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Taking the path of least resistance? Decision-making in police investigations of illegal wildlife trade

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ABSTRACT

The article considers the level of professionalism in police investigations of illegal wildlife trade in Norway by identifying factors that influence the decision-making of investigators and prosecutors. It argues that with a lack of achievement targets, weak management of environmental crime investigation, and national laws that prevent the regulation of domestic trade in species covered by the Convention on International Trade in Endangered Species of Wild Flora and Fauna, investigations become compromised. Inconsistent crime recording impedes the production of reliable statistics on the extent and distribution of violations, which likely has a negative effect on decisions to prioritize such cases. Many investigations result in fines, conditional discharges, or dismissals based on insufficient evidence or lack of prosecutorial capacity. However, the variations in the sample prevent reaching generally applicable conclusions about the overall state of investigations. Arguably, a lack of direction at the policy level leaves investigations vulnerable to systemic weaknesses, as they are largely dependent on the dedication of individual officers and local leaders.

Introduction

Criminal investigations are intended to solve crimes, identify perpetrators, launch prosecutions, establish innocence or guilt at trial, and bring offenders to justice (Roberts 2007). Investigation is an information-processing activity that relies heavily on the decision-making abilities of the investigators (Stelfox 2009; Innes 2003) and undergoing a process of professionalization with repeated demands that police work be knowledge-based and that investigators need specialized skills to investigate a range of crime categories (Stelfox 2009; Hald and Rønn 2013). White (2008) calls dealing with environmental crime ‘dealing with the unknown’ as it is a relatively new area of police work. Drawing on theories of investigation and professional discretion, this article critically examines investigations of illegal wildlife trade¹ in Norway. Through interviews with investigators and prosecutors, it aims to identify influential factors in the discretionary decision-making process in investigations, with particular emphasis on violations of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The purpose of the Convention is to ensure that

international trade in wild animals and plants does not threaten their survival as a species (Reeve 2006). Norwegian authorities ratified CITES in 1976. The Norwegian Customs should ensure that the import and export of protected species comply with the provisions of CITES. If not, the goods may be seized and the incident reported to the police. Seizures alone are unlikely to have a significant long-term impact on the illegal wildlife trade; violations should also lead to a commensurate criminal justice response (see Nurse 2015, Akella and Allan 2012). This is achieved through criminal investigation and prosecution of cases, which is the focus of this article.

Globally, illegal trade in wildlife is considered one of the fastest-growing transnational crimes and it is regularly linked to organized crime (Wyatt 2013a; Wasser et al. 2007; Elliott 2012; UNEP 2014; UNODC 2010). It is said to have devastating effects on species' survival and the sustainability of ecosystems and, in turn, on human health and well-being (Schneider 2012). The National Police Directorate (NPD) recognizes the need for expert investigators and prosecutors to manage environmental crimes (Politidirektoratet 2008), which has been seen as a priority in several strategy documents relating to policing (Politidirektoratet 2014b; Riksadvokaten 2014). Because absolute enforcement of the law is not an option due to limited resources, and because 'even the most precisely worded rule of law requires interpretation in concrete situations', discretion is welcome and inevitable in policing (Reiner 2010:206). However, because discretion involves the exercise of individual judgement, it may be subject to undemocratic, unfair and discriminatory uses (Kleinig 1996). Within police research, the term "discretion" typically refers to patrol officers making inarticulable judgements prior to a decision or action (Holmberg 2000; Quinton 2011; Buvik 2014; Rowe 2007). Although less commonly described, discretion is also central in police investigation and prosecution (Belur et al. 2015; Corsianos 2003; Hald and Rønn 2013) and used in considering whether a crime has been committed, if there are grounds for investigation and prosecution, when interpreting findings (McCoy 1996), and when deciding the appropriate criminal charge (Albonetti 1987). In Norway, policing is a politically governed profession. External regulation, organizational control of work priorities, targets, and performance indicators are combined to improve efficiency (Gundhus 2013). Subsequently, this may lead to the room for discretion becoming increasingly restricted.

