A man arrived on a Thursday evening by plane with a young woman and checked into a pension close to the city’s downtown core. An hour later, they exited the pension, walked through the historic district, and returned. The team set up surveillance again by 8 AM on Monday morning, but neither of the couple left the pension until 7 PM. The team divided into two shifts lest the monotony of sitting in a car and a café across the street wear down their concentration. Brian, a member of the team, also enlisted the support of the family owners of the pension, who also managed the establishment. Throughout the week, they would always call if either of the two individuals passed through the lobby. This happened rarely before 7 PM. This situation made it difficult to gather some information about the man’s activities before they left. Since they
stayed in a pension, rather than an apartment, the team surmised that they would not stay in the country for too long, especially if the man’s base of operations was in Denmark. He did not appear to be meeting anyone and, so, the value of whatever information might be found in the pension room increased considerably.

Therefore, the team had to make a decision: either they request a judge’s warrant authorizing them to search the room, or they simply search it without a warrant. The former option could not even be seriously considered given the tight frame they faced compared to the length of time it takes a judge to issue a warrant. They chose the latter option. David and Max approached the pension owners and asked for them to let them into the room. The owners obliged without hesitation, and even with some amount of giddiness and excitement. The young adult son even bragged that this was the second time a police team had requested his help in this regard.

In the small room, Max videorecorded with his smartphone items on an end table and in a handbag that included a credit card. He then flipped through a wallet. David carefully searched a suitcase that contained an iPad, but he left it alone. Max flipped through a daily planner, but saw nothing of interest. David then found an official letter from his government’s immigration service and showed it to Max, who videorecorded it as well. Max then found an old cell phone that had been left on. He videorecorded all of the contact information in the incoming/outgoing calls menu. He was not able to access the phone’s contact list. The manager and a cleaning lady assisted David and Max in whatever small way they could: they pointed to a bathroom, they helped put things back in their original place, they nodded in different directions to make sure David and Max checked everything possible. The work was done in fifteen minutes. All four double-checked to ensure everything was put back exactly where it was left. They casually exited the room and made their way down to the staircase to the lobby, chatting the whole time as if they were old friends. After we left, David explains that the manager was “happy to help. People help us all the time. People’s lives are boring. He’ll be able to brag to his girlfriend. They teach us about this stuff in the training courses.”

Brian had been following the man and woman during the illegal search. His job was to phone David and Max if they were to
start walking back in the direction of the pension. When we all reconvene in the car across the street, Brian addresses my question about how the state prosecutor, who is responsible for the case, can possibly find useful information that they had just obtained illegally. He explains that they give useful information to the prosecutor, who does not always need to know how it was obtained and who does not always bother to ask. Crucial consequences hang on the two categories of information they obtain. “Evidence” is any information that is admissible in a court trial of an indicted suspect. It differs from “intelligence,” which is information that police use to advance an investigation. Intelligence is not admissible in court for two reasons. First, it is often too vague to help make a case for or against a defendant. Second, more germane to this chapter, the methods by which it is obtained do not qualify it to be admitted in court. The legal protection of evidence is designed to protect defendants from cases fabricated against them. It also protects peoples’ privacy and abusive police practices that can occur when police are looking for evidence. Thus, while most intelligence is gathered legally, some of it can only be acquired through quasi-legal means at best or illegal means at worst.

This chapter is part of a larger four-year project that studies an undercover police investigative team. The project examines three particular aspects of their work. First, it addresses the modes and conditions in which the team makes ethical judgments while conducting their street work. Many of those judgments take place in the “gray zone,” or that space in the margins of the law and beyond. Second, it compares the form of sovereign action they undertake in that gray zone against the form of action taken in the context of traditional nation-state sovereignty. Third, it examines the interface between transnational criminal networks and the security state to better conceptualize the way in which state sovereignty is effected in the contemporary moment.

