when assessing the case. The case was presented before the interview. It was to be used as an activator for the interview, and contributed to showing the process and thinking towards hypothesis-based methodology, but also to serve as a “knowledge and awareness catcher”, or a tool to more easily discuss different aspects, elements, and models that can be used in an investigation of a typical and frequent case of organised crime. However, the primary source of data collection was the interview.

I was prepared that participants might be incapable of explaining elements and aspects which were purely theoretical. Previous research indicates that detectives are not good at, for example, using hypothesis-driven methods (Fahsing, 2016) – however, the goal of this project was not to confirm or falsify this. I wanted the project to be clear and distinct in conversations concerning Norwegian police work with the hypothesis-based methodology, and to have an open conversation with the participants about how they find this to be limited or/and qualifying to their work.

I sent the case to the organised crime unit at KRIPOS, which assessed and gave feedback on the likelihood of it being a real case. The reason for doing this was to ensure some degree of accuracy. After some minor adjustments, the case was considered to be authentic.

### 3.6 The process of the analysis

In the process of analysing my collected data material, I chose to use Braun and Clarke's (2006, p. 15-24) six phases for thematic analysis: phase 1: *Get familiar with the data material*, phase 2: *Make temporal codes*, phase 3: *Identify temporal themes*, phase 4: *Go through and revise themes*, phase 5: *Define and name themes*, and finally, phase 6: *To write the report*.

In **phase 1**, I transcribed the interviews myself, which made me even more familiar with the data material. Moreover, by transcribing the interviews myself, I eliminated the risk that others could identify the participants from the audio recordings. According to Braun and Clarke (2013), the transcription has to be a rigorous and high-quality representation of the spoken material, as often the non-verbal communication and other features of the context in the interview are missing from the audio recordings. I strove to create a thorough orthographic transcription by writing down all verbal utterances, such as "eh", "ehm", and "mhm", from both the participants and myself (Braun & Clarke, 2013, p. 168). I tried to capture the meaning of the Norwegian phrases as closely as I could when translating them to English (Nes, Abma, Jonsson, & Deeg, 2010). I immersed myself in the data material by re-reading the transcription several times. I made notes of initial ideas, associations, and thoughts of codes, keeping in mind that coding is a process that will develop throughout the entire analysis (Braun & Clarke, 2006).

**The second phase** is to systematically produce initial codes from the data material (Braun & Clarke, 2006). Braun and Clarke (2013, p. 206) define "code" as a word or a brief phrase that captures the essence of part of the data material that appears to be useful to the analysis. In this project, I choose to perform a *complete coding*, which aims to identify everything in the data material I think is relevant to the research question (p. 206). Furthermore, the codes should reflect a more conceptual or theoretical framework, and be "research-derived", which means to try to go beyond the explicit meaning of the data, in contrast to "data-derived" which keeps within the frames of the specific content of the data (p.207). As I started the coding process, I used the computer program "NVivo". However, after some time found that limiting to my coding process as the program was not in synergy with how I mentally wanted to code the data material. As Mangabeira (1995) pointed out, I was also constantly tempted to use the different features of the program that were irrelevant to my analysis. I used Excel and Word as tools to systematically work through each transcribed interview, looking for data that

potentially addressed my research question. I recorded the codes I found with concise wordings that captured the essence of an aspect relating to the research question in an Excel sheet, and gave it a number, e.g. 1.1.1.1. Then I copied the exact chunk of data I had drawn the code from, and pasted it into a Word document, marking it with the same code number. I repeated the coding process several times over.

**Phase 3** began when I had a long list of identified codes (Braun & Clarke, 2006). I used a visual representation in the form of a mind-map to help myself sort the different codes into themes, dividing them into main overarching themes and sub-themes. I also actively used Excel and Word to note and play around with names to the themes. If there were codes that did not fit my research question, I would put them under a "miscellaneous" theme, for further and later revision. Even though I had a focus on meaning in the codes and themes, I also had a summary of the frequency of each participant's stated aspects regarding the various phenomena in the data material, e.g. "*Hypotheses to confirm or falsify (1.1.1.5) – consistence: 4 of 6*". As I developed themes, I had in mind a focus on the **central organising concept**, which means that themes must build around something meaningful to how particular concepts appear in the data material and have a relation to the research question, (Braun & Clarke, 2013, p. 224). When building themes, I tried to establish a pattern across the data material from the participants' answers, excluding the interview questions completely. As I was performing a theoretical form of TA, I did not focus entirely on the explicit content of the data. However, I tried to get the meaning and logic found in the data responses and approach the data with theoretical issues and questions in mind. As I revised the theme, which is **phase 4**, I gradually selected the themes that best answered the research question, and the themes that were expressed the most frequently by the participants. I also examined how the themes correlated meaningfully with the coded data, and if the themes appeared to form a coherent pattern (each theme had a central organising concept). I re-read the entirety of the dataset to make sure I did not miss any information that might prove relevant to each theme.

I moved around the themes and the coded data, and both merged, separated and added data and themes into overarching themes and sub-themes. I worked at processing and mapping the themes to the point where I was satisfied that they as a whole could represent the dataset, and had the premise to tell a good story, and be faithful to the data and the research question (Braun & Clarke, 2013, p. 233). In **phase 5**, I used quite some time to define and name the themes in order to bring out the essence of each theme. When naming the themes, I wanted

them to reflect the analysis in a concise and informative way. As I was pleased with the themes, I moved on to **phase 6**.

I started the writing processes, **phase 6**, by making a disposition, with ideas and keywords from the themes, and how they would form a coherent and meaningful picture of the most commonly proposed patterns within the data material to address my research question. I wrote multiple drafts of various dispositions, and revised them continually, which was very time-consuming. I consulted with the supervisor during the analysis and writing process. When I was satisfied with the established order, where the themes seemed to be presented logically and coherently, the analysis began to develop into its final form – the report.

## **3.7 Ethical considerations**

### ***3.7.1 Consent and confidentiality***

The project was assessed by my supervisors and myself, and was not sent to the Norwegian Centre for Research Data, as this was not necessary due to the fact that I did not register any personal data, or assessed confidential information or data in the project. I also performed a quick test on the webpage of the Norwegian centre for research data (NSD) as well as following the recommendations on the form (appendix 1). Throughout the project, I followed the “Ethical Research Guidelines”, (The National Research Ethics Committee for the Social Sciences and the Humanities [NESH], 2016). I also followed the Police University College (PHS) guidelines for ethical research.

The participants received a consent form in Norwegian, with information about the project, how the project would handle information, and how it would be stored (appendix 2) However, I deleted the recordings immediately after thoroughly transcribing them in an anonymous form, and controlled them the same day, or the day after, by double-checking what had been transcribed (Braun & Clarke, 2013, p. 168). During the transcription of the data, I transcribed every interview into standard literary Norwegian language, in order to remove dialects and individual wordings that could potentially directly or indirectly identify the participants. I was also the only person that had access to the recordings. The participants had to consent in writing. It was made clear that they could, without specifying the reason, withdraw their consent at any time during the project.



To preserve confidentiality, and because the group of participants were quite homogeneous, their age, sex or other individual elements were not transcribed or asked about. Each participant was referred to with the same letter "D" ("Detective") and given a random number between one and six. Participant names were not (recorded) in any "name listing" or "link key" – I was the only person that knew the connection between the participant and the number. Notes taken by both the researcher and the participants during the interview were shredded after each interview. In addition, statements were not ascribed to any individual level. The collected data were stored securely in accordance with the current guidelines. Excluding myself, the supervisors were the only other people that had access to the transcribed interviews, in an anonymous form.

### ***3.7.2 Conducting research on one's own area of work***

When conducting a research project on one's own area of work, some challenges might arise, but there are also some benefits. With my employment as a detective within the organised crime unit, I am considered to be an inside-inside researcher, as I conduct police research as well as being an employee with the police force (Brown, 1996).