Obligations and opportunities for the police

CITES regulates the international trade in listed species (and their parts or derivatives) through a system of licences that are issued by the authorities of each of the 182 Parties that have signed the Convention. CITES is one of the main international agreements for combating wildlife trafficking (Wyatt 2013b:111), but it has no criminal provisions or law enforcement capacity. Rather it provides a framework for each Party to adopt its own domestic legislation to ensure implementation at the national level (Reeve 2006). In Norway, CITES is enforced through a separate administrative decision in the national legislation,ⁱⁱ under the *Act relating to the regulation of imports and exports* and the *Act relating to wildlife and wildlife habitats*. Penalties are fines or imprisonment for up to two years. The NPD leads and co-ordinates the policing of environmental crimes, while District Police Commissioners ensures that the investigation is conducted competently at the local level. The police are given a central responsibility for reducing environmental crime, which has been identified as having potentially severe consequences and therefore one of the prioritized areas for investigation outlined by the Director General of Public Prosecutions (Riksadvokaten 2014). Such cases shall be given precedence when resources are limited and unnecessary waiting time shall be avoided.ⁱⁱⁱ The General Civil Penal Code §240 allows imprisonment for up to six years for ‘any person who wilfully or through gross negligence diminishes a natural population of protected living organisms, which nationally or internationally are threatened with extinction’. In theory, the national legislation not only obligates but also provides the police with opportunities to investigate CITES violations. Nevertheless, the NPD has admitted that ‘the individual police district often has little experience and competence in the investigation and prosecution of environmental crime. This is negatively affecting both processing time and quality of the work’ (Politidirektoratet 2003). In a recent survey, environmental co-ordinators indicated that both the import and export of endangered species was increasing (Politidirektoratet 2013).

Investigation and the question of reasonable cause

Although police investigation has been a popular theme in fiction and media, until recently it had rarely been subjected to systematic academic research (Newburn 2007; Stelfox 2009), and few studies had asked how detectives process and react to information or make decisions (Stelfox 2009). Several authors have now offered in-depth analyses of critical aspects of the decision-making process in police investigations, but the literature tends to focus on major crimes and the processes involved in identifying unknown suspects and conducting interviews

(see Fahsing and Ask 2013, Innes 2003), or on discussions of forensics and crime scene techniques that are most relevant to homicide investigations (Brodeur 2010). What the previous literature has been lacking (and this work attempts to provide) is an examination of factors that guide decision-making in the investigation of environmental crimes, which are often considered little serious (Elliott 2012; Lowther et al. 2002; Wellsmith 2011) and under-prioritized in criminal justice systems (Nurse 2013; 2015; Lowther et al. 2002).

The Police and the Prosecuting Authority are separate institutions in Norway, answerable to the NPD and the Director General of Public Prosecutions respectively, but the first level of prosecution is integrated within the police organization (Myhrer 2015). Representing the Prosecuting Authority, prosecutors holding police ranks act as heads of investigations, whereas police officers without prosecutorial expertise customarily conduct the actual investigation. Informed by the Criminal Procedure Act, the police prosecutors make decisions about when to implement investigations, what steps to take during an investigation, and when to bring it to a conclusion (Riksadvokaten 1999). An investigation shall be implemented when there is reasonable cause to examine whether a criminal offence has been committed. The requirement of ‘reasonable cause’ depends upon discretionary considerations consistent with the ‘principle of opportunity’ which concedes that the Police and Prosecution Authorities are not obligated to investigate every incident, even if circumstances so suggest (Riksadvokaten 1999); they must consider each separate situation and determine the most reasonable and purposeful course of action, including taking no action (Kjelby 2013)^{iv}. Kjelby (2013:32) found that this discretionary power was influenced by factors such as limited resources, prioritizations, and the need for an efficient and flexible public use of authority. This principle may have limited application in major crimes, because not investigating a homicide is hardly an option, but perhaps more when the seriousness of the issue is unclear.

Discretionary decision-making in investigations

Many writers have considered whether policing should be classified as a profession, and there is also debate about the concept of police professionalism (see Kleinig 1996, Wright 2002, Cockcroft 2015, Tilley and Laylock 2014, Sklansky 2014). A profession is a knowledge-based occupation that is acquired through education, occupational practice, and experience, consisting of technical and tacit knowledge (Evetts et al. 2006). Tacit knowledge is unarticulated, job-related knowledge that is passed on by example and practice, often implicitly. It guides decision-making, facilitates job performance (Cianciolo et al. 2006), and

is related to ‘discretion’, which refers to judgement, consideration, and sense. Executing discretion entails considering whether something is true or sincere, an act is meaningful or right or a condition is normal, desirable, or just (Grimen & Molander 2008). Hald and Rønn (2013) warn against assuming that police discretion is identical to the discretion that is used in traditional professions. Similar to Innes (2003), they say that discretion in policing rests upon common sense rather than specialist knowledge and can be partly understood as decision-making outside of the direct command of superiors. Dworkin (1977) describes discretion as *the hole in a donut*; an area left open by a surrounding belt of restriction. Innes (2003) goes on to describe investigation as turning selected, interpreted, and potentially relevant information into reliable, objective, and valid ‘knowledge’ that can be used to determine future investigative action. Brodeur (2010) makes a distinction between an epistemic approach to investigation that is centred on means and information collection and a more pragmatic, result-oriented approach. Here investigation is mainly a quest for information that can be used as court evidence to secure a conviction.

