Corporate Investigations: Beyond Notions of Public–Private Relations

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Abstract
Based on qualitative research primarily carried out in the Netherlands, this article describes corporate investigations within the private sector in terms of investigators’ operational autonomy, which, in only a minority of cases, involves contact or cooperation with governmental law enforcement agencies. It is argued that, given this de facto public–private separation, theoretical concepts within the literature that take the nation-state as the imagined historical origin and/or continuing partner of corporate security—concepts such as privatization, responsibilization, or multilateralization—fail to capture the autonomy of corporate investigations. Furthermore, such concepts are politically distracting and potentially dangerous for public policy, since they imply that corporate security is effectively surveilled and supervised by the state within a framework of public–private cooperation. Nothing could be further from the truth; indeed the limited liaisons that do occur are initiated by the private sector.

Keywords
private policing, public–private relations, corporate investigations, employee crime, norm violations

Introduction
In contemporary society, crime control concerns not only the criminal justice system but also many other government agencies located outside the criminal justice system, and private sector companies (Gurinskay & Nalla, 2018; White, 2014). According to an estimate by The Guardian, in 2017, the number of persons employed in private

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security outnumbered those in public police forces across 46 countries. This list of countries includes the top five large economies: the United States, China, Japan, Germany, and the United Kingdom (Provost, 2017). The growing security market inevitably leads to questions regarding public–private relationships and the respective responsibilities of public and private actors.

Over the years, a solid body of theoretical thought and empirical work has developed around these questions (see, for example, Johnston, 1992; Loader, 1997; Wood & Shearing, 2007). Within such literature, public–private relations are discussed predominantly in the context of the most visible forms of private security, which are concerned with physical safety issues and safeguarding property in (semi) public spaces. Most of these visible forms of private security functions are preventive: through patrolling specific spaces, guarding staff, or providing technical security services, private security personnel may prevent crime from occurring. As the most visible forms of private security, it is not surprising that they have received most attention from academics (see, for example, Nalla & Wakefield, 2014). As a consequence, private security tends to be conceptualized as being mainly concerned with prevention of future loss, in line with actuarial, risk-focused mentalities (e.g., Johnston & Shearing, 2003). As Shearing and Stenning (1985) put it in their highly influential work about private ordering within mass private properties, such as Disney World, “within private control it is prevention through the reduction of opportunities for disorder that is the primary focus of attention” (p. 428).

However, a considerable part of the private security sector is more concerned with “after the event policing.” The premise of this article is that the relationships between “after the event” private policing and the criminal justice system are not adequately captured by concepts—such as privatization, responsibilization, or multilateralization—that have been developed for “before the event” policing. To replace or at least supplement those concepts, we need to think in terms of autonomy rather than subordination. This article concentrates on the relationships between the criminal justice system and corporate investigators. Corporate investigators are private actors employed to look into norm violations by staff, management, subsidiaries, or subcontractors of organizations. As will be demonstrated, the private law relationship between persons under investigation (e.g., employees) and organizations prompting investigations (employers) provides private investigators much room to investigate without the involvement of the criminal justice system.

Internal norm violations occur in the context of organizations, breaking written or unwritten norms (Meerts, 2019). They may or may not include (alleged) criminal behavior. Many of these internal norm violations have a financial component (e.g., embezzlement); however, they include a wider array of behaviors, ranging from occasional inaccuracies in day-to-day operations to systematic sabotage, and from sexually inappropriate comments or suggestions to outright violence.

The ideas presented in this article are a result of numerous years of research on the subject of corporate investigations. The article draws upon qualitative data collected from 2007 to 2019 in the context of three separate research projects, and publications based on these projects are referred to throughout. The empirical material that inspired
the current theoretically focused article consists, first, of semi-structured interviews with corporate investigators, their clients, and law enforcement professionals. Second, extended observations, carried out within the setting of a private investigations firm and an in-house corporate investigations department, have provided insight into the day-to-day practices of corporate investigators and into the contacts they have with the criminal justice system. Finally, case files of corporate investigations have been examined. The majority of data was collected in the Netherlands.