The challenges will perhaps be prominent before and during the conduction of the interviews. Because of my professional relationship towards the participants, they might feel obligated, influenced or pressured to participate. That is why I was very clear and emphasised that there would be no negative consequences if they withdrew their consent, as well as emphasising their anonymity. Considering the risk of disclosing sensitive information, as I, an "insider", have easy access to information, I was very clear with the participants that they were not to talk about their own, or others', real cases. However, my insider knowledge towards the working culture, and other occupational practices within my field, might have had the benefit of enhancing my analysis (Brown, 1996). Nevertheless, as an insider, it is imperative to know which "hat I have on my head" (PHS guidelines, p.6). As described in Brown (1996), the valuable insider-knowledge, while still serving as a detective, may metaphorically be referred to as a "double-edged sword", as my workplace, including the leaders and co-workers, might have an anticipation that might impact how I would present my results and discussion. A prominent and possible risk is if the results of the research do not mirror the agenda of police activity in a positive and affirming manner. This might lead to neglecting reflectiveness and theoretically grounded research (Brown, 1996). However, throughout my work with this

research project, I have not been given, or felt, any pressure regarding which direction this project was to take. Rather the complete opposite is true, as I have received considerable interest towards the project, and the participants expressed enthusiasm and positivity, as they were curious about the professional discussion, and had an expressed satisfaction in participating in the project. Nevertheless, with this comes the responsibility and awareness of not being irrational or to give the participants negative aspects by just presenting, or choosing, quotes in a way that reflects their points of view, without providing convincing documentation and justification. As presented earlier, I wanted to avoid, to the best of my ability, choosing participants at “face value”, i.e. picking the participants based on what I think, or know, what they will say and do. This presented another ethical consideration:

### ***3.7.3 Recruiting through leaders***

I recruited the participants through the police superintendent, and the expert field-coordinator, (who is also considered to be a leader). This might present a challenge, as the participants might feel pressured by the leaders to participate. Besides this, the participants might suffer, or be concerned about, negative consequences if the results of the project create disapproval, e.g. that the leaders feel the need to interrogate the participants about the subject of discussion. It might also affect what they want to share. Within small and transparent environments, which I consider the organised crime unit to be, the protection of participants becomes especially important. I explained to the expert field coordinator the importance of confidentiality, and, even though the expert field coordinator knew who had volunteered to participate, the person did not know who had said what. I have been very thorough in preserving confidentiality, cf. chapter 3.7.1.

## **4 Analysis: results and discussion**

### **4.1 Overall description of the material**

As presented in the table outline below, the collected data material resulted in two overall themes, with incorporated subthemes. The themes reflect my understanding of the relevance of the data material concerning their contribution to answering the research question. My overall impression based on interviewing the participants was that the use of the hypothesis-

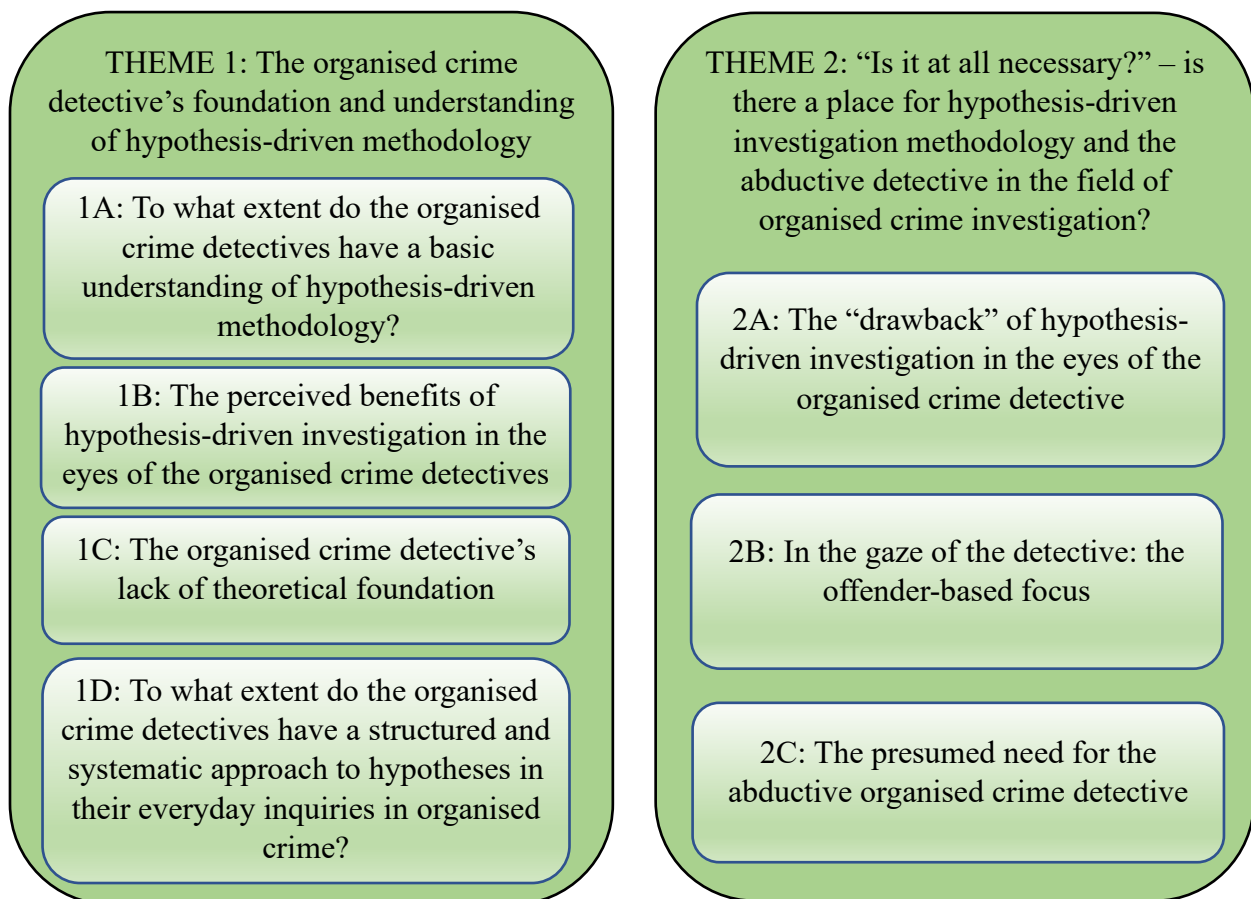
driven approach in proactive investigations sparked engagement and interest. All the participants were able to reflect on several aspects and perspectives to their arguments.

The overall themes are formed as a collective headline that captures the idea of the theme. The subthemes are in different ways formed as captions or statements, although some of the subthemes are formed as questions in order to reflect the detective's curiosity and understanding. In addition, there was some uncertainty amongst the participants regarding many of the elements of the methodology.

All the participants and their statements are represented in the analysis. In order to strengthen confidentiality, the participants' assigned numbers are not mentioned to reduce the possibility that statements may be connected. To give an indication of the prevalence of the themes, as well as the consistency of different themes, aspects and perspectives, I will use specific terms in the presentation of the findings. The following numbers describe how many detectives expressed a concept: 2-3, "some", 4-5, "several", and 6, "all". For example, if I write that several participants expressed a concept, I am referring to 4-5 participants.

Theme 1 will present the organised crime detectives' foundation and understanding of hypothesis-driven methodology, by looking into their core understanding regarding the methodology, the beneficial and challenging aspects of it. Theme 1 will also explore the practical use of hypothesis-driven investigation methodology within the organised crime unit. Theme 2 will examine the hypothesis-driven methodologies' necessity.

Throughout these themes, I will explore the methodology's significance and weight in organised crime investigations, by delving into the views of benefits and limitations to the methodology, and the aspect of quality, culture and experience concerning the methodology. These themes will contribute to cover the participants' thinking, knowledge and methodical awareness concerning the practical use of hypothesis-driven investigation methodology.



*Figure 1: Outline of the themes in the analysis.*

## **4.2 The organised crime detective's foundation and understanding of the hypothesis-driven methodology**

The central organising concept in this main theme is "understanding and knowledge". This covers the detectives' comprehension of what a hypothesis-driven methodology is, and involves, as well as the benefits, and the most prominent challenges the detectives may face towards the methodology. This theme's fourth chapter will explore the participants' thinking concerning the practical use of the hypothesis-driven methodology. The central organising concept in this sub-theme is "practical use".

In the analysis of the data material, I found that several of the detectives did not have a precise definition of hypothesis-driven methodology. However, they were well informed on the fundamentals of hypotheses and their benefits in the investigation. This might be thanks to the obligatory yearly training that was launched in 2017. All the participants had participated in a lecture where the use of hypotheses was a topic. Several of the participants were pleased

that this had been implemented, and one of the most valued aspects it brought was the contribution to raising awareness in the investigative field through professional discussions between employees.