This chapter examines the technical conditions of the team’s undercover investigative work to identify the circumstances in which they can enter the gray zone. The point of this exercise is to describe the spaces in a wider security apparatus in which its officials—undercover investigators in this case—can and do deviate from policy and legal mandates. Such deviations do not de-
pend upon the random whims of police officers themselves. Even the rogues of cops need an opening or an opportunity in which they can disregard law. Yet, we must be careful not to sensationalize the fact because the law depends upon the gray zone, even if the most horrid of violations also transpire in the same place. This chapter, then, outlines the bureaucratic context in which an undercover police investigative team works. It then explains the means through which the team enters the gray zone. This means is the team’s control over the narrative of the street side of an investigation, which features almost no oversight from higher authorities. Primarily, it is their freedom to classify retrieved information as either “intelligence” or “evidence” that protects team members in the gray zone. Ironically, the judicial system itself also protects the team in that space should a gumptious lawyer push too hard on the question of how the team obtained their information.

The understanding of the gray zone used in this chapter draws on Giorgio Agamben’s (1998) work on the basis of sovereign power. He argues that the sovereign is the entity that can suspend law, thus creating a “state of exception” in which it can act with impunity against those individuals whom the law no longer protects. Those individuals become homo sacer, whose vulnerability conceivably knows no ends. Lacking legal protection, homo sacer cannot politically assert himself and so can only be acted upon or neglected. Homo sacer is not even worthy of a ritual sacrifice because nothing about him is worthy offering to a higher principle or deity. Therefore his murder comes with no penalty for the murderer because the loss of his life has no effect on the order that the principle or deity upholds. This chapter will address how the team enters the gray zone in the course of its own work and assumes sovereign authority over those tied to their investigations, if only in limited circumstances. As a side note, much research examines how great atrocities occur in the gray zone as actors endowed with sovereign authority abuse homo sacer. However, this is not an inevitable outcome, and elsewhere I have discussed how the particular situation in which the team works minimizes the likelihood of abuse of their sovereign authority (Feldman 2016).

An Immigration Service as a Blueprint and as a Process

The country in which the team works features a wide range of police forces, each with different mandates and competencies. These national-level forces are located under a variety of government ministries. The investigative team
itself is housed in the Ministry of the Interior’s immigration service, which is further subdivided into departments such as border control, document control, administrative analysis, and criminal investigations among others. The Criminal Investigations Department focuses on transnational organized crimes that carry at least eight-year sentences for the convicted. This department is subdivided into five separate groups, four of which focus on criminal rings originating in specific geographic regions of the world. These four groups work at headquarters, mostly at desktop computers. They conduct record searches and data analyses and have instant access to EU databases such as the Schengen Information System (SIS), Visa Information System (VIS), and Eurodac (the biometric fingerprint database for asylum applicants), which store information on all travelers who enter national/EU spaces. They also have access, by request or by warrant, to a number of national databases involving phone records, banking records, and vital statistics. A chief leads each of those groups and by extension will manage the case investigation on a daily basis for a state prosecutor. As the fifth group in the Criminal Investigation Department, the investigative team is not defined by geographic specialty, but rather by all the street-level investigative work such as surveillance, searches, and arrests. They perform these tasks at the request of the deskbound investigative groups. Sometimes responsibilities bleed across the lines between the team and the other groups. The latter will occasionally do surveillance themselves. The team does some data analysis itself, particularly the creation of cluster diagrams mapping social connections based on information downloaded from suspects’ mobile phones.

A distinguishing feature between the team and the deskbound investigative groups is the indifference that the team holds toward their own official ranks. Their ranks, along with all other employees in the immigration service, are based on the year they that they completed their rookie training. Those in the same year ascend through the same pay grades. Those in relatively higher positions will be held responsible for problems that emerge in an investigation, but they will also be favored for any new opportunities that arise such as trips to other European cities to attend conferences and workshops in other EU cities. However, Frank has cultivated the team to work in a much more egalitarian manner. He explains, “My group, instead of the others, has no hierarchy. That means I don’t interfere. There is a formal hierarchy, yes, but we don’t care about that. If Max understands the Chinese case best, then it is best that he calls the shots on that one. I won’t interfere.” David jumped in immediately: “He listens to our ideas and opinions. He’ll tell us if...
it is stupid or good. He’ll let us go for it if it is good.” His praise of Frank was hardly an empty platitude. David is the farthest thing from an ass-kisser I have ever met who still managed to keep his job.

