

This file was downloaded from BI Open Archive, the institutional repository (open access) at BI Norwegian Business School <http://brage.bibsys.no/bi>.

It contains the accepted and peer reviewed manuscript to the article cited below. It may contain minor differences from the journal's pdf version.

Gottschalk, P. (2017). Private police legitimacy: the case of internal investigations by fraud examiners. *Policing: An International Journal*, 40(3), 628-640. doi:doi:10.1108/PIJPSM-04-2016-0053

Copyright policy of *Emerald Publishing Group*, the publisher of this journal:

“Emerald supports authors' voluntary deposit of their own work. Once an article has been published by Emerald, an author may voluntarily post their own version of the article that was submitted to the journal (pre-print) or the version of the article that has been accepted for publication (post-print) onto their own personal website or into their own institutional repository with no payment or embargo period.”

<http://www.emeraldgrouppublishing.com/openaccess.htm#green>

Private Police Legitimacy: The Case of Internal Investigations by Fraud Examiners

Petter Gottschalk
BI Norwegian Business School
Nydalsveien 37
0484 Oslo
Norway
petter.gottschalk@kruttforlag.no
+4792011837

ABSTRACT

Fraud examiners in white-collar crime investigations represent private policing of financial crime. Examiners in crime investigations reconstruct the past to create an account of who did what to make it happen or let it happen. This article addresses the following research question: What is the legitimacy of private policing by fraud examiners? A number of critical issues based on institutional theory and social psychology issues are discussed, that question the legitimacy of private policing of financial crime.

INTRODUCTION

The legitimacy of private policing of financial crime is a topic of enduring importance (Button et al., 2007a, 2007b; Button and Gee, 2013; Gottschalk, 2016; Schneider, 2006; Tunley et al., 2014; Williams, 2005, 2014). Fraud examiners do often not only investigate, they sometimes also prosecute, and sometimes even pass a verdict in their reports of investigations on suspected individuals. This contradicts the practice of criminal justice in democratic societies, where clear distinctions are made between investigation, prosecution, and sentencing in court. Making it even worse in terms of lack of legitimacy, fraud examiners sometimes apply methods and procedures that are not only unethical, but also illegal. Legitimacy has been defined as a general perception and assumption that the actions of private investigators are desirable, proper and appropriate within our socially constructed system of norms and beliefs (Suchman, 1995; Warden and McLean, 2017). Investigations by

fraud examiners are often considered legitimate, because it is important to reconstruct the past when there is suspicion of misconduct. The private policing business is often considered legitimate, since it is generally accepted that the public police cannot be everywhere and investigate all kinds of suspicions of misconduct and crime. However, as pointed out by Gottschalk (2016) and others mentioned above, a number of critical issues are related to the fraud examination business. This article discusses challenges and problems in the legitimacy of private investigators by addressing the following research question: *What is the legitimacy of private policing by fraud examiners?* This article is based on literature and theory in terms of institutional theory and social psychology theory as applied by others in this special issue of the journal. Private police legitimacy is discussed along the lines of questions developed for this special issue of the journal.

PRIVATE POLICING

Fraud examiners are involved in private policing by investigating suspicions of misconduct and crime related to financial crime in general and white-collar crime in particular. They are to reconstruct the past and document their findings in reports of investigations. Fraud examiners are hired by organizations to investigate suspicions internally or in other organizations.

When suspicions of misconduct and crime emerge in business and public organizations, private investigators are often hired to carry out inquiries. Private investigators are typically financial crime specialists from major accounting firms, law firms, and consulting firms. Examiners are hired to conduct goal-oriented procedures of creating accounts of what happened, how it happened, why it happened, and who did what to make it happen or let it happen (Gottschalk, 2016). When investigators move into the latter question of who did what to make it happen or let it happen, then the examination resembles a criminal investigation

normally conducted by law enforcement in the police at local and national levels (Osterburg and Ward, 2014).

Private policing in terms of fraud examinations represents a privatization of law enforcement. Often, results from reports of private investigations are not communicated to public police, even when fraud examiners have collected solid evidence of law violations. There are many reasons for secrecy. Especially in cases where top executives, investors and others from the elite are investigated for potential white-collar crime, then organizations tend to avoid public attention.

As a result, reports of investigations are difficult to find to evaluate the quality of private policing in cases of financial crime suspicions in general and white-collar crime suspicions in particular. After two years of searching in the United States and Norway, Gottschalk (2016) was able to obtain 13 reports and 40 reports from the public domain respectively in the two countries. 5 out of 13 fraud examinations in the United States could be linked to white-collar crime, while 8 out of 40 fraud examinations in Norway could be linked to white-collar crime. Reports of investigations were analyzed in terms of costs and benefits. Gottschalk (2016) found that contributions in terms of benefits were very limited for most investigations. Costs seemed to have exceeded benefits, thereby making private policing an unprofitable investment in most cases.