Decision-making is also guided by achievement targets. The quality of investigations is measured by quantitative indicators such as processing time, percentage of solved cases, number of dismissals, etc. (Myhrer 2015), despite the fact that the value of such indicators has been disputed (Tong et al. 2009; Knutsson 2013; Eterno and Silverman 2012) and that performance in street-level bureaucracies such as police departments has been found to be very hard to measure (Lipsky 2010). Target replacement, the process by which the means become the target, is often the result (Lomell 2011), such that the investigative process is neglected in favour of the end result (Tong et al. 2009). Researchers have conceptualized several frameworks within which prosecutors make decisions. Steffensmeier et al. (1998) refer to a ‘focal concerns’ framework in which blameworthiness (as it pertains to the criminal history and role of the defendant), degree of harm caused, practical constraints and implications of sentencing are central. Albonetti (1991) says that prosecutors wish to avoid uncertainty and seek legally relevant evidence that increases the probability of conviction. Finally, the Criminal Procedure Act §226 requires objectivity, stating that if a person is under suspicion, ‘the investigation shall seek to clarify both the evidence against him and the evidence in his favour’. This should cause prosecutors to invoke strict requirements of evidentiary strength before issuing fines^v or prosecuting.

Dark figures disguise the true extent and harm of offences. If it cannot be shown that there is a serious problem, resources will not be allocated to tackling it (Wellsmith (2011).

Having accurate statistics could guide investigators and prosecutors' discretionary decision-making more in favour of prioritizing environmental crimes, as well as be a valuable tool for assessing performance and enforcement methods. However, the availability of statistics depends upon the reliable recording of environmental violations in police electronic data systems, which previously have been described as inconsistent and incomplete (Brørby 2009; Sollund 2015; Sellar 2014).

In this study

To generate knowledge about how discretion works is a very complex task because decision-making is itself extremely complex and discretion is a dynamic and adaptable phenomenon (Hawkins 1992:45). Although investigative expertise is an underlying issue, this article focuses on factors that investigators and prosecutors present as influential in their discretionary decision-making rather than on legal or investigative proficiency (see e.g. Westera, Kebbell, Milne, & Green 2016). Characteristics of the illegal trade per se, including its underlying causes and consequences, are not explored in this article. In what follows, an account of the data collection method is first presented. Next, the result section will provide discussions on whether illegal wildlife trade investigations are compromised by inconsistent recording procedures, if the legal framework impedes the enforcement of domestic trade, and the effects of competing priorities and limited resources. The relationship between these factors and their influence on decision-making will be explored. The underlying question to what extent the National Police Directorate's targeted level of professionalism and prioritization is reached rests on the widespread claim within professional theory that formal training and education, as well as practical work experience, are essential for developing professionalism and discretionary abilities. Having the capacity for judgement is to fully understand and decide before acting (Cox III et al. 2008). To what extent are investigators and prosecutors qualified to make sound, discretionary decisions in these cases?

Methodology

Reiner (1998) states that the assessment of quality in police work must rest upon evaluations of the process and how an encounter is handled rather than on its product or outcome. A case study is an *empirical enquiry to investigate a contemporary phenomenon in real-life context* (Yin 2012), and it is seen as valuable for a nuanced understanding of reality, particularly of human behaviours that are not simply rule-bound acts (Flyvbjerg 2013). By examining

similarities and differences among multiple police districts to gain a better understanding of the phenomenon, this study fits Stake's (2005), definition of a *collective case study*.

Nine locations within six police districts of varying size were selected to capture variations across the country. The locations were in the northern, southern, eastern, and western regions of Norway. The empirical data were gathered through semi-structured qualitative interviews between 2013 and 2015, and through the analysis of case material. A request to conduct interviews with environmental co-ordinators^{vi}, prosecutors and investigators responsible for environmental crimes was sent to each location through a contact person appointed within individual districts. They consist of five environmental coordinators (one district lacked a coordinator at the time of data collection), three prosecutors (two of which were responsible for environmental cases) and five investigators (one the leader of an environmental crime unit). Eleven one-hour interviews were conducted with 1–2 respondents at a time. The total number of interviewees was 13.

Informed consent was obtained by providing respondents with information about the purpose of the project prior to data collection, guaranteeing them anonymity and freedom to withdraw at any time. No respondents withdrew during or after the data collection, but to recruit respondents was sometimes challenging due to their workload. In interviews, some expressed apprehension about having little familiarity with CITES. It is not known whether anyone declined to participate on this basis. Prosecutors and investigators have separate mandates. Still, the organization of the Norwegian police causes their tasks to interface and overlap, creating a close working relationship (Myhrer 2015). Questions posed to respondent groups therefore largely corresponded. Interviews sought to determine the respondents' responsibilities and relevant experience and to explore the correlation between official policies and every day, practical solutions and prioritizations. Prosecutors were particularly queried on the criteria used in deciding whether to implement investigation and prosecution. Respondents were asked how the legal framework and the status of environmental crimes influenced their decision-making as well as about capacity building and offender characteristics. The article is structured according to themes that emerged from the interviews.