The four subthemes are: 1A: *Do organised crime detectives have a basic understanding of hypothesis-driven methodology?*, 1B: *The perceived benefits of hypothesis-driven investigation in the eyes of the organised crime detective*, 1C: *The organised crime detectives' lack of theoretical foundation*, and 1D: *To what extent do the organised crime detectives have a structured and systematic approach to hypotheses in their everyday inquiries in organised crime?*

#### ***4.2.1 To what extent do the organised crime detectives have a basic understanding of hypothesis-driven methodology?***

The use of hypotheses in an investigation was something all the participants had a relation to. However, several of the participants did not have a very precise explanation of what hypothesis-driven methodology was and how to use it systematically and methodologically. One of the participants noted:

*In practice, we have worked on hypotheses for a long time, but it is not so long ago that the organised crime unit systematically applied them on cases. However, we have constantly been working on alternative explanations for what has happened.*

The above statement suggests that detectives have been using hypotheses regardless of the hypothesis-driven methodology. However, the use of hypotheses is evident as they are, as I explained in chapter 2.1, an assumption of the connections between the phenomena to be investigated through the collection of information, and mental support to imagine what might be found through an examination. We use hypotheses in our daily life, both consciously and unconsciously. Therefore, the question is not if the detectives are using them, but how the detectives approach them in practice. Several of the participants argued that alternative explanations for a sequence of events were a central aspect when using hypotheses. That was also demonstrated when the participants worked with the case scenario, as they had many explanations for the presented information. Working with more than one explanation in an investigation was expressed as essential. As presented in chapter 2.4, not being able to see

alternatives before starting to evaluate and integrate information may contribute to psychological pitfalls, i.e. confirmation bias. This is the reason why detectives are both encouraged and required by law to have alternative hypotheses, in order to see different aspects, as mentioned by one of the participants:

*The point is not necessarily the number of hypotheses, or how good or long they are. The point is that it makes us somewhat forced to see aspects of something that might appear obvious, but does not need to be.*

When asked about the fundamental feature of the approach, several of the participants mentioned the two-sided option of either attempting to confirm or falsifying. Some of the participants even said that falsification of the hypothesis should be the preferred approach, which, as I explained in chapter 2.1, is supported by previous research to be the best starting point when excluding hypotheses that may indicate innocence in order to answer the question of guilt more substantially.

None of the participants mentioned or spoke about the various methods of reasoning used when working on an investigation, which are deductive-, inductive-, and abductive inference, as presented in chapter 2.5. Regardless of this, some of the participants pointed out that hypotheses were something dynamic, i.e. that they can evolve, and change. One of the participants said that hypotheses should continually develop:

*A hypothesis should continuously evolve. One should establish something initially, then after a short time, reevaluate the hypothesis. And then, after a slightly longer time, reevaluate it again.*

This claim reflects the core virtues of abductive inferences, such as the dynamics of the working hypothesis, as presented in chapter 2.5. What seems to be lacking, and is perhaps simply said between the lines, is that the dynamics of hypotheses should seek to identify the best explanation possible based on the information at the current time, using qualified and pragmatic guesswork as well as the possibility that the explanation may be falsified if countering information emerges. As presented in chapter 2.5, the abductive inference is considered the preferred course of reasoning in the modern criminal investigation.

### ***4.2.2 The perceived benefits of hypothesis-driven investigation in the eyes of the organised crime detectives***

As stated in chapter 2.1, one of the perceived benefits from hypothesis-driven methodology is that it contributes to more objective and legal investigation regarding the requirements of the law and the presumption of innocence. Ensuring that innocent people are not convicted is one of the core claims in the European Convention for the Protection of Human Rights and Fundamental Freedom, and one of the elements that will make investigations of high quality according to the Director of Public Prosecutions. Remarkably, during the case scenario, all the participants established at least one "innocent hypothesis". One of the participants stated that:

*You do not sit as a detective on a larger case where you do not have a hypothesis aimed at, "He did not do it"; it is one of the main hypotheses. When you make a hypothesis, you are, in a sense, obligated to examine it. I think it is a very clear awareness for the detectives too not to forget that he may actually be innocent of this.*

As is obvious as the quotation above, the presumption of innocence is so firmly founded that the very idea of innocence stretches all the way back to the 13<sup>th</sup> century, and it is to this day a statutory duty to treat all individuals as innocent until proven guilty by the law. Therefore, this obligation makes a critical requirement when testing and facilitating hypotheses towards criminal investigations and is perceived as a beneficial aspect of the investigation.

Another core element of the perceived benefits of using hypotheses in a systematic and structured manner is the possibility to counteract psychological sources of error, i.e. confirmation bias, that might be a challenge towards the legal requirement for objectivity. As mentioned in chapter 2.4, the detectives, like all humans, have an inherent tendency to draw quick conclusions based on heuristics such as "availability", "representativeness", and "confirmation tendencies". This has the potential to make them less objective and question the correctness of the information, as well as reduce their ability to conduct systematic and reliable investigations. As claimed in the same chapter, confirmation bias is regarded as the most widespread and leading cause of fallacies in a criminal investigation, and it is an obvious pitfall in terms of objectivity and the rule of law. Several of the participants were to various degrees aware of this, as they spoke about how the methodology could help them reduce different

cognitive sources of error, and "miscarriages of justice", by helping them have an open and broader mindset, not to disclose on one way of thinking. As one of the participants put it:

*I think that hypothesis-driven methodology exists, so we can be forced to take this one step back, to ensure we are objective and that we investigate broadly enough.*

In addition to being objective and mindful to the "innocent hypothesis", several of the participants pointed out that the use of hypotheses helps them structure the investigation as a beneficial element. A participant explained it this way:

*The use of hypotheses might be very beneficial to the case work because one gets to define sectors – this does not necessarily mean that I should take one hypothesis, and you another, but one establishes the information needed, and knows where the investigation potentially goes ... that might contribute to avoiding a lot of unnecessary investigation work.*

As mentioned in the quotation above, a good structure might contribute to preventing unnecessary work, which correlates with the Director of Public Prosecutions' requirement in regard to effectiveness and high quality. Besides this, several of the participants agreed that hypotheses structured the collection of information, which corresponds with the described intention in the Prosecution Act, and the Director of Public Prosecutions, to have a purposive collection of information. Having a decent structure when investigating should be indisputable considering the requirements set by the law and the Director of Public Prosecutions. As mentioned in chapter 2.2, investigation is intellectualised work that emphasises a rational, logical, and systematic approach to solving investigative problems. The various established models, principles, and methodologies may also provide structure in the investigation, e.g. the "Investigative Cycle", as presented in chapter 2.6, which I argue to additionally embeds other methods and principles, such as the 5 W's and H (Who did What, How, When, Where and Why), the ABC principle (Assume nothing, Believe nothing, and Challenge/Check everything), and the hypothesis matrix. However, none of these methods, principles or methodologies, except the 5 W's and H to various degrees of detail, were mentioned by the participants.

Furthermore, and perhaps in relation to the beneficial aspect of structuring, several of the participants expressed that hypotheses contributed to a valuable form of documentation



towards the work processes and thinking in the investigation, and especially as some of the participants were preoccupied with the prospect that the case would come to a court process. One of the participants said:

*The advantage is that we can verify how we disclosed things, and how we thought, because, in the court, we are often encounter the notion that the police had tunnel vision and did not do this and that to check my client's innocence and whatnot. Then one can explain in a proper manner what we did and did not do ... One gets to establish a system that prevents the detectives from walking into tunnel vision because one has always hypotheses, and information needs one is pulled towards.*

Interestingly, based on the quotation above, the hypothesis-driven approach does not just simply delimit the risk of cognitive biases such as tunnel vision, but also provides the detectives with documentation concerning their investigative steps, so they might prove that they did do their job thoroughly and comprehensively. Another participant expressed that:

*Everyone uses hypotheses, but I think that the difference between using hypotheses and actually using hypotheses, is to write them down.*

Concerning the first statement above, the notion that detectives have worked with hypotheses for a long time is practically undisputed. As expressed in this quotation about “using” versus “actually using”, they may be viewed as two different approaches to the same problem, where “using” the hypotheses, by not writing them down, points to the old and traditional way of doing things. In contrast, the formulation of “actually using” hypotheses, and writing them down, points to the new way of doing things. Regarding the “old” and “traditional” way to conduct police work, as discussed in chapter 2.2, academia often describes policing with terms like “the nose” and “the craft”, which emphasise practical policing and intuition rather than theoretical knowledge and academic learning. In relation to the quotation above, not writing the hypotheses down would compare well with “the nose”, where the talent, intuition, and experience of the detective would solve the numerous investigative problems. If the nose is labelled as the old and traditional, underlined as the practical and intuitional, it may suggest that the “new” would be labelled as theoretical and counterintuitive by using educated knowledge. That brings us to the participants’ implied challenges towards the hypothesis-driven investigative methodology.