There is a small but growing body of research on private white-collar crime investigations. Brooks and Button (2011) and Button and Gee (2013) discuss police prosecutors potential dependence on private examinations of financial crime suspicion. They also discuss punishment and innocent victims of private investigations. In a survey by Brooks et al. (2009), 17 out of 32 companies in the UK responded that they employ dedicated counter fraud staff, which in total accounted to 160 employees, while 13 had no specialist staff, and two did not answer the question. Button et al. (2007a, 2007b) and Tunley et al. (2014) discuss the lack

of competence among fraud examiners. As argued by Gill and Hart (1997), private policing is directly accountable to the paying customers rather than democratically elected bodies and tight legalistic procedures and constraints. Meerts (2014) found that corporations and organizations generally value the possibility of secrecy, discretion, and control that private investigations bring to corporate security. Openness could lead to problems such as reputational loss, which can have economic repercussions. In the same book edited by Walby and Lippert, Williams (2014) discusses the private eyes of corporate culture in terms of forensic accounting and corporate investigation industry, and the production of corporate financial security. Button et al. (2009) found that 68 % of fraud victims report strong feelings of anger, which represents a motivation for private investigations.

Reports of investigations by fraud examiners are typically written at the final stage of private inquiries. Reports are handed over to clients who pay for the work. Reports are seldom disclosed, so that the public never learn about them. Reports are often protected by the attorney-client privilege, when investigating firms are law firms or the legal branch of accounting firms. Therefore, it is quite a challenge to identify and obtain a sample of investigation reports to empirically evaluate legitimacy in each specific case. However, the private investigation business is well-known in most countries, so that legitimacy can be discussed in the following on a general basis.

INSTITUTIONAL THEORY

From the perspective of institutional theory, legitimacy has been defined as a perception or assumption that the actions of actors such as private fraud examiners are desirable, proper, and appropriate (Suchman, 1995; Warden and McLean, 2017).

Are internal investigations by fraud examiners desirable? Yes, because it is always important to reconstruct the past when there is suspicion of misconduct and crime. The police are only

to investigate when there is suspicion of (serious) financial crime. Hence, if private investigations did not exist, then many rumors and accusations in public and private organizations would continue to blossom. On the other hand, if the police had sufficient resources, they could be able to investigate all kinds of suspicions, which would desirably limit the market for private examiners. However, Williams (2005) argues that the corporate investigations industry exists (and grows) as a result of the exploitation of a niche market, based on some strategic advantage over public police, and not as a result of privatization. The client chooses a private solution over a public one, even when the public one would be available. One reason for this choice is secrecy to avoid damage and disagreement, and to secure discretion and confidentiality (Gottschalk and Tcherni-Buzzeo, 2016).

Are actions of fraud examiners proper? Whether private investigations are correct according to social and moral rules, is a question of performance. As pointed out by Gottschalk (2016), when investigations such as those listed in this article are evaluated then the general empirical impression manifest itself that fraud examinations are not conducted in a proper way.

Examiners are not always objective, and sometimes they even jump on the blame game often initiated by a biased mandate from the client (Gottschalk, 2015). Examiners are not always professional, and sometimes they even jump on the roles of prosecutor and judge when they interview and write about suspects in their reports of investigations. While private investigators do not have the same powers as the police, they do not have to adhere to any rules and regulations such as the police. A number of ex-police work in this area, which create implications for legitimacy in terms of their network in law enforcement and their tendency to behave as though they were still law enforcement officials.

Are actions of fraud examiners appropriate? Whether private investigations are suitable and fitting for a particular purpose – which is to reconstruct the past – is a question of means versus ends. When it is critical to reconstruct the past, and the police are reluctant to

investigate the matter, then private investigations seem appropriate. Furthermore, when it is not at all obvious that the incidence is a police matter, then fraud examination is an appropriate action to establish whether or not wrongdoing has occurred at all.

Are fraud examiners culturally supported? The answer to this question of cultural support for the private investigation business by fraud examiners will, of course, vary depending on the local national and regional culture. In many countries, private detectives may be considered a necessary evil, where advantage exceed disadvantages and therefore find support. In some countries, privatization of law enforcement is the norm rather than exception, thereby finding support out of necessity rather than respect or admiration. The issue of cultural support is linked to the extent of explanations for private police existence, functioning, and jurisdiction, and lack or denial of alternatives. Law firms, auditing firms and consulting firms exist and function within most jurisdictions. Nobody questions their presence in society. However, as they embarked on fraud examinations two decades ago, there were skeptical voices, and skepticism still exists. The functioning of private investigations by these firms is questioned by public authorities such as law enforcement, and by researchers studying private policing.

Are fraud examiners serving the interests of their clients? Here it seems that we can provide a clear yes-answer. Examiners do what they are asked to do by their clients, and clients pay them for the job. Money talks in this business, where the client tells the examiner what to do by formulating a mandate. However, fraud examiners are not always serving the interests of their clients. Some fraud examiners do a poor job and create more problems than solutions when carrying out their investigations. Some fraud examiners find out nothing, while others reach a conclusion without any evidence or other foundation at all. Therefore, some fraud examinations represent investments with substantial costs and no or marginal benefits.