In the next section, theoretical concepts with regard to public–private relationships in the security field more generally are discussed. These concepts are critically assessed with regard to their usefulness for public–private relationships within the context of internal investigations in the following sections. Here, I will also discuss an alternative way to depict these relations, specific to corporate investigations. In the discussion, I will critically review the claims made in the article and describe their implications.

A Brief Overview of the Public–Private Relationship in Scholarship

The tendency to view policing and security provision as traditionally belonging to the responsibilities of the state goes back a long way. The monopoly on the legitimate use of violence is seen as an essential tool provided to nation-states to govern their population (e.g., Weber, 1946). However, historically speaking, the development of an official public police force is relatively new, commencing in most nation-states only around 200 years ago (Garland, 2001). The development and professionalization of the public police resulted in a monopolization of social control and the use of force as a reaction to breaches of social order. “Social control,” defined as “the capacity of a society to regulate itself according to desired principles and values” (Sampson, 1986, p. 277), however, consists of more than merely formal social control (social control organized by the state). While the development of formal social control has pushed many forms of private social control out, informal social control (exercised within families, companies, schools, etc.) has remained present throughout history.

The emergence and expansion of a professional, commercial security market is interesting in this light (Shearing & Stenning, 1983). The causes that underlie the development of this market are a matter of debate among scholars; however, two main strains of thought can be identified. The predominant viewpoint is that the growing importance of private security providers originates from either a failure of the state to provide security or from the growth of mass private property (Button, 2004).

Scholars who see private security providers as filling a gap left by a receding state—as a result, for example, of restrictions in funding (Jones & Newburn, 1993)—portray the state as not only ceding some of its security prerogatives to private actors but also responsibilizing them to play a greater part in the production of security. These strategies help the state to share responsibility with private actors for the provision of security, while simultaneously ensuring this is done under the banner of public policy. An often-cited theoretical perspective in this tradition is the junior partner
thesis, first introduced by Kakalik and Wildhorn (1971). As described by Shearing (1992), the authors of this highly influential RAND report redefined the threat posed by private policing into an asset, by conceptualizing private policing as a junior partner to the public police that concerns itself purely with the prevention of crime. In this way, private policing is used to advance state interests, leading the state to, essentially, retain the lead in security provision (even if it is by steering, rather than rowing; Crawford, 2006).

Scholars who see the growth of the private security market as a result of the growth of mass private property, however, stipulate that a growing demand for security fuels the growth of private policing (Shearing & Stenning, 1981). Since (post)modern societies have many private and semi-public spaces that are used by a large part of the population, the distinctions between public, private, and semi-public spaces become less clear. Mass private properties, such as amusement parks and shopping areas, are patrolled by both private and public forms of policing. As a result, power and responsibilities are divided among, and fragmented between, public and private actors, creating complex networks of policing (also known as security nodes). This should not be confused with the process of privatization of policing discussed in the preceding paragraph. Rather, a more appropriate term for this blurring of public and private is “multilateralization” (Bayley & Shearing, 2001), the argument being that the division between what is public and what is private has become indistinct. In that sense, the security landscape is argued to have become diffused and the governance of security to be multilateralized, rather than privatized. Security is provided through complex networks, or security nodes, that may be public, private, or mixed (Shearing & Stenning, 1981). According to Shearing (2001), however, the different nodes follow a different logic. Public and private are seen to be distinct in their mentalities, with the criminal justice system (“public security”) focusing on the retribution of past harms and private security possessing a future-focused, instrumental mentality. So, while multilateralization blurs the line between public and private, the mentalities underlying the different nodes vary.

For nodal theory, it is apparent that the lines between public and private are blurring through the complex networks that are forming around security provision. With this in mind, the distinction made by Bayley and Shearing (2001) between auspices and providers is more helpful than the distinction between public and private. Public and private cut across these concepts, in the sense that policing initiatives may originate under private auspices while enlisting public providers (e.g., neighborhood watch initiatives)—or the other way around. Within this context, no actor is prioritized over the next. Nodal governance of security relies on horizontal relationships (Shearing, 1992). A major argument, then, is that the public–private dichotomy is no longer useful to describe policing (Dupont, 2004).