Collecting data through qualitative interviews requires the use of systematic procedures to prevent biases (Denzin and Lincoln 2011; Yin 2012). Interviews were tape-recorded and transcribed, and quotations were carefully translated from Norwegian to English. Some respondents are more knowledgeable and/or articulate than others and it is the researcher's

responsibility to prevent these from acquiring in-proportional influence over results (Brinkmann and Kvale 2015). While respondents mostly expressed similar views and supplemented each other, they differed on certain issues. In order to avoid ‘selective plausibilization’ (Flick 2009), the credibility of the analysis rests upon a careful selection of quotations that also emphasize contradictory statements. Scientific generalization from a qualitative case study limited in time and sample size demands caution, but this does not mean that the findings are not true for those outside of the sample. For example, Flyvbjerg (2013) calls formal generalization overvalued as a source for scientific development and ‘the force of example’ underestimated in terms of transfer value.

Being an academic civilian working in the research department of the Norwegian Police University College—an *inside outsider* (Brown 1996)—could lead to conflicts of interest. Sheptycki (1994) argues that such a relationship can prevent researchers from taking a dispassionate view of institutional structures because of a vested interest in the organization. The thought that loyalty to the police organization should threaten the independence of my research and prevent publication of negative findings seems improbable, but it cannot be dismissed, since such processes may occur at a subconscious level. In addition, I should not underestimate my advantage in overcoming access difficulties that are often faced by outside police researchers. Recruiting respondents and receiving approval to search police systems can be considerably easier for those who are employed by the police organization. I was permitted access to the national penal register to search for CITES violations and to case documents when conducting interviews at police stations. Later, all of the 27 police districts cooperated by retrieving and sending to me requested information.

Results and discussion

Recording of illegal wildlife trade is inconsistent

The total number of CITES violations that the Norwegian police handles is unknown. Acquiring an exact and reliable statistic proved to be exceedingly difficult, because there is no specific reference code for CITES violations in the police electronic system, which makes it impossible to perform a customized search. Without a specific code, recording of CITES violations is inconsistent, varying between locations and individual respondents. The interview data suggested that CITES violations are regularly coded under *Illegal import of wildlife*, *Act relating to the regulation of imports and exports*, or *Illegal import/dealings with exotic species*. However, these codes are also used for other violations, which makes it

impossible to distinguish CITES cases from non-CITES cases without reading the actual file. Even then, Environmental Co-ordinator (1) stated that in cases reported by the police, the file sometimes simply reads ‘exotic snake’ or ‘lizard’, revealing no information about whether it is a protected species. Furthermore, CITES violations reported by Customs are sometimes coded under ‘assorted’ categories, such as *Customs Act various* or *Smuggling of goods*, which comprise a massive number of cases in numerous categories. Looking through these categories to retrieve an exact statistic would be an immense undertaking. Common seizures of wildlife entering Norway are reptile skin products, live reptiles and birds, souvenirs made from ivory, turtle shell, corals, feathers, and other exotic species (Sollund 2015). Traditional Chinese medicine (TCM) and dieting products ordered online dominate the reported seizures according to the respondents. Customs routinely reports seizures to the police, which suggest that one would be able to recover these incidents in the police systems.

Customs made 333 CITES seizures at the Norwegian border in the years 2011–2014.^{vii} A search in the national penal register on the three codes mentioned above gave 313 wildlife related cases countrywide. Because of the previously described recording issues and incomplete information in the case documents, the following numbers are not a precise statistical representation. Nevertheless, they reveal tendencies in the material, such as characteristics of cases, investigative efforts, and recording procedures. Seventy-nine (25%) of the 313 cases found in the penal register were attempts of illicit cross-border trade with CITES species reported by Customs. Forty-two (53%) of these concerned TCM or dieting products. If all of the 333 Customs seizures were reported to the police, many must have been recorded under different codes and illustrate the inconsistency in recording. One hundred and fifty-one (48%) cases of the 313 were for illegal dealings with wildlife or wildlife products^{viii} reported by the police, the Norwegian Food Safety Authority^{ix} or the Norwegian Environment Agency.^x These cases mainly involved live reptiles found by general service officers while searching premises in relation to other criminal matters. Possessing and selling live reptiles is prohibited in Norway, and the police should seize the reptile regardless of its protection status or potential origin from captive breeding. Inconsistent recording and, in turn, incomplete statistical representation, create the impression that such crimes are few and insignificant, as well as disguise and potentially undermine the good work being conducted. Given the importance of leaders acknowledging the efforts of their staff and the associated challenges (Jørgensen 2014), a perceived indifference to recording problems from management could implicitly justify continued downgrading of future cases.