Are fraud examiners serving the interests of society? Here it seems that we can provide a clear no-answer. Fraud examiners keep reports of investigations secret, and neither the police nor

the public learn about them unless there is a leakage or a public issue already. Fraud examiners contribute to the privatization of law enforcement, which is **perceived as representing** a threat to the criminal justice system in democratic societies. There are at least six problematic issues related to private policing in society: privatization of law enforcement, secrecy of investigation reports, lack of disclosure to the police, competence of private investigators, limits by investigation mandate, and the issue of regulation of the investigation business (Gottschalk, 2016). **Among other negative effects, Gottschalk and Tcherni-Buzzeo (2016) point out that secrecy creates gaps in crime reporting.** Privatization of law enforcement and criminal justice, as is currently a trend in many societies, represents a potential threat to democratic ruling as all powers towards citizens in a state should be organized and managed by public authorities under democratic government control, and not by private business firms. Privatization occurs when something the state would do is carried out by private actors, for example, when private investigators do what police investigators would have done, if they had known about the misconduct. Privatization of police investigations of potentially punishable acts – for example by settlement between the suspect and the victim – ignores the importance of formal authorities such as public courts. Many organizations do not believe they will benefit if they report a person to the police who would eventually be sentenced to prison. They do not consider their social responsibility to stretch into the criminal justice system. **However, it can be argued that fraud examiners sometimes are serving the interests of society by reconstructing past negative events that would otherwise never be detected.**

Are there moral concerns that fraud examiners do the right thing in the right way? There are concerns that fraud examiners sometimes do the wrong thing because of a biased mandate or because of tunnel view suffered by examiners. There are also concerns that fraud examiners sometimes do investigations in the wrong way. For example, interviews with suspects and witnesses should be characterized by cooperation and curiosity, rather than confrontation and

accusation. Furthermore, some investigators ignore or deny rights of contradiction and of protection against self-incrimination.

Are practices by fraud examiners not questioned or challenged? Again, answers to this theme vary across regions and nations. In many societies, practices are not questioned or challenged, because the investigation business is considered a natural extension of assignments carried out by law firms, auditing firms and consulting firms. People in these firms are considered professionals who help their clients when they are in trouble. Only some critics raise their voice when private investigators destroy evidence or take law enforcement matters into their own hands. Since fraud examinations are a business dominated by secrecy, few are able to get insight into their practices. Some researchers have tried, but they are typically denied access to reports of investigations when clients decide to prevent transparency.

SOCIAL PSYCHOLOGY THEORY

From the perspective of social psychology theory, legitimacy has been defined as the presence of trust and obligation. Legitimacy means the judgments that ordinary citizens make about the rightfulness of private police conduct and the organizations that employ and supervise them. The obligation to obey fraud examiners when they are carrying out their investigations may be considered a hallmark of their legitimacy. When people feel that hired experts are legitimate, they authorize that authority to determine what they have to contribute within a given set of situations (Warden and McLean, 2017). Private police such as financial crime specialists achieve compliance through the application of their expertise in professional investigations.

Are fraud examiners enjoying trust? To answer this question, we may apply a stakeholder perspective. Clients trust examiners – that is why they are hired. Government agencies sometimes hire fraud examiners, while the government at other times discusses whether the

private investigation business should be regulated. Organizational members who are investigated by fraud examiners mostly distrust investigators, while the police sometimes find private investigators helpful, and sometimes find them damaging for professional criminal justice procedures.

Are fraud examiners enjoying an obligation to obey? When private investigators are hired by a client, the client organization feels an obligation to obey the methods and procedures implemented by investigators. Fraud examiners are perceived as experts, and members of the client organization listen to experts. They have hired fraud examiners to get help, and the helpers are provided access to information at their own discretion. However, if the client would like to prevent access to certain information, and maybe even would like to involve investigators in a blame game, then fraud examiners are not enjoying an obligation to obey.

Are fraud examinations perceived as being characterized by procedural fairness? While the public in general may believe in procedural fairness by law firms, accounting firms and consulting firms when such firms conduct fraud examinations, involved persons – especially suspects – do not share this opinion. Rather, many suspects feel they become victims of procedural wrongdoings on the part of examiners. However, this has to be compared to the police, where many suspects also feel that they become victims of procedural wrongdoing when being subject to investigation.

Are fraud examinations perceived as being characterized by effectiveness? When compared to police investigations, private investigations are typically perceived as more effective. While financial crime investigations frequently go on for many months or years, fraud examinations are normally completed within some weeks or a few months.

INTEGRITY IN PRIVATE INVESTIGATIONS

Integrity is the quality of being honest and morally upright. Integrity implies absence of misconduct. Misconduct is an attempt to deceive others by making false statements or omitting important information concerning the work performed, in the results obtained by or the sources of the ideas or words used in a work process. Lack of integrity occurs for example when investigators lie to witnesses and suspects in interview.