### ***4.2.3 The organised crime detective's lack of theoretical foundation***

The most prominent challenge throughout the data material was the lack of a theoretical foundation. In fact, several of the participants expressed that they, to various degrees, lacked the theoretical foundation considering the elements of the use of the hypothesis-driven investigative methodology. One of the participants expressed that:

*Police officers are very pragmatic. We are not that creative as a rule, we are more of a fact-based people in a way, so we may fail to lift our gaze. I think this may be limiting us. ... The challenge is, if one has no theory how to establish hypotheses, then one is very content to deal with the facts, and then the established hypothesis becomes too narrow ... it is a pretty extensive process, and I think maybe that is what makes people write down the hypotheses, but not follow them up further.*

Interestingly, the participant perceives the relevance of the hypothesis-driven methodology as a pragmatic and action-orientated police officer. As presented in chapter 2.2, police officers within the Norwegian police force are considered to be generalists, who, with short- or medium-term education, can handle all the different police issues and methods equally well, regardless of discipline, area or activities amongst the police duties. Considering detectives as generalists corresponds with the description of police work as a craft, which is the most prevalent notion practical of policing. This pragmatic way of thinking was also apparent in this quotation:

*I do not think one gets everyone on that mindset. I already notice that with the obligatory yearly training, i.e. with people who have worked for a long time ... I think that if it gets too theoretical, many will fall off because the police discipline is nothing like, theoretically... i.e. very many police officers are not. It must be simple and straightforward ... I have the impression after we have had it [obligatory yearly training], that many have a perception that; "Oh my God, we are going to sit around somehow making up things that have not happened at all" or "that cannot happen then".*

In the same chapter, 2.2, I argued that the field of criminal investigation leaned more towards a profession than a craft, i.e. based on the described characteristics of a specialised

knowledge, built on rational, logical, and systematic approaches to solving investigative problems. The quotations above suggest that the lack of theoretical foundation makes it easy to maintain a “craft” approach. In addition to the lack of theoretical knowledge follows a lack of understanding, as one of the participants argued that the use of hypothesis-driven methodology is an extensive process, that perhaps ends prematurely, as the detectives write their hypothesis down, but do not follow it up further.

This lack of a theoretical foundation and understanding was also present when the participants were asked to explain the various models and tools they used and knew. As mentioned earlier, none of the participants mentioned any models, principles or methodologies, except from the 5 W’s and H to various degrees. Interestingly, after receiving a short explanation of the models, some of the participants expressed that these models come naturally regardless, as stated by one of them:

*I would say that, although I did not come up with it as a model for hypothesis thinking, it is rooted in our police brains, because we have learned it through the police academy, and through the practical work we do. That you look at who, what, why, and that it is so central to what we do in investigations, that I think people might forget it is a model.*

Another participant expressed:

*I probably use those models every day, but I do not think about it, it is kind of natural in the way you work.*

The two quotations above reinforce the understanding that criminal investigation might be a craft based on intuition and tacit knowledge. As mentioned in chapter 2.2, the craft has traditionally had two ways of organising learning, which would be training in the workplace or a school education with teachers typically educated in the craft. As one of the participants argued, the models were rooted in the brain due to the practical work in the workplace, and the police academy which has teachers educated in “the craft”, but also teachers with higher education in, for example, law, criminology, and psychology.

As mentioned earlier, the various statements above reflect my assumption that a lack of theoretical foundation contributes to a lack of understanding and even resistance towards the

methodology. As one of the quotations above stated, after finishing the obligatory yearly training of 2017, where the use of hypothesis-driven methodology was the main subject, they had the impression that people saw it as superfluous. That suggests that the lack of a theoretical foundation and understanding makes it difficult for the participants to see the systematics of hypothesis-driven methodology as an opportunity to systemise and clarify workflows, but rather perceive it as “old wine in new bottles”. However, even though this presents an obvious challenge, the participants did consider various aspects of their understanding of the hypothesis-driven approach as beneficial, as presented in chapter 4.2.2. The question then is, how does it play out in their practical work?

#### ***4.2.4 To what extent do organised crime detectives have a structured and systematic approach to hypotheses in their everyday inquires of organised crime?***

In this sub-chapter, I will also draw on several points from the case scenario. Even though the case scenario is perceived as an activator, I consider it to contribute with valuable information considering how the participants would practically approach investigations, how they would structure them, which processes that involves, and if they at all employ the presumed processes and methods. After examining the transcriptions from the case scenarios, I found that there was zero to some degree of systematics or established processes towards the hypothesis-driven methodology. All approaches to the case scenarios could be characterised as a “solving mode”, where the case was to be solved with investigation steps and experience. However, again based on the case scenario, there is no doubt that all the participants are skilled detectives, possessing knowledge in the field of investigation and organised crime, and the ability to explain in detail about the procedures of investigative steps, and come up with creative solutions and steps within the investigation.

#### ***The “solving mode” approach towards organised crime investigations***

When the participants spoke about the practical use of hypotheses in the investigation, all the participants pointed to the police software application, Indicia:

*We work within the Indicia project, and there we work based on a plan for the investigation, and then we establish hypotheses and work based on these hypotheses.*

Within the system (Indicia) several of the participants pointed out that they could create investigation plans where hypotheses were used, and with the hypotheses came information needs which were to be examined through the use of investigative steps:

*As you establish a hypothesis, one may think it is there... just be there, but that is not the case, because, as you establish a hypothesis, you also get information needs, and get lines of inquiry. And as you are done with the lines of inquiry, and the information needs, you also in a way, disclose various hypotheses.*

All the participants gave practical examples when explaining how they structured hypotheses in the investigation by dividing them into main- and sub-hypotheses, and with various opinions as to how many hypotheses were needed. During the case scenario, several of the participants systematised the various hypotheses by giving them individual numbers, e.g. 1, 2, or H1, H2, etc. However, they did not systemise or structure them any further, other than that some of the hypotheses could also have sub-hypotheses that would define a specific aspect of the main hypothesis, e.g. “He did it to make money”.

As mentioned earlier, the various approaches to the case scenario could be described as a “solving mode”. As described in chapter 2.1, the Director of Public Prosecutions emphasised the importance of being effort-mandatory, rather than result-mandatory when considering the quality. In this case, the presumption of a “solving mode” would lean more towards a focus on getting results and efficiently acquiring a product, at the expense of focusing on the effort of having a methodological and systematic process. Some of the participants even claimed that the organised crime unit did not have any systematics in using a hypothesis-driven methodology. As one of the participants explained:

*In my experience, we are perhaps not very structured. We do not have the approach to it, because it is very fluid. It feels a bit difficult to answer this, really. I experience that we are pretty good at disclosing and doing things in the initial phases ... But one is to follow it [the hypothesis] up also, and we are used to doing it in a not so very systematic manner. Maybe we just have it [the hypotheses] there, like in the background.*

As the statement above suggests, during the work with the case scenario the participants tended to put the hypotheses aside, or just have them “in the background”, as they approach the

case scenarios with a “solving mode” and experience. All the participants were preoccupied with doing investigative steps that could either resolve the expressed “information needs”, or were perceived as standard, obvious and routine, e.g. secure time crucial evidence and clues like telecommunication data, video surveillance, etc. The hypotheses were expressed, but little to no reference was made to them as the participants came up with investigative steps. Concerning the “information needs” that the participants came up with during the case scenario, they appeared to be somewhat sporadic, as the participants established many relevant and reasonable information needs, but did not, or only to some degree, connect them to the various investigative steps they devised. However, even if the participants had the “solving mode” approach, all the participants established that an innocent hypothesis was critical to the information presented and were creative in establishing various investigation steps.

As a possible consequence of the imprecise application of hypotheses and information needs during the case scenario, it emphasises the assumption I presented in chapter 4.2.2, that lack of theoretical foundation towards the hypothesis-driven methodology potentially makes it difficult for the participants to see the opportunity to systemise and structure the investigation, instead perceiving it as limiting. As explained by one of the participants:

*But I imagine that there may be some problem with the model, that it becomes too much for us, that we cannot make it easy enough. ... and then just scrap it and think "No, I'll try again next time, and do it a little better"... one may lose some width perhaps, that the hypothesis might be able to define a box and then one becomes a little unable to think outside the box.*

Concerning the quote above, about thinking outside the box, is hard to reflect upon in relation to the practical use of hypothesis-driven investigative methodology, as the participants did not, or only to some degree, refer their investigative steps and information needs to the established hypotheses, or actually use the hypothesis-driven methodology at all. Interestingly, in connection with the practical use of hypothesis-driven methodology, all the participants were clear that the responsibility for adapting and using new knowledge, e.g. hypothesis-driven investigation methodology was on the leaders.

*It is the chief inspectors that are supposed to take the step back and establish some hypotheses, and that is not done.*

Another participant expressed that:

*Considering the resources and how things are today, with more dedicated chief inspectors that may keep an overview... would strengthen it, and make it easier. But as they have so many hats on, and so much case pressure, I think it may quickly be insufficient. Because one may establish many hypotheses in Indicia, which are recorded there, but then there is the work to connect them to information needs and so on ... with the chief inspector, who often only participates in the initial phase of the investigation, but falls off after some time, is not really a support.*

The quotations above raise the question of whether the hypothesis-driven methodology is to be considered a skill or practice reserved for the leaders or something that all professional detectives are expected to possess. According to the Director of Criminal Prosecutions, everyone within the police is independently responsible for maintaining updated professionalism within their area of responsibility. Moreover, considering that the use of hypothesis-driven methodology was the main subject of the obligatory yearly training of 2017, it suggests that the methodology is to be adopted by all detectives within the Norwegian police force, and also the specialised detectives of organised crime. However, as stated by Zambri (2013), one should not underestimate the value of a leader's qualities, as leaders should be considered role models for their personnel, by providing value to the functions of the workplace. A leader who is unwilling to develop or expand their expertise but is expected to develop a quality function is as described as a "disaster waiting to happen".