Insufficient evidence and lack of prosecutorial capacity

For crimes that are detected either on premises or at the border, a suspect will already be identified as the owner, the carrier of an item, or the designated receiver when the report is filed. Thus, most investigations fit under Innes' (2002) category of the 'self-solver' model, in which a suspect is identified as part of the initial response, as opposed to the 'whodunit' model, when the offender is unknown. If a traveller or shipment is stopped at the border without the necessary CITES permit, Prosecutor (1) said that (s)he considers the following when receiving the Customs report. 'I look to see if it is a straightforward case where a fine can be issued without conducting an interview'. These cases typically involve individuals ordering dieting products online made from protected plants that require an export permit from the country of origin.^{xi} The customs report provides enough information to issue a fine directly and the prosecutor claimed to dismiss few if any such cases. In another district, Investigator (1) suspected little awareness of CITES in the general population, emphasizing that online stores often present medicinal products as legal or as originating from legal farms, although they do not issue proper documentation. When receiving such reports from Customs, they 'make sure to inform the offender about CITES. But if the person has no prior records... these cases will often be dismissed', indicating that confiscation of the product is regarded as sufficient punishment since people are not knowingly or intentionally breaking the law.^{xii}

Of the 313 cases, twenty-five (8%) led to a conditional discharge and fifty-four (17%) to dismissal. The vast majority of dismissals were because of insufficient evidence. One hundred and sixty-nine cases (54%) resulted in fines, most of which were between 2,000–12,000 NOK. One case involved a pet shop importing corals and seashells that are listed on CITES Appendix II. The case was first dismissed, but later it resulted in a fine of 50,000 NOK after Customs appealed the dismissal. The data showed significant differences in practice between districts, and even between individual enquiries within the same district. For TCM, similar incidents can result in fines up to NOK 10,000, or they can be dismissed because of insufficient evidence or a lack of prosecutorial capacity. The files from such dismissals might indicate that the investigative resources are spent and that numerous previous similar reports ended in dismissals because the requirement of subjective guilt could not be established. Some districts assign little investigative effort to such cases on this basis.

On one hand, this inconsistent practice demonstrates the unfair and discriminatory exercise of discretion Kleinig (1996) warned about, yet it could also reflect different views on policing between respondents. Many criminal policies are premised on the idea that

compliance is secured by the presence of formal policing and threat of negative sanctions for offenders. Yet normative models of crime control find that personal commitment to law-abiding behaviour is equally important. When institutions act according to principles of prosecutorial fairness, it encourages citizens to regulate themselves (Jackson et al. 2012; Tyler 2006). The practice of cautioning first-time offenders as opposed to issuing fines show a flexible use of authority, offering people a second chance. As argued by Berkley and Thayer (in Buvik 2014:15), friendly attempts to gain voluntary compliance are best, at least initially, for lower-grade safety threats.

Taking the path of least resistance?

Findings indicate that the legal basis for employment of the separate CITES decision is problematic for several reasons. The document analysis revealed that when violations are reported by Customs with readily available evidence of cross-border trade in protected species, the separate administrative decision for CITES is employed in the charge sheet. However, unless transnational trade can be proven, the specific CITES legislation cannot be used and the offence that is charged instead often relates to ‘non-exploitative’ legislation, i.e., *the Animal Welfare Act* cf., *The regulation against import, sale, or keeping of exotic species*.^{xiii} In one hundred-one (67%) of the cases detected and reported by the police or a supervisory authority (as opposed to by Customs at a checkpoint), the item seized was a species protected under CITES (usually a reptile not endemic to Norway).^{xiv} Without a CITES permit, it is in breach of the Convention.^{xv} Nevertheless, with very few exceptions, this was not an issue in the case documents. One case involved an offender from whom the police seized boa constrictors and pythons (which are protected under CITES) in 2012, 2013 and twice in 2014. The repeated offences implied systematic criminality as opposed to accidental infringement of the law. Each time the police came to the house in relation to other (mainly drug-related) offences, and each time the documents indicate that there was no investigation into the offender’s attainment of the reptiles and no reference to these being protected species. According to Environmental Co-ordinator (1), when owners are asked about the origin of an item or animal, they say that they have acquired it through domestic trade and refuse to name the supplier, indicating that they have knowledge of CITES. Typically there will be no further enquiries, such as requests to see receipts, permits, or transport papers and thus any evidence of transnational trade is often unavailable. The case documents revealed that the illegal possession of reptile species tends to end in fines or dismissals. Unless the reptile constitutes one of several charges against an individual, the case very rarely goes to court. As also

uncovered by Sollund (2015), nearly all of the live animals seized at the border or on an owner's premises were euthanized.