Standard cases officially begin in a state prosecutor’s office. The prosecutor coordinates an investigation with the chief of a deskbound investigative group and with a judge. The chief will manage the case on a daily basis by assigning people to conduct record checks, liaising with other governmental offices for information, and communicating with the team about the necessary street work. The judge ensures the legality of the investigation and must approve (and periodically reapprove) such measures as home searches, wiretapping, and deep-cover operations. The team conducts these types of operations, but, when following procedure, they ask the prosecutor to obtain a warrant from a judge. If the prosecutor relies on evidence brought in from another member state, such a judge would decide if the methods of its retrieval meet their own national legal standards. The need for this decision occurs fairly often, as organized crime moves across national borders within the union. If only one country is conducting the investigation, then cooperation among member states is usually done informally. Investigators regularly contact counterparts in other member states, often via email, for any helpful information that they might have on an investigation. In some cases, they may even ask those counterparts to conduct surveillance for them in their own countries. To be sure, investigators generally value informal cooperation. They share a unique sense of camaraderie in which they wish their counterparts in other member states to see the quality of their work. The relations across national lines tend to be much more collegial than adversarial. However, different police forces within member states compete against each other to accumulate contacts and cooperative arrangements with counterparts in other EU countries. They even conceal those contacts to protect their advantage over rival groups inside the department and beyond and beyond the immigration service itself. Intra-EU cooperation carries a high political premium in the senior levels of administration. Some investigations are conducted jointly between member states requiring them to calibrate their legal standards in advance of opening the joint investigation. The EU agency Eurojust facilitates this process so that evidence and investigative procedures in one participating country can be admissible in the court of another. The Europol might also be involved as a clearinghouse of criminal records, legal information, and contact information for investigative personnel so that member states may better coordinate transnational investigation.
Of course, the overall process flowing across groups, units, agencies, and ministries faces plenty of obstacles, to say nothing of high officials placing politically sensitive cases on hold. Put differently, an organizational blueprint and an actual process conducted by situated actors do not squarely map onto each other. Conflicts, ambiguities over responsibilities, political interests, and personal interests cloud what might otherwise be a smoothly functioning investigation. For example, the team is occasionally asked, by implication, to do favors for the odd senior official and parliamentarian. Personal favors for information might be passed along discretely to Frank from higher-ranked officials, often those who owe their positions to top figures in their political parties. (As government appoints the senior strata of the ministries, obligations are owed to those who got them appointed to those positions.) Sometimes these requests pertain entirely to personal concerns, such as developing a profile on a daughter’s new lover. Other times they pertain to political infighting, or internal cases in which it is hard to determine if the motivation is political or legal. Moreover, it always remains unclear as to what Frank himself understands about the request and how much he shares it to the team. Nevertheless, the team will do the job. I asked John if he felt awkward about these situations. He replied: “No, we know the rules of the game. We need equilibrium of the system. For example, we need them to support us when we go to in the gray zone. We might buy software that is illegal to use, but we need them to approve the purchase by identifying it as another cost. ‘We scratch their backs and they scratch ours.’ These requests are rare, only a couple of times per year.” But, as Max reckons, “They last forever. They are golden. They are like stocks. Today they are worth $y$ for an MP, but if he becomes a minister, then they are worth $x$. If he leaves parliament, then they are worth zero.” The team, however, reaps little benefit beyond less bureaucratic hassle and more protection when they operate in the gray zone. Max adds, “We don’t get that much, really. It is like nuclear deterrence. We would never use this information on our own. We wouldn’t be offensive with it. Then, we would really lose. Ultimately, we just want to work and keep our lifestyle. We are low-ranking and low-paid. We just want to work without being troubled by politics.”