The pluralization arguments put forward by authors, such as Shearing (1992), Kempa et al. (1999), and Dupont (2004), open up an interesting avenue of thought, relinquishing the state-centric assumption underling earlier work (e.g., the junior partner thesis). The current author partly agrees with the general line of reasoning of pluralistic views. However, some of their assumptions do not resonate with corporate
investigations in non-public places. Two of these assumptions are critically discussed below: public–private blurring; and the distinction between instrumental and normative mentalities.

**An Evidence-Based Critique of Public–Private Bifurcation or Blurring Lines**

The proposition that public and private forms of security are blurring or even blending does not stand up in relation to corporate security investigations. Research (inter alia, Dorn & Meerts, 2009; Meerts, 2014, 2019; Williams, 2005, 2014) has shown that, when it comes to the investigation of internal norm violations, there is a marked difference between public and private. Although there are certainly connections between, and information flows across, public and private (see below), the two stay separate for an important part. Public sector respondents quoted in Meerts (2019) state that they are unaware of what happens within the corporate investigations sector. This separation, which flies in the face of the more general trend of blurring lines between public and private as outlined above, arises for several reasons.

Organizations are disinclined to report to law enforcement agencies as a result of, first, a low level of trust in the capabilities and expertise of law enforcement agencies and, second, expected negative effects of a report to the authorities (e.g., reputational damage or loss of productivity as a result of the shutdown of an operational department). Moreover, most internal investigations into norm violations remain in the private sphere because a private solution suits the interests of organizations more than a criminal justice solution. The primary concern is solving the matter speedily and efficiently and finding an optimal, quick, reputation-saving outcome. The focus of corporate investigators on the specific problems that the client is faced with, the measure of control over the information flow and process provided to clients, and the flexibility in solutions provided combine to make corporate investigators valuable to clients and to keep many norm violations in the private sphere (Williams, 2005).

In addition to the abovementioned "strategic benefits," corporate investigators have the option to work independently from law enforcement agencies (Meerts, 2018). Corporate investigators lack formal powers of investigation, which are only bestowed upon law enforcement. This limits corporate investigators in their possibilities and their access to information. For an important part, corporate investigators are reliant upon information available to their clients and upon cooperation by others. Corporate investigators lack the power to receive any third-party information without prior consent by that party. The flip-side of this is that corporate investigators may be much more flexible in their investigative operations than law enforcement agencies: with formal powers of investigation comes a much stricter process of using these powers. As a consequence, corporate investigators can act swiftly and efficiently in gathering information. This does not mean that corporate investigators are allowed to do what they please, they are bound by criminal law and privacy legislation. Within the boundaries of the law, however, corporate investigators have ample possibilities to gather information.
Corporate investigators derive much access to information from the rights the organization has as an employer and as the owner of, for example, hardware and software (Williams, 2014). Internal systems, such as personnel logs, and firms’ communication systems, such as email and phone records, may provide corporate investigators with much information. In addition, internal financial systems, such as accounting records and sales systems, are in this way open to corporate investigators. Moreover, by gathering open-source information and by talking to people (interviewing), corporate investigators are often able to investigate internal norm violations without having to enlist the help of law enforcement professionals (Meerts, 2016). In this way, many investigations into internal norm violations stay within the private legal sphere, providing both organizations and corporate investigators with the possibility to deal with these norm violations autonomously from the criminal justice system.

As a result of this separation between corporate investigators and the criminal justice system, it is difficult to argue that the lines between public and private are blurring. Instead, there seems to be a bifurcation between public and private, with corporate investigators mostly remaining in the private legal sphere (Williams, 2005). This separation follows from three specific characteristics of corporate investigations sector.

First, the cases corporate investigators deal with and those that end up in the criminal justice system are not necessarily the same. Corporate investigations involving breaches of internal regulations, business standards, or other norms might not involve criminality. Here, no functional overlap between corporate investigations and criminal justice investigations can be discerned. In addition, many norm violations that are investigated by corporate investigators may potentially be definable as criminal (e.g., theft) but are not dealt with by bringing a criminal charge.