CITES exhibits a preference for trade regulation and sustainable use rather than prohibition (Elliott 2012), and has no mandate to control domestic trade (Reeve 2006; Sellar 2014). Arguably, the Norwegian legal framework does not facilitate such control either. The Norwegian Environment Agency admits that 'a great number of illegally imported specimens from CITES protected species exist in Norway and these can be sold, kept and possessed freely' (Miljødirektoratet 2015a). Proving that transnational trade has taken place requires the investment of additional police resources. Because of the difficulty of securing sufficient evidence of import and perhaps with limited awareness of CITES, the data suggest that investigators and prosecutors choose the most straightforward option of charging people under *the Regulation against the import, sale, or keeping of exotic species* instead of employing the separate CITES decision. Often constituting one of several counts of an indictment, respondents explained that because the wildlife offence will have little or no bearing on the sentencing it might be given little attention by investigators and prosecutors, reflecting the often mentioned lenient treatment of environmental crime in the criminal justice system (Wellsmith 2011; Sahramäki et al. 2015; Sollund 2015; Akella and Allan 2012). The respondents implied that prosecutors issue minor fines in order to close a case quickly, even if circumstances would have permitted a stronger response (see also Sollund 2015, Situ and Emmons 2000). Taken together, this suggests the employment of a practice described by Prosecutor (3) as 'taking the path of least resistance'. The result is no visible difference in the prioritization of and legal consequences for the illegal possession of protected or endangered species versus non-CITES species, which is problematic from a biodiversity conservation perspective.^{xvi}

In May 2015, the Norwegian Environment Agency submitted a proposal for a new administrative decision to the Ministry of Climate and Environment in which CITES would be primarily governed under the *Act relating to the management of biological, geological and landscape diversity*^{xvii} (Miljødirektoratet 2015b). If this legislation is passed, there will be a statute of limitations of five years, and those found in possession of certain species will be required to produce a certificate to document legality, thereby moving the burden of proof to the suspect. This could be an influential factor in the future decision-making of investigators and prosecutors when considering prosecution for possession and domestic trade in CITES species. According to Luna and Veening (2014), prosecutors prefer to pursue environmental

offenders under non-environmental laws where the burden of proof is easier fulfilled and guidelines clearer. In time, increased use of the CITES sanction would give a more accurate statistical representation, which could further stimulate prioritization (Wellsmith 2011). However, this depends on actual implementation, namely opportunity to prioritize such offences as well as recognition that wildlife laws should be enforced. How environmental issues are perceived within the police will inevitably have an impact on organizational priorities (White 2008). Because the effects of environmental crime are not always obvious or quantified, a challenge is that they are sometimes characterized as victimless (Sahramäki et al. 2015; Korsell 2001; Wright 2011). This conflicts with Reiner's (2010:119) description of cop culture as victim-centred and focused on the protection of the weak against the predatory. While most respondents worked with environmental crime by preference and therefore likely to view it as important, officers working in other crime areas, including managers, might consider such crimes to be 'rubbish' (Reiner 2010) and not worthy of police attention. When organizational resources are scarce, such views may have continued negative influence on the discretion and priorities of environmental crime officers, despite improved and simplified legislation.

Seeing the big picture

The annual prioritization directive from the Director of Public Prosecutions places environmental crime among the prioritized areas for police investigation. Nevertheless, Prosecutor (2) said, 'Because all environmental cases are a priority, when you have to prioritize among the prioritized it is hard to know which cases to process first and last'. Discretion requires a judgement about which activities should receive priority (Cox III et al. 2008). With conflicting considerations fighting for predominance, the respondents expressed what Jørgensen (2014) describes as cross-pressure between tasks and budgets, feeling that the need for their services cannot be met and that the goals of their work are unclear and conflicting. Discretionary considerations are guided by the financial budget and serious crimes are prioritized at the expense of less serious crimes (Auglend et al. 2004:422). However, to separate the serious incidents from the less serious ones at an early stage can be difficult. Prosecutor (2) explained:

If you only have one investigator available, you cannot initiate investigation in too many cases; you need to close some in the beginning and try to prioritize the most serious ones. But this is problematic, since it's after you have started investigating that you see the gravity of the violations.

Reports that initially appear trivial risk being downgraded after considerations of cost-effectiveness or seriousness. To judge whether an act is correct, one must consider what the effects of the decision would be (Grimen and Molander 2008), namely to recognize the nature of illegal wildlife trade and acknowledge the harm associated with each individual offence. When reports are considered separately, they may appear to be inconsequential but the combined volume makes this a serious type of crime^{xviii} that cumulatively endangers whole species (Interpol 2009). This illustrates the need for specialist knowledge to prevent trivialization of these cases. Investigators and prosecutors in charge of environmental crime deal with pollution, violation of building regulations, workplace violations, cultural heritage crimes, illegal hunting, overfishing, *and* illegal wildlife trade. To acquire significant knowledge within a particular field requires both training and experience. Because the education offered on the enforcement of environmental crimes is limited and optional, respondents reported that knowledge of the field is learnt on the job. Nevertheless, few had notable experience with illegal wildlife trade. Environmental co-ordinator (1) said, ‘We rarely come across CITES cases. I do not know if this is because we fail to discover them or because there are few violations’. Some investigate a wildlife case once a year, on average, and thus lack proper routines, and for most respondents, the responsibility for environmental crimes came in addition to other duties. As Nurse (2013) argues, wildlife law risks becoming a fringe area of policing and an added duty for already overburdened and non-specialist officers. There are important exceptions in the empirical data, with some respondents having spent considerable time on such investigations, indicating a far from uniform approach across the sample. But without clear direction, the performance seems to depend greatly upon the personal dedication of individuals and on the District Police Commissioner’s predispositions towards the importance of environmental crime, a point also noted by Sollund (2013).