As another example, tensions arise between the team and the other investigative groups in the Criminal Investigation Department. Part of the tension amounts to envy. The team enjoys certain freedoms that the deskbound investigators lack. They can set their own hours according to the needs of the street investigation. If they know that they do not need to start a surveillance
until 1 pm, then they will not arrive at headquarters until noon. They must be prepared, however, to work that surveillance until their targets have returned home, which can be well after 11 pm. They keep street props in the office, such as a skateboard and a soccer ball, which are fun to play with during down-time. They also can dress according to the needs of the surveillance. Usually, this means informal attire, which contrasts with the professional dress code of the other investigative groups. The allure of operating clandestinely on the street makes for more interesting experiences than what is found in an office. The team enjoys tackling the challenges they encounter on the street as a form of self-expression. The topic always leads to lively conversation. Brian notes that “we can be our individual selves. This is different from other units. That’s an asset for us but it would be a liability in other units. This is needed for the job.” In addition to the deskbound investigators, the team regularly contrast these experiences of being to those of officers who stamp passports for the immigration service’s Border Control Department. This task signifies to them the most monotonous and degrading type of work that can be assigned to someone in their profession. In the summer months, they are often seconded to border control to help process the heavy loads of tourists circulating through the city’s airport. David commented,

There’s gotta be some point to what you’re doing. If I stamp thirty passports, there are no consequences whether I do it or not. The job itself was just the most mind-numbing thing to do. At first, you try to be positive and do the best you can. Then, you try to do as little as you can. Have you seen the guys working all their lives at an egg processing plant? The eggs keep coming past them on a conveyer belt and they say, “good egg, good egg, good egg, good egg . . . rotten egg . . . good egg, good egg, good egg.”

I caught an African man with a passport that wasn’t his own. The guy had a French passport, but he goes to the non-EU passport control line. The only similarity he had with the picture was that he was Black. The guy in the picture had a slightly swollen and droopy eyelid. You could see that the man with the passport poked himself in his eyelid to match the picture, but he poked himself in the wrong eye! I sent him to biometrics for a comparative analysis. He failed and was sent back. That was the most exciting part of the month.

Another source of tension is the deskbound investigators’ accusations that the team relentlessly pushes its own agenda. Frank is not shy about championing the team’s successes up the chain of command while strategically highlight-
ing those investigators’ mistakes. To stress their incompetence, he once rhetorically asked them if they needed him to “wipe their asses with baby lotion.” They filed an official complaint of harassment in retaliation with the ministry’s legal office. Yet, simple arrogance does not fully explain Frank’s tone and persistence. Rather, shifts in the ministry’s bureaucratic terrain and changes in senior personnel come with promises of starting the organization anew and finding ways to cut down on costs. Frank’s promotion of his team aims at protecting them from any possible restructuring, most of which is only intended to give new senior figures an air of action. These potential changes not only threaten the team’s thrill of working together, but also the quality of evidence procured for investigations.

For example, several senior officials would be quite comfortable having each of the desk investigative groups conduct their own street work. The team abhors this idea and not only because it puts their own role at risk. (They would likely not be laid off in an organizational restructuring, but they could be reassigned to positions that they would find much more boring and isolating.) In their opinion, the other groups are incompetent on the street. They underestimate the skill it takes and the personal disposition that one must have to appear inconspicuous during surveillance operations. They have neither the team ethos that street work requires nor the knowledge of the city’s contours and how people move through it. They do not thrive on the uncertainty that appearing in public space brings. Conduct on the street where one must consciously act “normal” takes a considerable amount of self-confidence. David reasons that “they [desk investigators] would go out and think, ‘I must act normal.’ This is the beginning of a job gone bad. You really just need to be comfortable in your own skin when you are somewhere that you don’t normally hang out.” From the team’s standpoint, street-level investigation could not differ more from the analytic tasks conducted in the office.