In addition to the claim that leaders are responsible for following up the hypotheses, the quotation above indicates that the establishment of hypotheses in Indicia is primarily something that is done because the detectives feel obligated to do it, and not because it is a beneficial application to drive the case forward and ensure quality. This idea could also be recognised from the earlier quote, that hypotheses might just be in the background after putting them in. An obvious question for further discussion will be if the hypothesis-driven investigative methodology is necessary at all.

### **4.3 “Is it at all necessary?” – is there a place for hypothesis-driven investigation methodology and the abductive detective in the field of organised crime investigations?**

As I argued in the previous chapter, 4.2, organised crime detectives do not have a structured and systematic approach to the use of hypothesis-driven investigative methodology, perhaps due to the lack of a theoretical foundation and understanding. The approach during the case scenario resembled a “solving mode”. This theme is about the “relevance” of the hypothesis-driven investigation methodology, which is the first central organising concept of this theme. The second overall central organising concept for this theme will be “motivation”, and, considering motivation, I think it comes to whether or not the participants consider the practical use of hypotheses and hypothesis-driven methodology as applicable and helpful.

This chapter is divided into three sub-themes; 2A – *The “drawback” of hypothesis-driven investigation in the eyes of the organised crime detective*, 2B – *In the gaze of the detective: the offender-based focus*, and 2C – *The presumed need for the abductive organised crime detective*.

#### ***4.3.1 The “drawback” of hypothesis-driven investigation in the eyes of the organised crime detective***

The title is inspired by my recognition that many of the issues expressed towards the systematic use of hypotheses in an investigation are nearly the exact opposite of the elements expressed as beneficial in chapter 4.2.2, regarding the beneficial aspect of documenting the hypotheses, using them structurally, and counteracting psychological sources of error.

Concerning the practical usefulness of using hypotheses within the investigation systematically and structurally, several of the participants expressed to various degrees that they did not see it as essential to the investigation, or parts of the investigation, i.e. the initial phases, as they performed the same investigative steps regardless. As one of the participants said:

*I think that it is not the same need, to put words onto the first “touch” at the very beginning of the investigation ... the investigative steps we are supposed to do are often quite similar anyway.*



Several of the participants said they used hypotheses in their work, but argued for forming them in their head or instinctively, and not writing them down. One participant said:

*But we work with the hypotheses without knowing it, we do that in the drug cases ... I just think that we cannot have it as comprehensively maybe as the education builds up to. But we do actually have the hypotheses in our heads all the time.*

Furthermore, hypotheses were considered to form a natural part of the investigation, especially if the detective was experienced:

*I feel it is a little unnecessary to write down all these hypotheses. Of course, if there emerges a third person, then you must establish a hypothesis; "Did he know about this, did he not know about this?". But then again, I think to record all these hypotheses is a little unnecessary because it is only natural that one investigate it: "Did he know? What did he know? Or did he not know?" It becomes such a natural part of the investigation. Maybe more experienced detectives have another perspective on it. For myself, who has worked on big cases, it is natural to think this way, but it maybe it is a very good awareness for the detectives which are not as experienced.*

Another participant said:

*I think as you work with a couple of large cases, then you do not need to establish hypotheses during the investigation, because they establish themselves.*

As mentioned in chapter 4.2.2, not writing the hypotheses down might be reflective of the old and traditional way of doing investigative work, as it would compare well with "the nose", where the talent, intuition, and experience of the detective would solve the numerous investigative problems. Moreover, as mentioned earlier, the systematic use of hypotheses has the beneficial potential for reducing psychological sources of error, but this requires that active steps are taken towards their own potential human limitations, e.g. heuristics and own "gut-feeling". Interestingly, the participants referred to their experience as the core contributor when using hypotheses in the investigation. That was also shown during the work with the case scenario, as several participants drew on the importance of experience when investigating these types of crime, which suggests to me that it is possible to claim that experience is equivalent to

the awareness and beneficial aspects that the hypothesis-driven methodology provides. As presented in chapter 4.2.3, some of the participants did claim that the models were something that they probably performed without knowing it, as it was kind of natural in the way they worked.

Regarding the statements that the hypotheses came naturally and established themselves regardless, the notion of performing the whole procedure required by the methodology and system (Indicia) was considered as “double-work”. This would potentially make the detectives inefficient as they regarded it to be time-demanding and resource limiting to, for example, continuously keeping the systems up to date. As one of the participants pointed out:

*The challenge is to set aside time for it, to update and keep Indicia up to date. ... That one does not use the time to establish a lot of hypotheses because “Ugh, okay, here we have to establish hypotheses”, and then use an unnecessarily long time on that. I think that would only make unnecessary work.*

One of the participants suggested a simpler procedure as an alternative:

*When generating an activity in Indicia, one writes down the purpose of it: Why should you interview him? Why should you collect bank details? Why have you collected telecommunications data on this number? Are you looking for something specific?... You form the hypotheses during the investigation all the time, so you are writing the purpose, then you generate new hypotheses along the way in a completely different page in Indica, I think that becomes unnecessary ... it becomes very heavy-handed to go in and plot new hypotheses all the time.*

Or even just write it down in a log;

*One can maybe sometimes just write things in a log, and not do the whole routine, connecting everything to the full extent in the project. It can be sufficient just to write it down in the log, that some of these hypotheses are just to impose oneself to take this step back.*

This correlates with earlier statements that one of the challenges was to follow up the hypotheses throughout the whole investigation. Perhaps cutting the process down to writing the hypotheses along with activities in a log is equivalent enough? As one of the expressed practical aspects of hypotheses in chapter 4.2.2 was to achieve a good structure and avoid “unnecessary work”, perhaps the way the hypothesis-driven investigation methodology is practised today does not fit? Again, back to the Director of Public Prosecutions’ requirements for efficiency in order to achieve high quality, perhaps this is the better way to do it? Nevertheless, does this “experience-driven” approach to hypotheses correspond with the other demands set by the law, i.e. the rule of law? One of the participants argued:

*I think the rule of law is looked after well enough, and the investigation is done in a manner that has constantly taken care of the hypotheses ... it has worked before, but perhaps it's more thorough now. To my knowledge, we have never had any miscarriages of justice on our section. This indicates that it has worked. And we also have many levels of supervision; the police attorney, the district attorney, and the Director of Public Prosecutions, therefore, if something seems off, it will be captured in the levels up.*

It is an interesting point that this participant does not have any knowledge about any miscarriages of justice on the section. The question is, how would they be discovered if there were? Is it solely reliant on the prosecution, as the participant insinuates? These questions are perhaps the topic of another discussion. In order to further assess the relevance of the hypothesis-driven methodology aimed at investigations of organised crime, we must look into the areas of crime that the organised crime unit are responsible for.

### ***4.3.2 In the gaze of the detective: the offender-based focus***

In chapter 2.3, I described organised crime investigations as proactive, as this investigative strategy has proven to be particularly effective in combatting, for example, drug trafficking and smuggling, which are typical areas for organised crime. The proactive strategy is often without a specific victim, and often initiated by the police. Thus, one of the most prominent aspects of proactive policing is the focus on the offender rather than the offence. The central elements of this subtheme are the participants’ ability to reflect on the elements that make proactive, organised crime investigations unique to other, more reactive areas of crime,

as it might have an impact on the specific ways in which the hypothesis-driven approach applies to the context of investigating organised crime.

Following the perception that drug trafficking and smuggling are typical areas of organised crime, several of the participants agreed that the aspects around illegal substances were the most prominent types of cases that the organised crime unit dealt with. As stated by one of the participants:

*We have a lot of different cases, but my first thought when thinking about organised crime, is drugs, criminal networks, and imports of drugs.*

One of the participants even said that drugs were the foundation for much of the other types of crimes that organised criminals committed:

*The big volume of cases we have is drugs. In the fight against gangs, MC one-percenters, and others in the organised criminal networks we have in Norway, drugs are their profit, this is their business, and kidnappings and violence, come in a way as a consequence of other things, like disagreements, drug debt, and so on. Bank robberies are another matter, and they have other networks, e.g. the NOKAS network, which perhaps use drugs to finance their bank robberies.*

Other areas of crime, such as those the participant mentioned; kidnappings, violence, and robberies, would be considered more reactive if not “discovered” at an early stage, e.g. through covert investigative methods. One feature of the reactive approach is that it generally occurs overtly. However, considering the NOKAS robbery that occurred in Stavanger in 2004, it was a covert operation until the thoroughly planned action was carried out. In the timeframe before the robbery, the police could potentially have used covert investigative methods to uncover the crime that was about to occur, which would offer a proactive response to the crime. As explained in chapter 2.3, the reactive strategy is often a response to something that has happened and becomes demand-led, as it often involves responding to crimes reported by the public. As an example to the link between the different kinds of cases, the online newspaper, The Local had an article speculating that some of the profits from the NOKAS bank robbery were used for smuggling drugs through Scandinavia, to make the stolen money grow (Orange, 2013). This balance between some reactive and mostly proactive strategies, transboundary and

serious crime, could be one of many indicators of the complexity that the organised crime unit might encounter when establishing and working with hypotheses.