Integrity is the normative inclination to resist temptations to abuse the rights and privileges of an occupation in an assignment. Integrity is a firm adherence to a code of moral values. It is the habit of doing right where there is no one to make him or her do it but himself or herself.

Investigators integrity represents a strong influence on confidence in the internal investigation. Practices that impugn the integrity of investigations range from obtaining or maintaining information without following proper and transparent procedure, to violate rights of suspects. This includes the coercion of confessions, plating and fabricating evidence, or giving false testimony to clients. This latter situation can arise where an otherwise conscientious investigator loses faith or trust in the organization's ability to provide relevant information and acts through a misplaced sense of duty or zeal in seeking to secure a conclusion and possible consequence based on the investigation.

An important element of integrity is the consistency between actions and words, which can be thought of as the basis of trust in people (Turhani, 2015). The term integrity derives from the Latin adjective "integer", which means to be complete or whole. A moral wholeness can be thought of as the consistency to a set of moral principles in all actions. This means that a person with integrity must be able to see all conflicting variables in a situation, while resisting the temptation to focus narrowly on information that fits own experiences, views or self-interest (Killinger, 2010).

Integrity in private internal investigations is a concept that can refer to a number of elements, such as:

1. Acting in accordance with principles and procedure described as methodology for the investigation (Baxter et al., 2012)
2. No conflicts of interest with clients or other investigation stakeholders (ACFE, 2016)
3. Independence from the client who pays for the investigation (Singeton et al., 2006).
The client is unable to steer or manipulate investigators through high fees or biased mandates.
4. Honest, open and fair investigation (Vargas-Hernandes et al., 2013). Investigators are honest and trustworthy (Yukl and Van Fleet, 1992).

Integrity can be thought of as doing the right things for the right reasons. To do the right thing is a choice, and it develops from conscious effort and willpower (Killinger, 2010). This does not necessarily mean that to possess integrity one must claim only to do ethical things (Becker, 1998). Rather, integrity is about consistency in terms of walking the talk by following own guidelines and values.

Integrity is a commitment in action to a morally justifiable set of principles and values, where the criterion for moral justification is reality, and not merely the acceptance of values (Becker, 1998). This implies that integrity is closely related to the character of an individual (Duggar, 2009).

An important task of private investigators is protection against self-incrimination. A witness or suspect has no obligation to pass on information that may reveal that he or she was involved in crime. Investigators should provide interviewees a complete protection against disclosure of information that could reveal own offenses. However, lack of integrity on the part of the investigator may cause a breach of this protection mechanism.

Generally, there are two steps of looking for causal explanations in internal investigations where integrity is at stake. The first step is concerned with the mandate, where examiners define and develop the investigative focus. The second step is concerned with findings, where

reconstruction of the past leads to potential suspects. Individuals suspected of financial crime can often perceive this as a blame game. Suspects tell investigators: “You should not blame me for what happened!”

Table 1 lists seventeen issues representing a survey instrument to measure private investigator integrity.

#	Problem	Not serious					Very serious				
1	<i>Mandate bias.</i> The mandate for the investigation points in a certain direction and excludes other directions for scrutiny.	1	2	3	4	5	1	2	3	4	5
2	<i>Report bias.</i> The investigation report has selected a partial perspective and not presented the complete picture from the investigation.	1	2	3	4	5	1	2	3	4	5
3	<i>Lack of contradiction.</i> The investigator did not provide suspects and witnesses with an opportunity to contradict statements in the report.	1	2	3	4	5	1	2	3	4	5
4	<i>Self-incrimination.</i> The investigator did not provide interviewed persons required protection against self-incrimination.	1	2	3	4	5	1	2	3	4	5
5	<i>Secrecy towards the public.</i> While the findings are relevant and interesting for the media and the public, the client chose not to disclose the investigation report.	1	2	3	4	5	1	2	3	4	5
6	<i>Secrecy towards the police.</i> While the findings are relevant for law enforcement, the client chose not to disclose the investigation report to the police.	1	2	3	4	5	1	2	3	4	5
7	<i>Privatization of law enforcement.</i> Investigators documented white-collar crime, which lead the client to settle the matter with the criminal.	1	2	3	4	5	1	2	3	4	5
8	<i>Client-attorney privilege.</i> Client and investigators defined the internal investigation as legal advice to benefit from the client-attorney privilege.	1	2	3	4	5	1	2	3	4	5
9	<i>Blame game.</i> The investigation concluded by blaming individual(s) that the client would like to see blamed for misconduct and crime.	1	2	3	4	5	1	2	3	4	5
10	<i>Rotten apple.</i> The investigation concluded by identifying a rotten apple rather than systems or management failure, as expected by the client.	1	2	3	4	5	1	2	3	4	5

