

Justitiële verkenningen

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Private investigation

Summaries

Private investigation; a developing information market

P. Klerks and M. Scholtes

This article on private investigation agencies aims at shedding light on the structure of the private investigations market and the companies operating therein, on the nature and width of the activities, on the practice of oversight and regulation and in particular on the cooperation and exchange of information of private agencies with regular law enforcement agencies and the public prosecutor. The research discussed in this article consisted of a combination of desk research, expert meetings and 54 interviews. The interviews in particular produced a wealth of information. Detective agencies are not the only players in the field of private investigations. The market of private agencies involved in collecting information in relation to offences, risks, damages, threats of loss and other harms can be divided as follows: private detective agencies; information agencies; company detective services and forensic financial services. The research concentrated on the private detective agencies. In size these companies varied from single operators to medium-sized outfits with some sixty staff, with some companies being part of an international holding.

The market for private investigation as part of public and private crime control

F. van Dijk and J.J. de Waard

This article looks at public and private crime control from an economic, market oriented perspective. It provides quantitative data on the size of both sectors. Against this background, the article focuses on the role played by private investigation in crime control in the Netherlands and its prospects. Due to a declining willingness to run risks, shrinking of the public domain, outsourcing, trends in crime, and dissatisfaction with public crime control, criminal investigation is no longer the monopoly of the public sector. Increasingly, the police will be faced with activities of private investigators. Its advantage due to its legal powers is put under pressure. Trends in society lead to rapidly increasing business opportunities for private investigation. So far, researchers have hardly addressed the consequences of these trends for the role of private investigators in controlling crime. A sketch of the opportunities and threats show that developments are far from innocent, and may take a positive or negative turn. Opportunities arise to reduce crime against the business sector, and to improve the effectiveness and efficiency of crime control. At the same time risks stem from the complex relation between public and private investigation. Activities of the two sectors partly supplement each other, but are also partly substitutes, and a tension arises between co-operation and competition. Due to the limited transparency within the market for private investigation, special attention should be focussed on civil rights and rights of employees. Therefore, a search for a new equilibrium in public and private criminal investigation and new working procedures is of utmost importance.

Private investigation in Belgium; the detective law and the new criminological market

M. Cools

Belgium was the first European country to produce legislation in order to regulate the profession of private investigator. In this article the author goes into this legislation and discusses its positive sides and its shortcomings. According to the author one of these shortcomings lies in the definition of what private investigation really is. The law just sums up the professions and activities implicitly excluding some groups. The author also discusses the growing market of 'crime and punishment' in which a third generation of private investigators has come to the fore. This professional and highly educated generation specializes in security management in large companies. According to the author the new criminological market is perfectly capable of functioning as a complement to or as an alternative of the public security care. Indeed: according to him a well developed private police can well be considered to be an indication for the democratic level of any given society, although of course legislation by the government will always necessary.

Corporate espionage; infiltration and intelligence work in the private sector

A.B. Hoogenboom

The article contains a case of corporate espionage. During the eighties a private security firm was hired by a consortium of oil companies operating in Alaska to spy on individuals active in the environmental movement. For this reason a bogus law firm was created (frontstore) manned with former law enforcement personnel and private detectives with experience in undercover work. The operation has all the characteristics of an infiltration normally associated with public intelligence and security forces. The operation involved the use of video surveillance, phonetapping, bugging devices, interception of mail and garbology (searches through garbage). The case is used to draw attention to the subject of corporate espionage both in the United States and the Netherlands. A number of authors mention a gradual shift in espionage from the public to the private sector. Some cases and official reports validate seem these assumptions. However, by its very nature private espionage is still obscure.

Norms for private investigation; legislation or selfregulation?

B.W.M. van der Lugt

The occurrence of private security companies acting within the public sphere is a frequently discussed phenomenon. However, the actions of private investigation services do not seem to raise special concern. Various reasons exist for victims of fraud to rely on private financial investigations instead of pressing charges. The criminal defendant is highly protected by law. Lately, a stronger urge is felt to create more fundamental guarantees for those who are subjected to private forensic investigations. For instance, where forensic accountancy is concerned it has become a fundamental obligation to listen to the arguments of both parties. Increasingly, private forensic investigations precede criminal prosecution. Often, charges are pressed only after enough convincing evidence has surfaced during private investigations. The need to develop norms to protect the subject under private investigation increases. For instance, there are no rules with regard to the legitimacy of the evidence obtained during private investigations or the protection of the right to privacy. Business ethics are essential to private investigation agencies. Self-regulation is to be preferred to legislation. A just balance between protective rights and private forensic investigations.

Privatisation of investigation as a problem of regulation

L. Gunther Moor and C.D. van der Vijver

The role of private organisations in (criminal) investigations is getting more and more important, particularly in the area of fraud control. Management in business prefers to 'take care of their own problems' and usually do not want to report fraud to the police. And if they report a fraud case, the police are often incapable of dealing adequately with this problem, due to a lack of capacity and knowledge. As a result there is a shift from public to private justice. And that raises several questions about their functioning: the control of their behaviour from a legal point of view, e.g. the rights of the 'suspect', the (illegal) exchange of information, the operational relationship between private and public investigators, etcetera. Those questions have hardly been answered, very little is known about how private investigations operates. In the future it will be important to clarify the responsibilities of public authorities (police, public prosecutor, judge) and limit the freedom of the private investigators.