As mentioned earlier, one of the outstanding features of proactive policing is the focus on the suspect rather than the criminal act. As stated in chapter 2.5, when a suspect is identified, there will be a shift in the investigation, regardless of the type of the nature and focus of the investigation. The “offender-based” approach becomes present when the investigation is focused on finding incriminating evidence against the suspect, and information that could potentially lead to acquittal is not being sought or treated with the same focus. The offender-based focus has the potential risk of *confirmation tendencies*, as described in chapter 2.4. This was also something that several of the participants to various degrees identified with when expressing that the organised crime unit might encounter challenges since they often already had a suspect or a seizure. One of the participants stated:

*Because there is no doubt that, in most cases in our investigations, they are guilty, this might contribute to our mindset when we get a new case, and therefore I think it is very important to be objective and have that hypothesis at the beginning of the case, just to exclude a miscarriage of justice and those kinds of things.*

Interestingly, the participant claims that there is “no doubt” that the suspects in most of their investigations are guilty. This statement might be accurate, but it is also a potential psychological pitfall, as mentioned in chapter 2.4 about representativeness, which estimates the probability based on the perception of what is most typical for a situation, an object or a person without necessarily being a connection between the perception and the situation, object, or person. Nevertheless, the participant pointed out the importance of using hypotheses at the beginning of the case as a countermeasure for “miscarriages of justice and those kinds of things”.

### ***The professional, big bad wolves of organised crime***

In addition to the aspect of already having a suspect, several of the participants emphasised the stronger degree of professionalism within the field of organised crime, and how that was a unique challenge to the investigation. The title above is inspired by the impression that I got when the participants described these “professional criminals”:

*It is organised criminals we are dealing with, not everyday crimes. The criminals we meet have a lifestyle which indicates that they live off crime. Even if they do not attend any school, or have graduated with any bachelor's degree, they get their education on the street. They know how to behave in interrogation, and they know how to hide their tracks. Therefore, it is obvious that organised crime cases are very challenging to investigate.*

Another participant stated because of the knowledge within the “clientele” about the methods police used, that the hypotheses could be affected:

*Our clientele is very familiar with the methods of the police and how to operate. [They] take that into account in the way they carry out the crime... it may affect the hypotheses a little.*

In the last quotation, the participant expressed that the understanding of professionalism with the criminal might affect the hypotheses, which is an interesting point. As stated in chapter 2.3, criminals involved in serious and organised crime often utilise various professional methods and technologies to accomplish their objective. That requires the police to match these elements with equally professional tactics and methods, but at the same time facilitates ethical reflections and professional contradictions according to the Director of Public Prosecutions. What I refer to as “the professional criminal”, correlates well with “the prolific offender” as described in chapter 2.5, which often are in the focus of police activities and intelligence gathering. As the quotation above, the participant argued that the professional criminal has a lifestyle which indicates a life of crime, being aware of and adaptable towards the methods the police use, which could be viewed as a “criminal career”, and an awareness towards forensics and evidence, which might suggest previous encounters with the criminal systems. This notion of the professional or prolific criminal, and the statement about the assumption that most of the suspects in organised crime investigations are guilty, is to some degree supported by international studies, as mentioned in chapter 2.5, that people in gangs commit five times more crimes than people who are not in a gang.

As mentioned earlier, according to previous research, the potential for psychological pitfalls, i.e. confirmation bias, tunnel vision, and representativeness, is particularly prominent

when the investigation already has a suspect and the offender focus. Based on the quotations above, and the aspects previous research has identified, this suggests that it absolutely can affect the hypotheses one has in an investigation of organised crime and might jeopardise the presumption of innocence, objectivity and the rule of law.

### ***Kidnappings: the case area with justifications for a hypothesis-based approach***

In connection to the perspective towards case areas viewed as a potential for the hypothesis approach, I gained the understanding that the participants would be more motivated to establish hypotheses in, for instance, a kidnapping case, rather than in a drug case. In fact, several of the participants agreed that the establishment and use of hypotheses was much more relevant and essential in this matter. As one of the participants stated:

*In cases of kidnapping, we are much better [at using hypotheses]. Because we think there are more possibilities ... or, not because there are more possibilities, but we see more possibilities. It is because we got quite more questions initially, and then there is easier to put it into words."*

It is interesting how the participant's quote above expresses that the detectives see more possibilities of hypotheses and that makes it easier to justify their use compared to drug cases. Regardless, in both cases, one may be subject for confirmation tendency, i.e. availability, as mentioned in chapter 2.4, where people have an unconscious facility to emphasise the first thing that comes to mind as the best and most representative alternative. This quote also underlines a suggestion that the detectives are less likely to engage in the application of hypotheses because they are unable to see more than just a few possibilities. Nevertheless, this is not necessarily a negative issue, as one of the participants mentioned earlier, that it is not the numbers, but the aspect of, becoming aware of things that might appear obvious, but do not need be. As argued, drug cases are often offender-based, and, during the case scenario, all the hypotheses established were influenced by the perspective that something unlawful had happened and pointed towards subjective guilt and innocents. The participants established between two to six hypotheses, where the formulation to a various degree was; "He (or they) knew or did not know about the drugs", and maybe that is enough? Interestingly, only some of the participants established a hypothesis that someone unknown could be involved, which I would consider a relevant hypothesis worth pursuing in a drug case.

The next and final chapter will discuss the presumed need for “the abductive organised crime-detective.”

### ***4.3.3 The presumed need for the abductive organised crime detective***

In chapter 2.2, I described that the field of investigation has evolved into a unique discipline, where the detectives are required to continually be aware of different psychological pitfalls, and various technological and procedural changes. Because of the massive development in modern possibilities, i.e. technology and forensics, the detectives of today are provided with substantial source materials, often with ambitious and uncertain information. Regarding this, several of the participants expressed that one of the most fundamental aspects that highlighted the complexity of an organised crime investigation was the claim that it often involved a large amount of information. One of the participants stated that:

*We might not have a crime scene which homicide maybe have or the transactions that finance and economy has, but we have a tremendous amount of information and data.*

As presented in chapter 2.4, one of the two ways that might raise the potential for confirmation bias is when the detectives have ambiguous information that allows for more interpretations, and the detectives choose to interpret the information that matches the established hypotheses. The other is looking for evidence that confirms the established hypotheses. Founded on this, it could be suggested that with a more considerable amount of potentially ambiguous and uncertain information, it would create an equal amount of possibilities for interpretations of that information.

### ***“The good overview” – the grace of covert investigative methods, the potential risk for psychological sources of errors***

In addition to the traditional investigative methods, i.e. investigative interview, collection of phone information, and securing electronic traces, organised crime often utilises covert investigative methods to ensure a successful investigation. Some of the participants argued that, because organised crime investigations often had a covert investigation before “opening” the investigation, it provided a useful overview into the case, as this participant explains:



*After all, we often have an insight into the course of events as we have arrested a person, and we often have a good overview. In several cases, we already know what the arrested person has done or not done. Unlike a homicide, where one finds the perpetrator after two months, after digging ... for example, we are dealing with covert investigations, and then getting an overview. We may have mapped intent, the subjective and the objective over a long period. Therefore, establishing a hypothesis that he has nothing to do with, for example, drug crime, is a bit phoney. But the question becomes the degree [of guilt]. But for kidnappings, you will have a bigger need for hypotheses, and perhaps also robberies.*

The quote above encapsulates many of the conditions concerning the arguments previous research points out as problematic areas towards proactive and offender-driven investigations. As presented in chapter 2.5, with the offender-driven investigation, the starting point of the “case narrative” is constructed at an early stage. This complies with the perception that, when the detectives receive this “good overview” of information from the covert investigation, they will, in fact, obtain a narrative that other people have constructed and established as a suggestion to “the truth”. As presented in chapter 2.1, the concept of the rule of law is to ensure the correct material outcome and has a legally binding requirement to follow the principle of material truth. As described in chapter 2.5, case construction occurs when the investigation has a suspect, and the focus is to search and weave together selective pieces of information that support the suspicion, rather than continue to apply focus on what actually happened, i.e. “the truth”. If the truth is not precise enough, or if the original suspicion is made on erroneous grounds through, for example, confirmation bias, this might lead to questionable or wrongful convictions. As stated in chapter 4.3.2, the participant that did not know about any miscarriages of justice on the section argued that “it” has worked regardless of any methodology, since if something seemed off, that it would be captured in the levels up, e.g. the district attorney. However, again, prosecutors are as frequently exposed to psychological sources of error as any other party, including when assessing case narratives. As I presented in chapter 2.5, the adversarial court system, as we have in Norway, has received criticism due to the claim that the truth is less important than the narrative told. The prosecutors would have the same starting point, or even a starting point further into the narrative.