11	<i>New leads.</i> The investigator did not pursue new leads since the mandate did not describe them and later the client did not approve them.	1	2	3	4	5
12	<i>Resources.</i> It was obvious to the investigator that the client budget for the investigation was much too small, but the investigator accepted the assignment anyway.	1	2	3	4	5
13	<i>Lack of evidence.</i> Despite lack of evidence, the investigator draws conclusions in the investigation report to please the client.	1	2	3	4	5
14	<i>Conclusions.</i> The investigator wrote conclusions into the investigation report as specified by the client, despite disagreement.	1	2	3	4	5
15	<i>Recommendations.</i> The investigator wrote recommendations into the investigation report as specified by the client, despite disagreement.	1	2	3	4	5
16	<i>Client.</i> The investigation report does not criticize the client representative that pays for the investigation, although it is obvious that the person was involved.	1	2	3	4	5
17	<i>Roles.</i> The investigator took on the roles of police, prosecutor as well as judge in scrutinizing, accusing and sentencing suspected white-collar criminal.	1	2	3	4	5

Table 1 Survey instrument for measurement of private investigator integrity

Integrity demands open and transparent decision-making and clarity about the primacy of a private detective’s duty to serve the objective interest above all else. Conflict between this duty and a person’s individual interests cannot always be avoided but must always be identified, declared and managed in a way that stands up to scrutiny. This particularly applies to private investigators who in many secret assignments have de facto wide authorization and powers in the client organization.

Professional investigators are not only concerned with finding facts and reconstructing the past. They are also concerned with how they do it. If they successfully get to the bottom of a case, they may still be criticized for how they did it. There are many consideration related to information sources, suspects and witnesses.

Reports of investigations by fraud examiners are typically written at the final stage of private inquiries. Reports are handed over to clients who pay for the work. Reports should be

disclosed to the police and to the public to avoid privatization of law enforcement. Law enforcement belongs in the criminal justice system in society, not in secret procedures where it may be more or less random who loses the blame game. There should be an open and transparent outcome of internal investigations, where suspicions of white-collar crime are handed over to the police to be investigated and possibly prosecuted in court.

Unfortunately, secrecy towards the public (5) and the police (6) – often combined with privatization of law enforcement (7) – seems to be the rule rather than the exception. When the Kongsberg Group – a Norwegian manufacturer of defense material – hired PwC to conduct an internal investigation, corruption in Rumania was revealed. The responsible sales manager was fired, and then the report of investigation from PwC was put on the shelf. Neither the police nor the public learned about it until someone leaked the report to the police (Bakken et al., 2016).

Reports of investigation should not be protected by the attorney-client privilege (Williams, 2005), since fraud examinations should not be defined as legal work. Fraud examinations are consulting work that can be carried out by lawyers, accountants, auditors, and other professionals.

OBJECTIVITY IN PRIVATE INVESTIGATIONS

An investigation is designed to answer questions such as when, where, what, how, who, and why, as such questions relate to negative events in the past. To reconstruct the past successfully in a professional manner, there is a need for knowledge management, information management, systems management, configuration management, and ethics management (Gottschalk, 2015, 2016).

Objectivity as well as integrity are important in fraud investigations. Objectivity is undeniable knowledge of facts, capability to extract true knowledge as well as judgment without

prejudice, partiality and prefixed notions (Zagorin, 2001). Objectivity is a state of mind in which biases do not inappropriately affect understanding and assessment (Mutchler, 2003).

Table 2 summarizes a literature review on objectivity. Some of the characteristics of objectivity can also be found as characteristics of integrity in Table 1. However, it is the combination of all characteristics that enable research to distinguish between integrity and objectivity. Table 5.2 indicates how each characteristic can be assessed and how evidence of that characteristic can be found in a specific investigation.

#	CHARACTERISTIC	REFERENCE	ASSESSMENT	EVIDENCE
1	Absence of mandate bias	Gottschalk (2015)	No signs of blame game or other kind of bias in formulation	Mandate formulation
2	State of mind not inappropriately affect assessment, judgments, and decisions	Mutcher (2003)	No signs of inappropriate influences	Report of investigation
3	Fairness and impartiality	Porter (1996)	No signs of unfairness or partiality	Report of investigation
4	Absence of prejudice	Porter (1996)	No signs of prejudice	Report of investigation
5	True and undeniable knowledge	Zagorin (2001)	No untrue or deniable knowledge	Report of investigation
6	Investigation extracting true knowledge	Zagorin (2001)	No signs of rumors or other untrue knowledge	Report of investigation
7	Professionals' judgment	Zagorin (2001)	No amateurs involved in the investigation	Investigator CV
8	Perfect knowledge by realism and facts	Sismondo (2010) Nagel (1989)	Everything is true, no assumptions or reservations	Report of investigation
9	Consensus	Megill (1994) Leiter (1993)	No contradictions occurred	Report of investigation
10	Existing experiences and conceptions	Megill (1994) Nietzsche (1997) Leiter (1993)	No investigators without competence in the field	Investigator CV
11	Professional procedure	Megill (1994) Sismondo (2010)	No signs of misconduct during investigation	Participants in the investigation

12	Standardization of procedure	Sismondo (2010)	Description of how investigation was performed	Report of investigation
13	Judgments built up from concepts	Peacocke (2009)	Plausible reasoning	Report of investigation
14	Value neutrality	Douglas (2004)	No value judgments	Report of investigation
15	Information independently verified	Albrecht et al. (2011)	There is no evidence of short circuit	Report of investigation

Table.2 Characteristics of objectivity in private investigations

Objectivity is not only the true and undeniable knowledge of an object, property or situation.