In a telltale example, one deskbound investigative group jeopardized the larger investigation and potentially placed the team in danger. As Brian not so delicately puts it: “When they do their own street work, they fuck it up and the target knows that he has been under surveillance. Then they ask us to do it, but don’t tell us that the target already knows. This is dangerous. They [the targets] can trap us in an operation and ambush us. [This trick had recently happened to uniformed police in the city.] We need to know if the targets knows he is being followed. They should tell us. They are supposed to have us do it.” The particular target in question, a Nigerian national suspecting of participating in a trafficking ring, knew how to conduct his own counter-
surveillance maneuvers. Moreover, he was alerted to the fact that the police had been following him because of the sloppy street tactics of the deskbound investigators. They had decided to do their own surveillance because the team had been too busy with other assignments, but never mentioned to the team that they had done so and that the target had spotted them. Had the team been made aware, they would then have designed their own surveillance operation differently, Brian continues:

The neighborhood this guy lives in is a rough neighborhood, all Black immigrants. He goes to the café when we see him. [Brian, Frank, and David were already in the café.] Then, he goes out and starts to pretend to go to a car to see if he could provoke us to move. We didn’t move. He then walked across an open field so that he could expose us in an open space. That way he could confirm that we were the same people in café [i.e., by dragging the team along to an open space, the target could then spot them in two different places, on the safe assumption that the only likely reason to see them in those two different places was the fact they were following him].

The guy goes into a car with someone else, and they drive to see his lawyer in another part of town. The lawyer gets into the car with them, and they start making funny moves in the car like turning around in odd locations, changing speeds randomly to see if anyone in a different car does the same thing to keep up with them. They go to a café, and we park near it. The lawyer comes out and knocks on our window and shows his card. He says, “I want your ID. I am these guys’ lawyer. I want your ID, and I will call the police. I said, “I am not giving you my ID. You can call the police. From the back seat, David yells out, “I don’t believe you’re a lawyer. You wouldn’t dress like that! You look like you sell cars!” [David’s strategy was to act in such a way that no police officer would in a situation like this one.]

The lawyer still called the police and motioned his clients to come over to where he was standing by the car. Brian got out, and the clients identified him to their lawyer. The lawyer asked why they were following them, to which Brian replied that he will wait for the police before he talks. Ultimately, Brian had to lie to the police when they arrived to extricate Frank, David, and himself from the situation.

I then lean into the car and tell Frank to start the engine and go. I stayed behind and told the lawyer that there are a lot of crooks in the world. The
police came, and I talked to them in private. I told them that our target is a woman who met these guys in a café and that we followed them as some of her contacts to learn a bit more about them. Then I left, and the police explained everything to the lawyer. . . . Now, imagine if those guys were selling drugs and they thought that we were also sellers moving into their territory. That would be very dangerous.

In fairness to the desk investigators, the Criminal Investigations department is overworked and understaffed. Cases take longer to close than anyone desires, and for every case a state prosecutor can actually investigate, many more criminal acts occur without notice. The dual pressures of time and financial constraints prompt the desk investigators to do their own surveillances, which also lead them to making basic mistakes in the operation.

Control of the Narrative as the Stepping Stone into the Gray Zone

Yet, mere bureaucratic overlaps, infighting within departments, and rivalries across policy terrain do little to illuminate the mode of action when sovereign agents forego legal restrictions or policy mandates. These issues alone shed no light on the gray zone. At most, they highlight opportunities for the ambitious to pursue their personal agendas, but the advancement of competing interests is not the question in this analysis. The questions here are how the investigative team enters the gray zone and how they conduct themselves while there. There is no singular path to the gray zone. Much depends on the political climate, the historical moment, and the state agent’s position in the formal bureaucracy.