What gets measured gets managed

Because policing is a politically governed profession, the pressure to meet public expectations appears to lead to conflicting priorities for the respondents. Discretionary decisions depend upon the shifting currents of political and economic values and forces within a broader environment (Hawkins 2002) and respondents suspected little approval in the population should wildlife trade be prioritized at the expense of other crimes. Respondents reported that they are periodically assigned to other investigations due to limited resources in their respective departments. With resources being what Lipsky (2010) calls chronically inadequate relative to the task, respondents are also required to dismiss or set aside environmental cases.

Prosecutor (2) said, 'Because our capacity is so low, there are cases where I consider not initiating investigation. Because I see that we'll have trouble finishing'. Investigator (1) described a similar situation, saying, 'In the reality that we are in, first we need to have a belief that the case will succeed. That is certainly a question we consider', thereby supporting Brodeur's (2010) argument that investigations are pragmatic and result-oriented, and Albonetti's (1991) claim that evidentiary strength and conviction probability influence decisions. McCoy (1996) blamed the adversarial nature of the justice system for contaminating pre-trial investigations, corrupting both prosecutorial and police discretion.

The NPD has expressed plans to develop suitable performance targets for environmental crime (Politidirektoratet 2014a), but for the time being Environmental co-ordinator (3) said, 'For environmental crime, there isn't a single target (...). If you have not finished working on a case involving violent crime or narcotics, you are not allowed to touch an environmental case (...).' Arguably, targets turn police resources to other crime areas. While admitting to prioritize their work according to achievement targets, respondents also questioned their effectiveness (see Tong et al. 2009, Knutsson 2013, Eterno and Silverman 2012). It may encourage officers to prioritize easy-to-solve cases to reach the targets, and discourage enquires that are more challenging, yet potentially of greater impact, a practice that Brodeur (2010:194) refers to as 'skimming' and Lipsky (2010) as 'creaming'. It could also reduce the officers' motivation for acting on their own initiative (Knutsson 2013:59), and perhaps legitimize inactivity once the targets have been reached. The resulting statistics risk becoming a poor measure of the level of crime, and rather a reflection of the amount of resources employed in the control (Lipsky 2010; Korsell 2001). According to Kuykendall (1986), it is the complexity of the case rather than the skills, methods, and techniques of the investigators that determines the probability of solving it. Nevertheless, as Environmental Co-ordinator (2) stated, 'the case files are often thick with a lot of documentation, but when you boil it down, they are not that complicated, complex but not complicated', contesting the notion that illegal wildlife trade necessarily is difficult to investigate. A large share of the illegal trade in wildlife may never be discovered, reported or recorded. This decreases the deterrent effect of enforcement practices, threatens public support for reducing such crimes and leads to continued marginalization of the field (Wellsmith 2011).

Conclusions

The empirical data suggest that the policing of illegal wildlife trade in Norway is caught in a vicious circle: First, understanding of the crime area and the skills for detecting crimes are generally low. Seizures of wildlife are often incidental, as they usually occur while addressing other criminal matters, with little emphasis on cross-border transportation. Next, penalties that could enhance the deterrent effect of legislation and indicate the seriousness with which offences are pursued by the authorities are generally mild, and dismissals are frequent. Hence, the prioritization of these crimes is downplayed in favour of crimes that result in harsher penalties and therefore considered more serious. Consequently, fewer resources are allocated to education about environmental crimes, which, again, prevents new crimes from being detected and investigated. Arguing for more resources is problematic because there is little knowledge of the crime area, a lack of statistical data and, even when environmental crimes are discovered and investigated, they are usually considered little serious. Finally, the result is an impression within the police organization that illegal wildlife trade is an uncommon and insignificant problem in Norway.^{xix}