Objectivity is also a method of investigation intended to and capable of extracting true knowledge and understanding of an object, property or situation. Also, objectivity represents a type of judgment made by professionals who are able to set aside prejudice, partiality and predetermined notions in any process they do in order to find their results (Zagorin, 2001).

Absolute objectivity is defined as perfect knowledge about an object, where the knowledge is true regardless of perspective (Sismondo, 2010). It should always be the ambition of investigators to reach absolute objectivity where everyone see things as they truly were.

Objectivity is therefore similar to realism based on facts.

DISCUSSION

Private internal investigators for hire are in the business of examining facts, sequence of events, and the causes of negative events, as well as who is responsible for such events.

Pending what hiring parties ask for, private investigators can either look generally for corrupt or otherwise criminal activities within an agency or company, or look more specifically for those committing white-collar crime. In other situations, it is the job of the private investigators to look into potential opportunities for financial crime to occur, so that the

agency or company can fix those problems in order to avoid misconduct down the road (Gottschalk, 2016).

Private investigators exercise substantial legal powers, even if not the constitutional powers we associate with public police (Stenning, 2000). Private detectives are invited in by corporations on their terms and when they deem it appropriate. Police detectives have strict rules that they have to follow within their department. They are responsible for following the rules and guidelines set before them by their law enforcement unit. Private investigators have more freedom to explore and conduct inquiries into suspected crime and criminals.

The competence of financial crime specialists and fraud examiners is varying to an extent that it represents a threat to the rule of law, privacy and democracy. Some private investigators seem very professional, while others are not. Especially lawyers seem to make many mistakes in private investigations, since they are not trained detectives.

The institute of counter fraud specialists (ICFS) was founded as a result of the United Kingdom government's initiative to professionalize public sector fraud investigation. The institute exists to further the cause of fraud prevention and detection across all sectors of the UK and abroad. The membership of the ICFS is made up of accredited counter fraud specialists who have successfully completed the government's professionalism in security training (Button et al., 2007a, 2007b; Button and Gee, 2013). In the accredited counter fraud specialist handbook by Tunley et al. (2014) mandatory elements of the accreditation are covered.

While the government in the UK took the initiative and is involved in the requirements to and training of fraud specialists, it is all left to the private sector in the United States. Both ACFS (2014) and CFCS (2014) are voluntary programs by practitioners. In addition, the US training seems to be much more recipe oriented, where normative messages on what investigators

should do dominate their manuals. There seems to be a lack of academic link to research and evidence related to private investigation performance.

In the UK, the brief overview by Button et al. (2007a, 2007b) illustrate the innovative development of partnerships between counter fraud agencies and universities in developing life-long learning routes that lead to professional qualifications. Button et al. (2007b) argue that the CFS has become the most common type of fraud investigators in the UK.

Gill and Hart (1997) argue that to achieve professional status, investigators have to lift their competence to quite different levels. This is a particular challenge in countries such as Norway, where people are not required to undergo any form of training in order to set up as private investigators.

Schneider (2006) found that law enforcement officials are concerned with some aspects of the private policing sector: poor training, a lack of minimum standards or accreditation, and unethical and illegal tactics. Criticism is also based on the private investigation industry's for-profit nature, which has been blamed for placing results and efficiency over ethics, and the pursuit of the private interests of the client at the expense of the greater public good.

CONCLUSION

As illustrated in this article, the legitimacy of private policing in terms of fraud examinations is questionable. One approach to improve legitimacy is to regulate the investigation business. Similar to the private policing sector in general, the private forensic sector is only loosely regulated in countries like Canada (Schneider, 2006) or not regulated at all in many other nations. Regulation may cause "legitimacy dynamics" (Suchman, 1995: 602).

Regulation implies the presence of formal, direct mechanisms of control established with the stated intention of preventing or reducing injustice and incompetence in investigations. Most jurisdictions have some self-regulation by means of voluntary industry associations.

Associations such as ACFE (2014) and CFCS (2014) play this role in the United States by providing guidelines and certification for fraud examiners and financial crime specialists. In Norway, the association of lawyers has developed some guidelines for private internal investigations (Schiøtz et al., 2011). Button et al. (2007b) describe new directions in policing fraud in the United Kingdom in terms of counter fraud specialists. In Canada, guidelines resulted from consultations with security industry representatives (O'Connor et al., 2004). Burbidge (2005) argues that there is a governance deficit and lack of accountability in private policing in Canada. The standard applied is often public policing, which are subject to oversight both from a legislatively mandated governance authority with the mandate to give policy direction to the force, and from a public complaints authority, which has the mandate to investigate and prosecute cases of alleged police misconduct and abuse of authority. However, this standard can be an unfair basis for comparison, since private policing is subject to oversight in a number of other ways. For example, private investigators can be accountable to courts just like other potential criminals, and they are bound by contractual liability to clients in the private or public sector. In addition, there is self-regulation, as well as the pressures for good performance imposed by the competitive market for fraud examination services.