The contrast with overseas intelligence work best spotlights the delicate threshold into the gray zone. Operating in foreign countries, spies are not beholden to those countries’ laws at all. Spies are not limited by legal considerations, but rather political ones. If spies get caught, then their fate rests in the hands of diplomatic negotiations. Their safe return home is a matter of bargaining between their own government and the government upon whom they spied. In contrast, undercover investigation is subject to legal restraint. Lawyers can examine investigative procedures before a judge. If summoned as witnesses in court, they will spend hours reviewing their surveillance reports so that they can answer a lawyer’s questions in cross-examination.
Hence, even though the investigative team works under far less oversight than the desk investigators, lawyers, senior officials, and occasionally parliamentarians will still want to know, as David so characteristically puts it, “what the fuck we are doing?”

For these reasons, the team cannot enter the gray zone through fiat, holding a cavalier attitude either toward the law or the possible political fallout if things awry. Vincent explained, “It’s like basketball, the ball is already over the line. If the player has his feet just inside the line, then he can reach over and try to bring the back to the court. You still have to respect the rules.” Again, in contrast to the deskbound investigators, John explained that “in their work, they can get proof through the legal way. The person working in surveillance has to be very careful because everything will be written. This is different because we are on the street.” The graceful and artful transgression into the gray zone occurs through their control of the storyline of what happened on the street during an investigation. They alone supply that narrative as no one else can corroborate events, signifying David Graeber’s (2015, 80) point that bureaucratic structures of domination allow for those in positions of authority to provide the explanation of what happened. However, that control also gives them cover when they act on their own ethical judgments outside of legal and policy constraints.

Two examples are particularly relevant to understanding how the team shifts over from scripted legal and policy terrain to the nebulous gray zone. Illustrating the first example, Max invoked a metaphor while we sat at a sidewalk café watching a door across the street from which a suspect would eventually exit.

This is a white cup. Everyone can see that this is a white cup. But a judge will not see that it is a white cup if the evidence that it is a white cup is not obtained the right way. He will ask, “Where are the warrants?” Everybody knows what it is, but if you don’t follow the rules, then it is not part of the investigation. It frustrates me a lot. We have to give rights to everyone for justice, but what about doing justice. If we don’t do it by the book, then there are disciplinary actions. A lawyer will always find a flaw. They will interrupt justice.

To preclude this potential problem with the judge, the team makes a crucial distinction between “evidence” and “intelligence,” giving the team the power over the script and the necessary protection for entering the gray zone. Intelligence is any information used to investigate suspected criminal activity. It
does not appear in court. Evidence is information directly tying a suspect to a crime that must appear in court. The team would never present intelligence in court lest the methods of retrieval be exposed: “If you don’t follow the rules, then it is not [officially] part of the investigation.” Evidence, of course, will appear in a surveillance report, while intelligence is never recorded in any official document, testifying to the fact that documents are not passive instruments of clear bureaucratic procedures. Rather, they are strategically crafted so that policy makers instrumentalize them for their own purposes (Hull 2012, 252). In this vein, the team will find a legal way to present intelligence as evidence. For example, the team needed to know if a Chinese owner of business suites in a downtown building was running a brothel. However, paying for sex with a prostitute managed by a pimp is illegal, and so no team member could patronize the establishment to obtain direct evidence. Yet, they could not determine if it served as a brothel without going inside (and furthermore Chinese brothels in the city only cater to Chinese clients). They provided a Chinese informant with €150 to solicit the establishment’s services and to ultimately confirm it as a brothel. This information will be used only as “intelligence” because of the team’s illegal involvement in its procurement, that is, soliciting sex from someone controlled by a pimp. With this intelligence, however, they can justify the time and money for an operation to legally obtain evidence: most likely including the sounds of people having sex; condoms found in the trash cans outside the building; and confessions from people patronizing its services when the bust occurs. If a judge, prompted by a defense attorney, were to ask how intelligence was obtained—that is, how they knew the actual use of those suites ahead of the bust—then the team would argue that they cannot reveal their sources lest it jeopardize their informant’s safety. No judge would push further, thus tacitly approving the team’s right to invoke a state of exception.

