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In service of the public interest

An explorative study on post-employment conflicts of interest among former Dutch National Police and Royal Dutch Marechaussee personnel

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Executive summary

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INTRODUCTION

In a 2018 evaluation of the prevention of corruption and the strengthening of integrity at the Dutch National Police and the Royal Dutch Marechaussee (military police), GRECO concluded there are few concrete guidelines and restrictions on 'conflicts of interest' for employees after their contract is terminated. Because integrity violations associated with these organizations can have a serious societal impact, GRECO recommended further research into the risks of conflicts of interest and other activities of (military) police officers after they leave their organizations. The research covered by this report answers this call by providing more insight into the meaning and nature of post-employment conflicts of interest within the Dutch National Police and the Royal Dutch Marechaussee. Specific attention was also paid to factors that can either enhance or reduce the integrity risks of such conflicts of interests and the measures that can contribute to the prevention and suppression of post-employment conflicts of interest. The main research question is as follows:

What is meant by post-employment conflicts of interest, what are the manifestations of these post-employment conflicts of interest that may have arisen among former employees of the

Dutch National Police and Royal Dutch Marechaussee, which individual, situational and organizational factors can increase or decrease the associated integrity risks and what are preventive and repressive measures that the Dutch National Police and Royal Dutch Marechaussee (can) take to manage these risks effectively?

To answer the question, the research employed a multidisciplinary, multi-method approach. An extensive literature study, analysis of policy documents, in-depth interviews with integrity and compliance officials and an explorative survey constitute the foundation of the research. In total, we conducted 35 qualitative in-depth interviews with integrity officers and other key personnel at the Dutch National Police, the Royal Dutch Marechaussee and other public and private organizations. In addition, we conducted an explorative survey among integrity officers in the Dutch public and private sector and several members of the police and marechaussee (68 and 7 respondents, respectively).

FINDINGS

Conflicts of interest, “entanglements of interest” and integrity violations: conceptual ambiguity

Following international scientific literature and OECD standards we defined a conflict of interest as *a situation in which personal, private and/or organizational interests conflict with public interests, and there is a risk that personal, private and/or organizational interests will improperly or illegitimately influence the representation of the public interest.* The public interest concerns the shared interest of society that transcends purely organizational interests and the interests of individuals or groups. We subsequently define a post-employment conflict of interest as *a situation in which, after the employment with an employee has been formally terminated, there is a risk that personal, private and/or organizational interests conflict with the promotion of the public interest, because former employees may make improper or illegal use of knowledge, information, skills and contacts that were developed at the former employer.*

Although the definition of conflicts of interest at face value may appear to be rather clear-cut, our study shows there is a lot of ambiguity about its precise meaning -both in science and practice. Among other things, ambiguity in the literature is caused by the development of specific definitions per sector or per occupation. In practice ambiguity regularly occurs as respondents use closely

related concepts interchangeably. In the Netherlands, the concept of 'conflicts of interest' can be translated with two different words: *belangenconflicten* (conflict of interests) and *belangenverstrengeling* (entanglements of interest). The latter term, however, is also used to indicate integrity violations that international standards would define as 'corruption', 'nepotism' or 'bribery'.

While international studies typically distinguish between conflicts of interest as *risks* and the integrity violations they result in as the consequences of inadequate handling of such risks, in the Dutch context the two are easily conflated and seldom clearly separated. In this report we follow international standards and clarify that distinguishing conflicts of interest from the actual entanglement of interests is important to foster a more productive discussion on the phenomenon. While this may seem like a semantic discussion, the misuse of 'entanglements and conflicts' creates a strong negative connotation of 'conflicts of interest' even if such conflicts do not yet entail actual wrongdoing. Prior research suggests such a connotation hinders employees and managers to discuss and report risks proactively. This has counterproductive effects, because it is precisely a lack of discussion and a low willingness to report (potential) conflict of interests that can promote the (appearance of) integrity violations.

Five possible manifestations of post-employment conflicts of interest

While no written documentation on post-employment conflicts of interest among former Dutch National Police or Royal Dutch Marechaussee personnel was found, the interviews and survey suggest five possible manifestations of post-employment conflicts of interest of which the extent of the integrity risks varies. The risks appear particularly prominent in conflicts of interest where:

- i. confidential or secret information is involved, or;
- ii. where an appeal is made to contacts, relationships and networks with former colleagues or other contacts made during the service.

However, conflicts of interest after leaving employment may also arise when former employees:

- iii. exploit the former employment itself (including associated status, position, military rank) without the use of secret information or improper use of contacts;
- iv. use knowledge about the business operations of the former employer, or;
- v. use skills acquired through specialist education and training during former employment.

Of these five *possible* manifestations, the first three *actually occurred* according to the anecdotal evidence of the respondents. The case histories and available information is limited, but the anecdotal evidence suggests post-employment conflicts of interest can and do lead to integrity violations, such as entanglements of interest, favoritism, misuse and manipulation of information and improper use of authority. In one case bribery may also have occurred. While the present study precludes any conclusions on the prevalence of integrity violations resulting from post-employment conflicts of interest, the risks are of a serious nature. Several respondents therefore expressly state that the phenomenon deserves more permanent attention.

