

Bribery and corruption

Only criminals profit from turf wars in law enforcement

Ephraim Wernick

The facts read like a crime thriller. Over several years, investigators and prosecutors at the UK's Serious Fraud Office teamed up with colleagues in other countries to uncover one of the energy industry's largest corruption cases.

The Unaoil case is named after the Monaco-based consultancy linked to allegations that millions of dollars were paid in bribes to help secure lucrative contracts for client companies operating in the Middle East and Africa. There have been Monte Carlo police raids, an extradition from Rome and, to date, over a dozen people charged. Six multinational energy companies have paid £1bn in fines. Although the case is continuing, these results constitute a success. However, that success has been coloured by certain criticisms levelled at Lisa Osofsky, the SFO's director, who a judge said last year had made herself susceptible to "flattery" by an agent acting for one of the case's suspects.

As the former Unaoil case supervisor at the US Department of Justice, I believe that such criticism is unfair. So does Bill McMurry, my former FBI counterpart. It also distracts from a bigger issue highlighted by Unaoil's case: the importance of national enforcement agencies

collaborating if there is to be any success in combating international corruption and financial crime.

At the DoJ and the FBI, we worked closely with colleagues at the SFO and elsewhere, as it was clear that to build a case like Unaoil's – one that mattered and achieved results – required substantial cross-border co-operation. Two types of co-operation are critical.

The first involves informants and defendants. Cases built on documents alone rarely hold up in court. Jurors need to hear from witnesses to make sense of it all. This is particularly

To build a case like Unaoil's required substantial cross-border co-operation by the SFO

true of white-collar cases. The testimony of an insider – an accountant, sales agent or middleman – gives meaning to the fake ledger or invoice. It makes dry financial records come to life. Good prosecutors and investigators know this. The best among them know how to "flip" an accomplice by getting them to admit to a crime, so they

can credibly point a finger at co-conspirators. It is how big cases are made.

The second type requires collecting evidence and developing witnesses from around the world. This requires international co-operation, which in turn relies on mutual trust and respect between national authorities. The best officials invest long hours developing relationships with foreign colleagues, and recognise that turf wars and fights over "who gets credit" are counterproductive. The only winners then are the fraudsters they should be chasing.

The need for international co-operation is biggest when combating corruption at high levels. Transnational criminals are often protected by local governments and institutions. They purposefully spread funds and influence across jurisdictions, making it difficult for even close allies to connect the dots and expose crimes. True law enforcement professionals find ways to cut through bureaucracy and so build cases.

At the DoJ and FBI, we brought a shared commitment to co-operation when we sought to work with the SFO on Unaoil. We had a kindred spirit in Osofsky, who is a dual UK-US citizen. She knew that co-operating with the US could only benefit the UK. Through her words and deeds, she made sure that SFO prosecutors and investigators understood this too.

She made difficult decisions to remove roadblocks and expedite the sharing of critical

information. This, in turn, created a foundation of trust that facilitated the free flow of information and access to evidence from other national authorities back to the SFO.

Success in the Unaoil case was only possible because the SFO chose to co-operate. Osofsky, herself a former FBI deputy general counsel and ethics officer, had spent several years developing bonds with many of the UK's most important foreign partners.

Corruption such as that exposed in the Unaoil case is not going away. In the post-Brexit world of "Global Britain", it is more important than ever that the SFO is viewed as a trusted partner. This is especially important as the pandemic has made it even harder for law enforcement to do its job.

There is a quote known to FBI agents that features prominently at the J Edgar Hoover Building in Washington: "The most effective weapon against crime is co-operation." This is true when fighting domestic crime. It is truer still when fighting international corruption.

The writer, a former US Department of Justice federal prosecutor, is a partner at Vinson & Elkins. Bill McMurry, who served with the FBI and is now a director at 5 Stones Intelligence, co-authored. The authors' statements are personal and do not reflect official FBI or DoJ statements, nor their internal deliberations