Williams (2005) finds that one problem with self-regulation is corporate executives' eagerness to avoid the embarrassment and negative publicity associated with white-collar crime cases. From time to time, crime cases will occur, in the form of corruption, embezzlement or other kinds of financial crime. The issue is how such incidents are handled. If disclosed, allegations of fraud could have a potentially devastating impact on the reputation and share value of a company. One of the primary reasons corporate executives fail to report cases of financial wrongdoing to the police is that they lose control over the matter and thus

sacrifice secrecy and discretion. In a book on corporate security, a number of authors discuss regulation and privatization (e.g., Meerts, 2014, White, 2014, Williams, 2014).

Regulatory policy provides the frameworks used by government agencies developing regulations rules that implement and give meaning to laws. Regulatory policy sets forth the guidelines for developing, promulgating, implementing and enforcing systems of public protections. For example, regulatory policy gives guidance on how to prioritize rulemaking agendas, defines constraints to agencies' rulemaking ability, and determines the breadth and depth of information necessary for an agency to proceed with a rulemaking. Regulatory policy guides agencies' rulemaking agendas. Time has come to regulate the private policing business. The self-regulatory model of corporate governance in the global business environment has failed.

REFERENCES

- ACFE (2014). *Report to the Nations on Occupational Fraud and Abuse, 2014 Global Fraud Study*, Association of Certified Fraud Examiners, Austin, Texas, USA.
- ACFE (2016). *CFE Code of Professional Standard*, Association of Certified Fraud Examiners, www.acfe.com/standards/
- Albrecht, C.C., Albrecht, W.S. and Dunn, J.G. (2001). Can Auditors Detect Fraud: A Review of the Research Evidence. *Journal of Forensic Accounting*, II:1-12.
- Bakken, J.B., Eriksen, M.R. and Hoemsnes, A. (2016). Ba om juridiske råd (Asked for legal advice), daily Norwegian business newspaper *Dagens Næringsliv*, Wednesday, August 17, page 10.
- Baxter, J., Dempsey, J., Megone, C. and Lee, J. (2012). *Practical solutions for organisations seeking to promote and encourage integrity*, University of Leeds, icaew.com/academic.
- Becker, T.E. (1998). Integrity in organizations: Beyond honesty and conscientiousness, *Academy of Management Review*, 23 (1), 154-161.
- Brooks, G., Button, M. and Frimpong, K. (2009). Policing fraud in the private sector: a survey of the FTSE 100 companies in the UK, *International Journal of Police Science and Management*, 11 (4), 493-504.
- Burbidge, S. (2005). The Governance Deficit: Reflections on the Future of Public and Private Policing in Canada, *Canadian Journal of Criminology and Criminal Justice*, January, 63-86.
- Button, M., Frimpong, K., Smith, G. and Johnston, L. (2007a). Professionalizing counter fraud specialists in the UK: Assessing progress and recommendations for reform, *Crime Prevention and Community Safety*, 9, 92-101.

- Button, M., Johnston, L., Frimong, K. and Smith, G. (2007b). New directions in policing fraud: The emergence of the counter fraud specialists in the United Kingdom, *International Journal of the Sociology of Law*, 35, 192-208.
- Button, M., Lewis, C. og Tapley, J. (2009). *A better deal for fraud victims: Research into victims' needs and experiences*, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118468/better-deal-for-fraud-victims.pdf.
- Button, M. and Gee, J. (2013). *Countering fraud for competitive advantage: The professional approach to reducing the last great hidden cost*, Wiley & Sons, UK: Chichester.
- CFCS (2014). *CFCS Certification Examination Study Manual*, Fourth Edition, Certified Financial Crime Specialist, Association of Certified Financial Crime Specialists, Rivergate Plaza, Miami, FL 33131.
- Douglas, H. (2004). The irreducible complexity of objectivity, *Synthese*, 138 (3), 453-473.
- Duggar, J.W. (2009). The role of integrity in individual and effective corporate leadership, *Journal of Academic & Business Ethics*, *Holy Family University*, www.aabri.com
- Gill, M. and Hart, J. (1997). Exploring investigative policing, *British Journal of Criminology*, 37 (4), 549-567.
- Gottschalk, P. (2015). Private investigations of white-collar crime suspicions: A qualitative study of the blame game hypothesis, *Journal of Investigative Psychology and Offender Profiling*, 12, 231-246.
- Gottschalk, P. (2016). Private policing of financial crime: Key issues in the investigation business in Norway, *European Journal of Policing Studies*, 3 (3), 292-314.
- Gottschalk, P. and Tcherni-Buzzeo, M. (2016). Reasons for Gaps in Crime Reporting: The Case of White-Collar Criminals Investigated by Private Fraud Examiners in Norway, *Deviant Behavior*, <http://dx.doi.org/10.1080/01639625.2016.1196993>.
- Killinger, B. (2010). *Integrity: Doing the right thing for the right reason*, Montreal, Canada: McGill-Queen's University Press.
- Leiter, B. (1993). Objectivity and problems of jurisprudence, *Texas Law Review*, 72, 186-209.
- Meerts, C. (2014). Empirical Case studies of Corporate Security in International Perspective, in: Walby, K. and Lippert, R.K. (editors), *Corporate Security in the 21st Century – Theory and Practice in International Perspective*, Palgrave Macmillan, UK: Hampshire, Houndmills, 97-115.
- Megill, A. (1994). Introduction: Four senses of objectivity, in: Megill, A. (editor), *Rethinking Objectivity*, Duke University Press, 1-21.
- Mutchler, J. (2003). Independence and objectivity: A framework for research opportunities in internal auditing, *Research Opportunities in Internal Auditing*, 231-268.
- Nagel, T. (1989). *The view from nowhere*, Oxford University Press.
- Nietzsche, F. (1997). On the uses and disadvantages of history of life, in: Breazeale, D. (editor): *Untimely Meditations*, Cambridge University Press.
- O'Connor, D., Lippert, R., Greenfield, K. and Boyle, P. (2004). After the "Quiet Revolution": The Self-Regulation of Ontario Contract Security Agencies, *Policing & Society*, 14 (2), 138-157.