Second (and relatedly), a difference in rationale between corporate investigations and criminal justice investigations can be identified. The commercial context in which corporate investigations take place is situated within the private law system. These cases, and the legal frameworks that are used for those investigations, therefore, follow the rationale of the private sector. This rationale assumes equality of parties (horizontal rather than vertical relationships) and an agreement on “facts” (unless contested). Although corporate investigations and corporate settlements contain elements of criminal justice (such as the application of certain principles of law during the investigation and settlement process), the dominant rationale is that of the private law system. In this context, norm violations are approached as business or labor conflicts, to be solved as efficiently as possible. The separation between corporate investigators and law enforcement agencies, thus, also has a symbolic dimension: in logic/rationale but also in the language used, there is a distinct difference between public and private.6

Third, there is a distinct difference in the interests served by private and public-sector investigations. In principle at least, state-led investigations essentially serve public interests (Loader & White, 2017). A crime is defined primarily as a dispute between the offender and the state, with the exclusion of the (legal) person affected by the norm violation. Corporate investigators, however, specifically focus on the private interests of clients, keeping them central to all their proceedings. The corporate investigation market seems to have most in common with the “private government model”
as described by Crawford (2006, p. 466), in which “state policing is shut out or has relinquished authority—only to enter where invited or called upon to do so.” This does not mean that the separation is absolute—however, it seems to be the rule rather than the exception (Meerts, 2019).

**Instrumental and Normative Mentalities Within Corporate Investigations**

Although there are many possibilities for corporate investigators to act completely separately from law enforcement agencies, there are instances in which public–private relations are invoked. This may occur because law enforcement agencies are already involved in an investigation from their own volition (leaving private entities little choice). However, as we have seen above, public–private separation is the rule rather than the exception, and involvement of the criminal justice system in a specific case often requires organizations and corporate investigators to actively seek contact with criminal justice actors. Broadly speaking, two types of considerations may compel organizations to enlist the help of the criminal justice system: instrumental and normative considerations (Meerts, 2019). Instrumental, or pragmatic, considerations may, for example, flow from the inability to reach information necessary to investigate properly. Working without powers of investigation, corporate investigators are legally limited to information gathered through voluntary cooperation, internal systems, and open sources. Third-party information, or information stored in someone’s home, cannot be obtained by corporate investigators without either consent of this party or the help of the criminal justice system. Another example of this pragmatic (or strategic) behavior is that the organization may self-report to the authorities, to mitigate the effects of prosecution at a later stage or in another jurisdiction. In prior research by the author, respondents, for example, indicate that it might be wise to show eagerness to cooperate with Dutch law enforcement agencies, as this may limit the risk of prosecution in the harsher jurisdiction of the United States: “. . . the unofficial trend seems to be, if you slip up try to get prosecuted in the Netherlands, because these prosecutions are reasonable” (respondent quoted in Meerts, 2019, p. 150). In this way, corporate investigators “. . . rather than excluding public policing efforts . . . seek to use them in advancing their own interests, and reliance upon the state for risk management, here, is often a ‘back-up of last resort’” (Crawford, 2006, pp. 466–467).

The decision to involve the criminal justice system is, however, not a purely instrumental one (see also Shearing, 2001). Normative considerations may also trigger private actors to enlist the help of the criminal justice system. An example of a more normatively motivated consideration is a perceived need for retribution. Criminal justice proceedings are the quintessential context to express moral indignation and disapproval, far more than any private law settlement (which, as explained above, follow private law logic of restoration rather than retribution; see also Stenning & Shearing, 2005). However, even when staying in the private legal sphere, corporate settlements may not be purely instrumental. Respondents suggest, for example, that they sometimes add “penalties” to otherwise instrumental settlements (e.g., someone is removed
from a certain sensitive position, solving the immediate problem, but he or she is also fined or certain privileges are withdrawn). Conversely, sometimes the decision not to report an employee to the police is also made based on normative considerations, for example, when the organization feels the person has already been punished sufficiently through the loss of employment (Meerts, 2019). Other examples, in which normative considerations compel investigators and/or organizations to report to law enforcement agencies, are cases in which the type of norm violation (e.g., sexual harassment), the type of victim (e.g., a vulnerable employee), or the societal impact of the crime (e.g., in cases with organized crime involvement) creates a sense of moral obligation (Meerts, 2019). In these cases, it is more about the report to the authorities being “right” than being useful.