The people conducting the covert investigation methods are also prone to the same psychological sources of error, i.e. confirmation bias. Furthermore, as an extension to this, it should also be considered whether the covert investigation has encountered ambiguous and unclear information; what pieces of information they have decided to include or exclude, combine, ordered and represented when presenting the current narrative. It is not unlikely that when presenting a current case narrative, it would be done with high-class and impressive visual presentation of the produced product. That would obviously have a high potential to form and shape the mindset of the detectives to continue to investigate the case. This entails that one must be aware and critical when assessing the narrative, which would be the same as “the good overview”.

### ***The call for the abductive organised crime detective***

Based on these arguments, it suggests that the detectives investigating organised and proactive crime are required to be exceptionally aware of the offender-based focus. As stated in chapter 2.5, there must be an interaction between the evidence gathered before suspicion can be put on an individual, and that the focus should be to assess inference chains from evidence, rather than assessing how good the narrative is. It will also be essential for the detectives to be able to see beyond the picture that covert methods might give if, for example, there is a great deal of ambiguous and uncertain information, and not just take information for granted. This will require an effort, which, as I have mentioned earlier, follows the Director of Public Prosecutions’ request for investigations to be effort-mandatory, rather than result-mandatory to achieve high-quality.

In chapter 2.5, *The call for the abductive detective*, I argued that detectives have a lawful obligation not to follow this “one verifying and offender-based narrative”, and this applies throughout the whole investigation. As presented in chapter 4.2.1, having alternative explanations to a sequence of events was something several of the participants argued for when using hypotheses. Even though all the participants had alternative explanations during the case scenario, it was through a “solving-mode” approach, i.e. a focus on solving the case with investigative steps, intuition, and experience. As presented in chapter 2.5, with a focus on this approach, the detectives might be at risk of being subject to confirmation bias, by interpreting information in a way that supports the narrative. Also presented in chapter 2.5 was the term “narrative reasoning”, where abductive inference is an essential factor, as a process based on

the detective's cognitive requirements to make sense of conflicting, ambiguous, and contingent information in major investigations. I would claim that having a mindset based on "narrative reasoning" during the investigation is an absolute condition, considering the demands of the law, e.g. objectivity and presumption of innocence.

Moreover, this is especially true in offender-driven investigations, and the various elements which come with this, i.e. *'The professional, big bad wolves of organised crime.'* As stated in chapter 4.2.2, all the participants had at least one innocent hypothesis when working with the case scenario, but this was not, or just to some degree, systematically approached with information needs, abductive reasoning, and investigation steps. Besides this, the information in the case scenario was limited. What if the amount of information was much higher, as several of the participants expressed earlier in this chapter? How flexible are the detectives considering the possible innocence of the "professional criminal"? What speaks in favour, and against, the suspicion? Can the investigation exclude innocence by trying to prove it? Do the investigators possess all the covert material, which also might point to innocence? As presented in chapter 2.5, proactive investigations might encounter challenges with exercising the suspects' right for "equality of arms" by disclosing all evidence before a trial, as the starting point of the investigation might be unclear due to the use of covert methods.

As I argued throughout this chapter, to comprehend the broad, and possibly ambiguous, amount of information, as well as the many risks of psychological sources of error and the challenges of the proactive strategy, i.e. the offender-based focus, the detectives might benefit from narrative reasoning including abductive inference – and perhaps through the help of various investigative methods, and models, e.g. the hypothesis-driven investigative methodology. However, arguing for this does not answer the question of how, and whether, the hypothesis-based methodology makes sense in proactive investigations as they are conducted today. However, based on the results in this project, neither the hypothesis-driven investigative methodology nor the abductive reasoning are used, so I have no basis to assess if it would make sense. Even though the participants have received theoretical training through the obligatory yearly training, and have some basic ideas to what the hypothesis-driven methodology involves, both they and the leaders have to acquire the knowledge and understanding, gain experience, and full-heartedly try to use the methodology. Perhaps then we would have better grounds to reflect upon or answer the question; "Is it really necessary"?

## 5 Conclusion

This project set out to explore organised crime detectives' thinking, knowledge and methodological awareness to the practical use of hypothesis-driven investigation methodology. Due to the size of this project, it can only contribute with a small "peephole" into the reality. However, based on my results, I found that the participants did not have the required conditions, i.e. the theoretical foundation, to utilise the hypothesis-driven investigative methodology systematically and methodologically. This makes it demanding to transform the various beneficial concepts from theory into practice. There is little doubt in my mind that the organised crime unit has yet to achieve good practice for its use. Considering the results of this research project, one may reflect on the aspect of whether we have the professionalisation we want concerning the hypothesis-driven investigation methodology in investigations of organised crime, or if the processes and implications within the plan of action to lift the investigation field still have a way to go beyond the year 2018.

However, that said, the participants were not entirely unfamiliar with the subject, as they mentioned basic elements, i.e. confirming and falsifying hypotheses, and having at least one "innocent hypothesis". They also came up with some beneficial aspects, i.e. the reduction of cognitive sources of error, and structuring and documentation of the work process within the investigation. Nevertheless, despite this, the participants did not see it as necessary, as investigations evolved naturally through investigative steps and experience, something I referred to in this research project as "the solving mode" (concerning this, one must definitely not undermine the importance of experience. However, this research project is focusing on the practical use of hypothesis-driven investigative methodology). As a consequence of not seeing it as necessary, this made the methodology somewhat superfluous, as, for example, the participants felt they had to do things twice by doing the same procedure they had performed in their head, including in the Indicia system. This mindset was primarily aimed at drug-related cases, in contrast to, for example, kidnapping cases, where the participants considered the use of hypotheses more relevant as there were more possibilities to the event. In drug cases, the participants argued that there were few possibilities, as most the suspects were caught with the drugs, and the question would be if they knew or not.

In addition, the organised crime unit would have a "good overview" as many of the cases had a covert phase, using covert investigative methods. In this research project, I have argued

that this good overview was the equivalent to a "case narrative", as the detectives will obtain information which is selected, constructed, interpreted, and which has established a truth. Furthermore, as these kinds of investigations are often proactive, already focusing on the suspect or suspects, rather than the criminal act, this makes it prone to becoming an "offender-driven" investigation. Considering the participants' strong emphasis on the perceived professionalism within organised crime, the significant and ambiguous amount of information makes it even more important to be aware of the various psychological sources of error, e.g. case construction and confirmation bias. I claim that the systematic use of hypothesis-driven methodology, based on abductive inference and narrative reasoning would be helpful towards avoiding these "pitfalls". However, due to the circumstances that the participants did not use or have any clear explanations or opinions towards this, it makes it challenging to claim whether the organised crime unit needs the abductive organised crime detective or not.

What I recommend based on this research project is that the organised crime unit elaborates the practical use of hypothesis-driven investigative methodology, by acquiring the theoretical knowledge, actually start using it, and working out good practice for its use. Perhaps then we could receive a more fulfilling reflection on the thinking, knowledge and methodical awareness amongst specialised Norwegian organised crime detectives concerning the practical use of hypothesis-driven investigation methodology.

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## Appendix 1 – Printout from NSD test



### Resultat av meldeplikttest: Ikke meldepliktig

Du har oppgitt at hverken direkte eller indirekte identifiserende personopplysninger skal registreres i forbindelse med prosjektet.

Når det ikke registreres personopplysninger, omfattes ikke prosjektet av meldeplikt, og du trenger ikke sende inn meldeskjema til oss.

Vi gjør oppmerksom på at dette er en veiledning basert på hvilke svar du selv har gitt i meldeplikttesten og ikke en formell vurdering.

Til info: *For at prosjektet ikke skal være meldepliktig, forutsetter vi at alle opplysninger som registreres elektronisk i forbindelse med prosjektet er anonyme.*

*Med anonyme opplysninger forstås opplysninger som ikke på noe vis kan identifisere enkelt personer i et datamateriale, hverken:*

- direkte via personentydige kjennetegn (som navn, personnummer, epostadresse el.)
- indirekte via kombinasjon av bakgrunnsvariabler (som bosted/institusjon, kjønn, alder osv.)
- via kode og koblingsnøkkel som viser til personopplysninger (f.eks. en navneliste)
- eller via gjenkjennelige ansikter e.l. på bilde eller videoopptak.