- Osterburg, J.W- and Ward, R.H. (2014). *Criminal Investigation – A Method for Reconstructing the Past*, 7th edition, Anderson Publishing, MA: Waltham.
- Peacocke, C. (2009). Objectivity, *Mind*, 118 (471), 739-769.
- Porter, T.M. (1996). *Trust in numbers: The pursuit of objectivity in science and public life*, Princeton University Press.
- Schiøtz, C., Helsingeng, A. and Mo, P.H. (2011). *Retningslinjer for private granskinger (Guidelines for private investigations)*, Advokatforeningen (Attorney Association), Oslo. http://www.advokatforeningen.no/PageFiles/19999/Retningslinjer_for_private_granskinger.PDF.
- Schneider, S. (2006). Privatizing economic crime enforcement: Exploring the role of private sector investigative agencies in combating money laundering, *Policing & Society*, 16 (3), 285-312.
- Singleton, T.W., Singleton, A.J., Bologna, G.J. and Lindquist, R.J. (2006). *Fraud auditing and forensic accounting*, John Wiley & Sons.
- Sismondo, S. (2010). *An introduction to science and technology studies*, John Wiley & Sons.
- Stenning, P.C. (2000). Powers and Accountability of Private Police, *European Journal of Criminal Policy and Research*, 8, 325-352.
- Suchman, M. (1995). Managing Legitimacy: Strategic and Institutional Approaches, *Academy of Management Review*, 20, 571-610.
- Tunley, M., Whittaker, A., Gee, J. and Button, M. (2014). *The accredited counter fraud specialist handbook*, Wiley & Sons, UK: Chichester.
- Turhani, A. (2015). Management education for professional integrity: The case of economics faculty, *Journal of International Academic Research for Multidisciplinary*, 3 (3), 353-378.
- Vargas-Hernandez, J., Leon-Arias, A. and Valdez-Zepeda, A. (2013). Enhancing leadership integrity effectiveness strategy through the institutionalization of an organizational management integrity capacity system, *Contemporary Legal and Economic Issues*, 4, 293-332.
- White, A. (2014). Beyond the regulatory gaze? Corporate security, (in)visibility, and the modern state, in: Walby, K. and Lippert, R.K. (editors), *Corporate Security in the 21st Century – Theory and Practice in International Perspective*, Palgrave Macmillan, UK: Hampshire, 39-55.
- Williams, J.W. (2005). Governability matters: The private policing of economic crime and the challenge of democratic governance, *Policing & Society*, 15 (2), 187-211.
- Williams, J.W. (2014). The private eyes of corporate culture: The forensic accounting and corporate investigation industry and the production of corporate financial security, in: Walby, K. and Lippert, R.K. (editors), *Corporate Security in the 21st Century – Theory and Practice in International Perspective*, Palgrave Macmillan, UK: Hampshire, 56-77.
- Worden, R.E. and McLean, S.J. (2017). Research on Police Legitimacy: The State of the Art, *Policing: An International Journal of Police Strategies and Management*, this issue.
- Yukl, G.A. and Fleet, D.D. (1992). Theory and research on leadership in organizations, in: Dunnett, M.D. and Hough, L.M. (editors): *Handbook of Industrial and Organizational Psychology*, Palo Alto, CA: Consulting Psychologist Press, 147-197.

Zagrin, P. (2001). Francis Bacon's concept of objectivity and the idols of the mind, *British Journal of Historical Science*, 34 (4), 379-393.