The observation that moral considerations may influence decision making in the corporate investigation process is an interesting one, when observed in the light of nodal governance arguments. Shearing and Stenning (1985), for example, in their seminal work on the development of discipline, make the distinction between moral and instrumental discipline, the first being exercised by state actors, the latter by private security actors. In this line of reasoning, private (commercial) actors see security and discipline only in an instrumental context, leading to profit maximization. Although commercial logic is central to corporate investigations—they are not purely instrumental in logic (see also Crawford, 2006). This is not “simply as a control strategy” to make people comply, as Shearing and Stenning (1985, p. 428) put it. The observation made in section “An Evidence-Based Critique of Public–Private Bifurcation or Blurring Lines” (above), that corporate investigations follow a private law logic, is thus not to be read as corporate investigators having a purely instrumental mentality.

Conceptualizing Public–Private Relations in Corporate Investigations

Given the considerable room for corporate investigators to operate autonomously, separate from the criminal justice system, public–private relations are not easily captured in concepts such as junior partnerships, privatization, and responsibilization. Furthermore, the blurring of public and private, as described by multilateralization and nodal theory, seems to not have taken place in this context. Within the context of this public–private division, public–private relationships often form on an ad hoc basis. More long-term, formalized relationships also exist but they are rare. This situation is a result of the fragmented nature of the market for corporate investigations (which is comprised of many different players), of the multitude of interests involved, and of the position of the investigators in relation to their client. In addition, previous research suggests that mutual trust and willingness to cooperate are important factors in the success or failure of cooperation (Hoogenboom, 1994; Meerts, 2019). Trust is difficult to create in a situation of institutional and operational separation, meaning that public–private relationships rely primarily on personal relationships arising from previous shared employment within public agencies or earlier ad hoc contacts. Formalized,
long-term cooperation is rare. Because of the emphasis on separation, I have previously coined the term ad hoc coexistence, to replace the more drastic “cooperation” (Meerts, 2019).

These ad hoc relations may be far-reaching or may involve minor contact. Most commonly, public–private relations involve the transfer of information from private to public. This typically happens in the context of an official report to the authorities, in which the information gathered through the corporate investigations is transferred to law enforcement authorities. This is often both the first and the last moment of contact between public and private. Contact is very limited in such cases. For example, one of the case studies used in Meerts (2019, p. 237) involved the alteration of invoices to ensure the payment would be made to a shell company. After a full internal investigation, a report was made to the police, containing all relevant information. The information was merely received by the police, without additional contact.11

However, information may also flow both ways. In such cases, most information still flows from private to public, but corporate investigators also receive some information in return. Although much of the information that is shared seems to remain at a general level (e.g., which behavior/what type of crime is investigated), it may prove very useful to corporate investigators. An example of such a case of minor mutual information sharing is provided in Meerts (2019, p. 246). In this case of construction fraud, corporate and police investigations ran parallel. Although the investigations were mostly separate, some information (relating to the arrest of a suspect and the scope of the investigations) was shared with the private actors.

The most far-reaching but least prevalent public–private ad hoc relations concern coordination of actions. Only this type of public–private contact may truly be referred to as actual cooperation. Corporate investigators and law enforcement agencies may work together on a case, coordinate their actions, and come to a certain division of labor. In a case involving theft of equipment, for example, corporate investigators worked closely together with law enforcement agencies, coordinating actions and sharing information. The corporate investigators received information they required from law enforcement and, at the same time, also investigated some matters specifically at the latter’s request. To avoid hampering the criminal investigations, corporate investigators followed the pace of the criminal investigations (moving slower than they otherwise would; Meerts, 2019, p. 248).