It is difficult to dispute this impression without reliable statistics. Overall, the number of violations recorded is modest, which could suggest considerable dark figures. There are signs of intent, but inadequate resources combined with limited awareness of the crime area could be preventing proper implementation at practical levels, and the pursuit of such crimes seems to be little acknowledged within the framework in which investigations are performed and measured. While achievement targets may stimulate increased efforts and result in fewer dismissals, it could also deter officers from initiating time-consuming investigations. The value of achievement targets remains debatable, yet as long as there are quantifiable targets set for investigation within other areas and not for environmental crime, wildlife trade violations risk coming last on a long list of concerns. As argued by Luna and Veening (2014), the allocation of adequate resources for the enforcement of environmental laws seems to be a “luxury» to be put on the wish-list of activities that could be done if more resources were available, and little consistent with the prioritizations outlined by the Director General of Public Prosecutions. The sample examined in this article was limited, which undoubtedly leaves important aspects of the investigations untouched. Because of the variations across the sample, making generalizable conclusions about the overall state of investigations would disguise the complexity of policing in this area. However, the variations also demonstrate that without proper direction at the policy level, the investigation and prosecution of wildlife

crimes remain vulnerable to systemic weaknesses. Considering Norway's obligations as a CITES Member Party, this is hardly satisfactory.

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ⁱ “Wildlife” refers to all forms of non-domesticated animals and plants living in the wild (Lemieux 2014). Illegal trade in wildlife includes hunting, collecting, transporting, and selling wild flora and fauna in contravention of local, national and international laws (Wyatt 2009). In this article, illegal wildlife trade primarily refers to the unlawful import or export of species that are covered by CITES, encompassing plants, and animals and their body parts.

ⁱⁱ *Forskrift til gjennomføring av konvensjonen 3. mars 1973 om internasjonal handel med truede arter av vill flora og fauna.*

ⁱⁱⁱ In the sense of the processing being delayed because other duties are performed first.

^{iv} Further instructions concerning the implementation of investigation is given in the Criminal Procedure Act § 224 and the Prosecution Instruction § 7-5.

^v The Prosecution Instruction § 20-3 states that the police, i.e. prosecutors working within the police organization, issue fines in cases where the prosecution is under the responsibility of the police cf. the Criminal Procedure Act § 67 section two.

^{vi} Environmental co-ordinators have a supervisory responsibility towards enforcement of environmental crime in the district. All the co-ordinators in my sample conducted investigations. When referring to ‘investigators’ under the result and discussion section, this includes environmental co-coordinators.

^{vii} An advisor working in the Norwegian Directorate of Customs and Excise provided the seizure numbers. Each seizure represents one incident and can contain numerous items or animals.

^{viii} The remaining 83 cases are not left out mainly due to insufficient information. Many regard over-fishing and/or fish exports exceeding the allowed quotas.

^{ix} The Norwegian Food Safety Authority is responsible for animal welfare in Norway and handles the animals that are seized.

^x The Norwegian Environment Agency (Miljødirektoratet) is the national administrative authority of the Convention.

^{xi} The species covered by CITES are listed in three Appendices according to the degree of protection they need. Appendix I include species that are threatened with extinction and trade is permitted only in exceptional circumstances, requiring both an import and export permit. Appendix II includes species that are not necessarily threatened with extinction but in which trade must be controlled in order to avoid over-utilization. Appendix II and III species require an export permit (CITES 2015).

^{xii} According to §26 of the General Civil Penal Code, ignorance of the law can only exempt someone from criminal liability when the person cannot be held accountable for being ignorant, i.e., the person has not acted with negligence.

^{xiii} *Dyrevelferdsloven § 37 første ledd jf. § 22, jf. Forskrift av 20. november om forbud mot at fremmedartede (eksotiske) dyr innføres, omsettes eller holdes som husdyr, selskapsdyr eller i fangenskap på annen måte § 1.*

^{xiv} The information about CITES status can easily be obtained from the publicly available online database at <https://www.cites.org/eng> and provides the official list of CITES-listed species and the CITES Appendix in which they are currently listed.

^{xv} Altherr (2014) cites a significant increase in illegal trade in reptile species and highlights the occurrence of illegal capture and export of reptiles to the European pet market. Animals caught in the wild are sold as captive bred. Determining whether reptiles come from a legal captive breeding facility or illegal wild capture is difficult. Reptiles seized in Norway could originate from wild capture.

^{xvi} Unlike EU Member States that have no legal means to take action against individuals or businesses trading in nationally but not internationally protected species (Altherr 2014), Norway’s ban on pet ownership of reptiles does allow criminal prosecution under the *Animal Welfare Act*. Thus, in the case of reptiles, Norwegian authorities *can* impose legal consequences for illegal trade in non-CITES species that might be critically endangered and subject to export prohibition in their country of origin.

^{xvii} Lov om forvaltning av naturens mangfold (Naturmangfoldloven) av 19. juni 2009

^{xviii} The UN General Assembly recently upgraded the seriousness of wildlife crime, calling upon Member States to make illicit trafficking in protected species involving organized criminal groups a ‘serious crime’. According to UNODC (2004) ‘serious crime’ shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty.

^{xix} Hagstedt and Korsell (2008) have described a comparable process in the policing of the illegal wildlife trade in Sweden.