Potential determinants of integrity risks related to post-employment conflicts of interest: Layering

Prior research on integrity violations associated with conflicts of interest focus mainly on the causes *during* employment. Meanwhile, written documentation on cases among former Dutch National Police or Royal Dutch Marechaussee personnel is absent and respondents can only refer to the limited number of actual situations they are aware of. As a result, it is not possible to identify with certainty those factors that either enhance or decrease the integrity risks of post-employment conflicts of interest. From both literature and available data, however, we can formulate theoretical expectations about potentially relevant determinants.

At the individual level, (lack of) moral awareness, status needs, the urge to score, wanting to be liked, financial gain, self-interest/opportunism or family interests, social motivations and (in)sensitivity to justice and authority are possible risk-increasing factors. At the situational level, characteristics of the former position are mentioned as increasing risks, such as inspecting positions, positions with a lot of autonomy and/or positions that are interesting for pressure and influence from organized crime. At the organizational level, factors such as lax and sloppy leadership and personnel management and a closed and strong organizational culture are mentioned as increasing risk. Ethical leadership and an organizational culture characterized by high moral awareness and psychological safety, combined strong trust relationships, may on the other hand help to reduce risks. Finally, combining individual, situational and organizational characteristics, the relationship between the former employee and the employer -both during and after their employment at the organization- can be of importance: prior research suggests that when employees experience psychological contract breach, this can enhance integrity violations. Consistently, respondents in the present study point to the risks associated with reorganizations, PTSS, (organizational or interpersonal) conflicts at work and/or disciplinary investigations and forced termination of

contracts. All in all, the importance of situational and organizational factors, in conjunction with the quality of the relationship between the organization and its former employees, suggest that the integrity risks that occur post-employment reside at least partly within the scope of influence of the police and marechaussee itself.

Preventive and repressive measures: Complicated and often absent

The literature offers many possibly effective measures to manage post-employment conflict of interest, both preventive and repressive. Preventive measures entail both controlling measures such as cooling-off periods and prohibitions to use confidential information from the former employer, but especially also stimulating measures that stimulate awareness, discussability and cultural change including exit interviews and ethical leadership. Repressive measures mainly have a controlling character, such as (research)procedures enforcement. The present study shows that to date the Dutch National Police or Royal Dutch Marechaussee have nevertheless taken few measures specifically aimed to manage post-employment conflicts of interest. The most frequently cited reason for this is that the options for enforcing rules and imposing sanctions on former employees are limited. Some preventive control measures are in place, such as emphasizing the confidentiality of information and formal rules and procedures on business contacts or tenders. Stimulating preventive measures are scarce.

CONCLUSIONS AND RECOMMENDATIONS

In 2018 GRECO concluded there are little to no guidelines and measures to effectively manage the integrity risks associated with post-employment conflicts of interest at the Dutch National Police or Royal Dutch Marechaussee. Our explorative study indicates that such conflicts of interest more generally receive little to not attention at these organizations. But they also seem to constitute a blind spot that is rarely discussed or thought about in other Dutch public and private organizations and academic research. Possible reasons for this are multiple and closely related. Does a lack of (widely publicized) integrity violations due to post-employment conflicts of interest lead to a lack of attention and hence insufficiently clear guidelines and a lack of (anonymized) documentation and registration? Or does a lack of clear guidelines and documentation and registration lead to insufficient awareness of and attention to post-employment conflicts of interest and their consequences? However it may be, our explorative study shows the integrity risks associated with

post-employment conflicts of interest have potentially serious consequences. Against this background, we recommend the following:

Recommendation 1. It is advisable to organize a broad conversation among policy staff, leadership and personnel on the meaning of ‘interests’, ‘conflicts of interests’ and ‘entanglement of interests’ during and after employment, and to establish a more clearly defined framework of definitions in policy.

Recommendation 2. A targeted risk assessment of functions and tasks can help to prioritize and focus policy on the most serious and most frequently occurring risks of post-employment conflicts of interests. However, attention for this phenomenon at all levels and all sections of the organization is advisable. Such attention should furthermore be aimed at all personnel, regardless of whether they are known to leave the organization shortly.

Recommendation 3. To effectively manage post-employment conflicts of interest, it is wise to put it on the agenda proactively, also anticipating the changes in risks associated with both current and future developments such as public-private partnerships and increased mobility of personnel.

Recommendation 4. To effectively manage post-employment conflicts of interest, it is wise to look not just at factors at the individual, personal level of the former employee. Instead, attention is best paid also and primarily at those factors that relate to the former function and tasks, the organizational culture, personnel policies, working conditions and (ethical) leadership.

Recommendation 5. To effectively manage post-employment conflicts of interest, it can be helpful to pay specific attention to measures that maintain or repair the psychological contract and relationship between the organization and its former employees, for instance in the form of active alumni networks, after-care following disciplinary investigations or forced leave, and coaching during reorganizations.

Recommendation 6. To effectively manage post-employment conflicts of interest, a balanced combination of preventive controlling and stimulating measures seems best. This can consist of, for instance, explicit attention to awareness of post-employment conflicts of interest during training

and exit interviews, proactive advice for leaving personnel and in specific circumstances contractual stipulations or a mandatory cooling-off period.