As Fleming and Rhodes (2005) indicate, networks (being more durable) depend on trust and reciprocity. While trust may be established in ad hoc relationships that go beyond the mere transfer of information from private to public, reciprocity is more challenging. In a case where actions are coordinated, information may be shared on an equal basis, which may constitute reciprocity. Reciprocity in the sense of “normative standards . . . , indebtedness, obligation and a long-term perspective” is, however, difficult to find in relations between corporate investigators and the criminal justice system. In another way, we are able to discern networks between corporate investigators and law enforcement professionals. Corporate investigators might, for example, use their contacts within the criminal justice system as a point of reference for “procedural” questions such as whether certain behavior would be considered criminal, or
where to report a specific case.\textsuperscript{12} While these types of informal information sharing may be regarded harmless, there are examples of corporate investigators and law enforcement actors illegally sharing information through informal networks.\textsuperscript{13}

**Discussion**

This article has critically discussed contemporary conceptualizations of public–private relations in the governance of security. Corporate investigators investigating internal norm violations have a tendency to stay within the private legal sphere. Because of extensive access to information and expertise, the majority of corporate investigations never enter the criminal justice system. In this sense, we can discern a trend of bifurcation between, rather than blurring of, public and private. Within this bifurcation, there seems to be some room for corporate investigators to incorporate into their work some of the mentalities associated with public law enforcement;\textsuperscript{14} however, there is no blurring or blending.

As a consequence, public–private relationships are largely ad hoc, occurring when there is a need (either pragmatic, normatively felt, or legally defined) to involve public law enforcement agencies in an investigation. Rather than cooperation, public–private relations generally remain at the level of coexistence. Interestingly, though, there is a measure of contact between corporate investigators and law enforcement agencies: investigators, policy makers, and others involved in the investigative process are part of the same professional networks. They meet at conferences, networking events, and during other professional activities. In addition, many corporate investigators have previously been employed by the criminal justice system. A certain *social* blurring between public and private may, then, be discerned in the professional networks within the field of corporate investigations. However, when it comes to actual cooperation efforts at an *operational* level, the walls between public and private seem impermeable (see also Meerts & Dorn, 2017).

Given this public–private separation, theoretical concepts that tend to take the state as a point of reference fail to capture the reality of corporate investigations. One implication of this research would be to suggest a shift in theoretical thinking about corporate investigations. The emphasis on cooperation turns a blind eye to the many activities within the private sector that steer clear of the criminal justice system. Nevertheless, the size and importance of the market for corporate investigations—and the ways in which it supports a parallel or alternative justice system for those it serves and for those it apprehends in the private sector—warrant research into the activities of corporate investigators. Second, the framing of much public–private research and conceptualization glosses over the fact that many initiatives for cooperation (whether ad hoc or longer term) originate in the private sphere, tasking the public sector.

From a policy perspective, the continuing use of concepts, such as privatization, responsibilization, and multilateralization, is potentially problematic. The very limited involvement of state actors in corporate investigations and settlements leads to a situation in which public servants have little knowledge about corporate investigators’ activities. Effectively, there is very little (democratic or judicial) control over corporate
investigations and settlements (for more on this issue of the governance of the corporate investigations sector, see Meerts, 2019). The ideas of privatization, responsibilization, multilateralization, and by implication, partnerships, which are so pervasive in policy circles, offer a false sense of control, since they imply that corporate security is effectively surveilled and supervised by the state within a framework of public–private cooperation. This is especially problematic in situations in which criminal justice procedure relies heavily on information gathered through corporate investigations and in which the possibility to check the validity of the information and the process in which it was gathered is limited.15 In such cases, a critical stance toward the information provided is essential.

Taking the above into account, one may expect that visions for greater collaboration efforts between the criminal justice system and corporate investigators will continue to fall upon stony ground. However, ad hoc contacts may, in the presence of trust and reciprocity, prove very valuable to both corporate investigators and the criminal justice system. A practical implication of this research, then, would be that, efforts to improve public–private contacts should shift their focus. Improving ad hoc contacts should prove more valuable and more practical than creating top-down, formalized networks of cooperation. One way to do this is to provide corporate investigators with specific contact points within the criminal justice system. In the longer term, this may help to build trust so that reciprocity may occur in ad hoc cooperation efforts. This does not solve the problem of lack of democratic oversight over the corporate investigations sector, described above. Nevertheless, it might serve as an initial step toward bridging the knowledge gap between public and private.