*Vi forutsetter videre at navn/samtykkeerklæringer ikke knyttes til sensitive opplysninger.*

Med vennlig hilsen,

NSD Personvern

# Appendix 2 – Information and consent form

## My master's thesis

By

André Roy Floe Roesberg

### Project Title:

*The abductive organised crime detective:*

*Knowledge and methodical awareness amongst specialised Norwegian organised crime investigators*

### The Current Study

This research study is being conducted by André Roy Flo Rosberg (master's candidate) at the Norwegian Police University College, where I am supervised by Dr Kira Vrist Rønne and Dr Ivar Fahsing. The purpose of the project is to explore the various aspects of investigative work in cases of organised crime. It will focus in particular on the initial phase of the investigation and methodical thinking.

### What will you be required to do?

In this study, you will be asked to read one brief case scenario and then produce all the case-relevant hypotheses/lines of inquiry you can think of in the case. Then I will conduct an interview where I will ask questions about some of the topics concerning some aspects of an inquiry. You may not use external reference sources or cooperate with other participants in the exercise and/or in the answering of the questions.

The interview will take about an hour, and a recorder will be used while we speak.

### Confidentiality

No personal data will be collected. All data will be stored securely in accordance with the Data Protection Acts and the University's own data-protection requirements. Data can only be accessed by the researchers. After completion of the study, all recordings will be deleted.

### Dissemination of results

It is the intention that the material collected will be analysed and presented to anyone that is interested in reading it or to have it presented as a lecture. I will want to use statements, opinions, knowledge and awareness from you and other participants to underline aspects for use in the project. This project will be written in English.

### Deciding whether to participate

If you have any questions or concerns about the nature, procedures or requirements for participation, do not hesitate to contact me. Should you decide to participate, you will be free to withdraw at any time without having to give any explanation.

### Any questions?

Please contact:

Andre Roy Floe Roesberg

Tel No: +47 46783774 or Email: [androsberg88@gmail.com](mailto:androsberg88@gmail.com)



## Appendix 3 – The case scenario

### The Abductive Detective

#### General instructions

In this exercise will you be presented with one hypothetical scenario representing potential real-life criminal case start-up phases. Imagine yourself as the primary investigator in the initial phase of the investigations. You will be asked:

- a) To generate hypotheses to the case. (By “hypotheses”, we mean any scenario, or account, that might explain some aspect of the case).
- b) To explain how you structured the hypotheses.
- c) To write down/explain all the relevant lines of inquiry that you would pursue based on the information in the case. (By “lines of inquiry”, we mean any attempt to obtain information about some aspect of the case.)

You will face considerable time-pressure in this exercise; therefore, we suggest that you keep your writing as short as possible (one-liners or keywords). There will not be time to elaborate on the rationale behind your decisions in writing. I want to use the time in the dialogue, rather than the written work.

Please do not discuss with others or use on-/offline reference material during the exercise. Place your mobile on silent or turn it off.

This session (case) will last for 30 minutes, with an approximately 5-minute break before we conduct the interview.

Please do not start to read or work on the case until further instructions are given.

## Scenario

On Thursday the 7<sup>th</sup> of June 2018, 11:50 am, a truck with Polish licence numbers was stopped by Customs as it was about to cross the border from Sweden. The truck was transporting building materials for a company called *Build Smart AS*. A hidden compartment in the floor of the truck was found during the control check. Inside the hidden compartment 100 kg of hashish was found. The hashish was imprinted with "Scar2". The police were alerted, and it was decided to replace the narcotics with fake drugs and to proceed with a controlled delivery. The truck was returned to the driver, Alfons Radzinski.

Undercover detectives followed the truck to a secluded parking lot, not far from a gas station. Alfons went out of the truck and repeatedly looked at a phone and texted. After about an hour, Alfons took out another phone and made a call with it, and then got in the truck and drove off. The undercover detectives followed the truck to a construction area where Alfons parked. Two other individuals, Teodor Trawinski and Tore Hansen, were at the construction area. The three of them emptied the truck of building materials. When they were finished, Alfons locked the doors on the truck and took a seat in a car together with the others; Teodor was the driver. As they were about to start driving, the police stopped and arrested them for the storage of a large amount of narcotics. In addition to the truck and the narcotics, four phones were confiscated. Alfons had two phones, an iPhone 4 and a BlackBerry. Tore had a Samsung Galaxy 6 and Teodor had an old Nokia phone.

Alfons did not want to give the password on his BlackBerry. On the other phones, there was nothing of interest other than a phone call from Alfons to Teodor before they met at the construction area.

During the initial police interview, Alfons denied that he was involved and claimed that he did not have any knowledge of the drugs. He explained that he simply picked up the truck from the company grounds on Tuesday the 5<sup>th</sup> at 8.00 pm. He parked it not far from his home, went home to sleep, and started driving on Wednesday the 6<sup>th</sup>, 08.00 am.

Both Teodor and Tore were unable to understand anything about the reason they were apprehended by the police. Both Teodor and Tore work as carpenters at the construction area. They had both been convicted of minor narcotics from earlier allegations.

Europol had information that an organised criminal group from Poland were distributing a large amount of hashish with the imprint of “Scar2”. Europol also informed that the owner of the company, BuildSmart AS, was Victor Trocki. Victor had two convictions from Poland for the storage and distribution of narcotics.

.....

You are the primary investigator on this case. Do not consider any limitations on resources when working on this case.

Q1: How would you generate hypotheses to this case?

- Are there any alternative explanations in this case?
- If yes, why?

Q2: Can you explain the way you structured the hypotheses?

Q3: Based on your hypotheses, which lines of inquiry would you prioritise?

- Are there any information gaps?
- How would you control this?

# Appendix 4 – Interview guide

## The interview

### *The abductive organised crime detective*

#### Introduction phase:

- Presentation of myself; my role as a researcher, and not as a police detective.
- To start with, you will be handed a case which you have 30 minutes to work with.
- Then I will ask you some questions.
- This interview is recorded, and I will only use the relevant information to inform the project. The recordings will be deleted when the project is finished.
- I guarantee anonymity; your name will not come up at any time.
- This interview will be approximately one hour. You can withdraw at any moment, or take breaks as you wish.

**Scenario:** (The participants are handed the case scenario)

#### Key questions:

(Tell, describe, and explain)

- 1. How do you define a hypothesis based methodology?**
  - a. What do you consider as “hypothesis-driven”?
- 2. In what way does organised crime differentiate from other case areas?**
- 3. How does the organised crime unit practise/use hypothesis-based methodology?**
  - a. To what extent is the systematic use of hypotheses used to confirm and/or falsify the information in an investigation of organised crime?
  - b. Do you think this way of thinking is transferable to the setting of organised crime, as to other case areas?
  - c. Is it at all necessary to use and/or benefit of the hypothesis-based approach in organised crime investigations?
    - a. If yes, what are the benefits? What may we potentially gain from it; (methodically, legally and psychologically). How can one clarify it?
    - b. If no, what are the reasons? What are the alternatives? Regardless, what may be the benefits?
- 4. Explain how you use hypotheses in your work.**



- a. Do you systematically establish, and test competing hypotheses in organised crime investigations? If yes; how? If no, why?
  - b. Do you use tools, systems, models, or something else to keep control, look at, test and work with all the competing hypotheses (to the suspicion)? If yes, which tools, systems, or other, describe how you do it and what the reason is for doing so. If no, tell me something about this.
    - i. Indicia, investigation plan, 5HW, investigation circle, 6 C's, ABC model, hypothesis matrix, etc.
      1. To what degree do you actively test your hypotheses early?
      2. Do you find it necessary to test already ruled out/excluded hypotheses?
5. Are there any barriers and limitations you may find when working with hypotheses based methodology?
- a. May these barriers or limitations make the hypothesis-based approach challenging to use in the practical work?
  - b. What is required in order to adapt the hypothesis-based approach into practical work?
  - c. If you think that it is more challenging to benefit from the hypothesis-based methodology, than in a murder investigation, what is the reason for this?
6. Will you find similar quality and/or results regardless of whether the organised crime unit uses this type of methodology? (*systematic testing/assessing of alternative hypotheses*)
- a. Do you have any other ideas that may ensure the quality in the same manner?

**(Inform the participant that the interview is about to end)**

### **Sensitive questions**

7. What are your thoughts/opinions on the directive from the attorney general about working hypothesis based?
  - a. (General attorney prioritising, directive about the use of investigation plans, etc.)
8. What do you do to keep updated on work-related knowledge? (Reading books, directives, etc.)
  - a. Does the organised crime unit have steps/routines that ensure that the detectives are updated/maintain work-related knowledge? If yes, what?

## Ending

9. Is there anything else you want to say? Or something that's on your mind?
  - a. Where there any questions you missed? (wanted to be asked about)
10. Was anything unclear in this interview?
11. Do you have any comments on this interview, something that could have been done differently?

Thank you so much for participating!