Frank described the second example as he stood in the door frame of the team’s office at headquarters. Between drags on his cigarette, he explained, “For us, we always seek the truth. For us, the truth is the right thing, even if we have to lie.” The lie to which he refers is not a falsehood, but rather an inference for which there is no direct evidence. They maintain that they know the truth based on experience rather than direct observation, which could never be obtained under any imaginable scenario. As a hypothetical example, if the issue in court is whether one suspect retrieved a bag left in a closet by another suspect, then it would normally stand to reason that if the latter was seen entering the closet with the bag and exiting it without the bag and the
former entered the closet without the bag but exited with it, then the latter left it for the former even if the team never witnessed a direct exchange. Hence, the “truth” is not a specific object that the investigators must “see.” Rather, the truth is that which a judge recognizes as sufficiently compelling reasoning, based upon some amount of sensory evidence, to reach a conviction. Thus, “lying” only means to obscure how information was obtained. Other forms of manipulation also occur. If warrants are needed to tap phones or enter houses, then they have learned how to present the argument to the prosecutor, who will then have a greater chance of obtaining the warrant from the judge. They could stress such urgencies as an underage prostitute in danger or suspicions that human trafficking is occurring. These situations are more likely to prompt a quick and favorable reply from a judge given the political importance of EU states being seen as committed to combatting these problems.

Indeed, the team has plenty of opportunity to blatantly lie and baldly fabricate reports. Brian rhetorically asked, “Do you know how easy it is for cops to frame people? We could do it very easily if we want to.” A primary reason that they do not, and this can be argued without naiveté, is a sense of justice. Brian continued: “The underlying thing in our work is justice. Sometimes our work is dirty. But we don’t harm anyone we don’t need to. There is an honor among what we do: don’t forge surveillance reports. Can you imagine how easy it would be to put someone in jail? Still, think if we were caught. The image of the unit would be tarnished. We would lose credibility. The judges would not trust us.” Honor, as well as justice, are at play here. I replied to Brian, “Is honor important in other jobs like taxi driving or financial analysis?” He answered, “No, honor only matters when there is credibility on the line.”

Conclusion

We should well know that truth is not a matter of some independent and objective reality against which the messy, subjectivity of human affairs should be compared. Truth, then, functions as a tacit agreement on the rules that enable what can and cannot be said. The structure of that agreement sustains and is sustained by the power arrangement of national security-cum-state sovereignty. The work of Michel Foucault (1990) well conceptualizes the practices through which power and knowledge become inseparable and constitutive of social order.² This much of the dynamics of modern power is well
understood. The present case study, however, provides a subtle illustration of how situated actors work these rules in ways that can yield two different effects. The first effect is a mere reproduction of the current form of state sovereignty. The creativity that state security actors deploy in the course of their work does not inherently suggest a break from traditional forms of sovereign power. Neoliberal society, in particular, well appropriates the creativity and agency of its experts and technocrats (see Rose 1993). The second effect is to temporarily create a new form of sovereignty, if only operating within highly circumscribed space of action. While cases of well-documented abuse abound in the gray zone, abuse itself is not a foregone conclusion even if it is sadly all too common. Therefore, honor may seem like a naively optimistic way to end the chapter, but it is worth taking Brian’s comments at face value. Although not the focus of this chapter, honorable action can be pursued by the team because the channel through which they can enter the gray zone is clear, but rather narrow. The intelligence/evidence distinction does not grant the team license to rewrite the law wholesale or simply abandon legal restraint. If they pushed too hard in the gray zone, then some sort of pushback would ensue and expose their illicit deeds. The thin distinction between the two key words of “evidence” and “intelligence” comes replete with significant opportunities and foreclosures within the power-knowledge grid of state sovereignty. While the latter are known well enough, the former remain quite mysterious to us, and so the opportunities may go untapped.

Notes

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1 The team works in the immigration and border service in an interior ministry of a southern, maritime EU member state. Their cases exclusively investigate transnational networks involved in burglary, prostitution, human smuggling, and human trafficking. They have granted me extensive ethnographic access on the condition that I do not identify the name of their country.

2 As the point specifically pertains to migration and security, see Didier Bigo (2006) and Gregory Feldman (2012).
References