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Notes

1. Which actors may be deemed “corporate investigators” is a matter of debate. In contrast to, for example, Nalla and Morash (2002), who reserve the use of the term “corporate security” for in-house security departments of corporate entities, this article defines corporate investigators more broadly, to include private investigation firms, in-house security departments, forensic accountants, and forensic (departments of) law firms. These actors cater to both commercial and (semi) public organizations (see also Meerts, 2019).
2. The projects have been funded by, respectively, the Erasmus School of Law (Erasmus University Rotterdam, 2007–2009), the Netherlands Organization for Scientific Research (NWO, 2012–2017), and the organization Politie en Wetenschap (Police and Science, ongoing).

3. In another sense, one may argue that the line between public and private is blurring. Loader and White (2017) use the term non-contractual moral agency to point out that private security personnel are not merely focused on private interests but also take common-good considerations into account. The same can be said for corporate investigators (Meerts, 2019). In practical terms though, corporate investigators tend to stay within the private legal sphere and separate from law enforcement actors.

4. This is to say, many corporate investigations remain unknown to the criminal justice system. However, in those instances in which the criminal justice system is involved and criminal investigations are executed, privately generated information is generally handed over to the criminal justice system (see Meerts, 2019). In those specific cases, police and prosecution have a good view of the corporate investigations.

5. For a more elaborate discussion of the rules and regulations of corporate investigations, see Meerts (2019). The new and more stringent privacy EU laws (General Data Protection Regulation—GDPR) represent an interesting development in this context. Although there is no research available on this specific subject as of yet, the first signs from corporate investigators are that the GDPR does make their investigative process more challenging.

6. While this echoes Shearing’s (2001) arguments about different mentalities, this is not necessarily the same thing. As is discussed below, the mentality of corporate investigators is not purely instrumental and future-focused.

7. Although, from a reputational view point, reporting in these cases may be useful as well.

8. Normative considerations have a wider significance within corporate investigations, for example, in the rules and principles of law followed by investigators or in the decision which cases to take on—Loader and White’s (2017) concept of non-contractual moral agency mentioned above. As it is beyond the scope of the current article to discuss in-depth, interested readers are referred to Meerts (2019) for a more encompassing analysis.

9. The formalized types of cooperation, such as Public–Private Partnerships (PPPs), that do exist are usually agreed between law enforcement agencies and providers of more general security services (e.g., in the context of a specific shopping area). The PPPs that have been agreed between law enforcement agencies and corporate investigators, or their clients, are typically focused on “outside threats” such as attacks on ATM machines, hacking, or skimming (Nederlandse Vereniging van Banken, 2016).

10. Interestingly, private security personnel tend to think more negatively about public–private relations than police officers (Nalla & Hummer, 1999). The same tendency seems to exist for corporate investigators more specifically (Meerts, 2019).

11. In this case, the police took no further action.

12. Recently, the Dutch police organization has (re)instated fraud contact points, providing organizations and investigators with a formalized way to be in contact with the police. However, these contact points seem not very well known as of yet.

13. See, for example, the Dutch court case ECLI:NL:RBOBR:2016:7193, in which a police officer had illegally accessed police systems to gather information for a former colleague.

14. The converse question—to what extent law enforcement agencies incorporate supposedly private mentalities—is an interesting question not discussed in this article, but one that is raised in previous work by, inter alia, Crawford (2006) and which merits further attention in future work.
15. At the time of writing, the first cases in a pilot executed by the Dutch prosecution office and insurance companies are brought to trial. Within this pilot, which involves external fraud by clients, the investigation of the insurance fraud has been executed by the (in-house investigators of the) insurance company. The evidence in these cases is, as such, generated completely in the private arena, without, or with only very minor, involvement of police. The evidence is judged by the prosecution office, and, if deemed solid and reliable, brought to criminal court (Huisman, 2019). This is an interesting development, and it remains to be seen whether this procedure will be accepted by the court. This pilot is based on a formalized PPP and standards, which is usually not the case when information is transferred from private to public, to be used in criminal justice procedures.

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