Private Investigations and Ethical Orientations: A Cause for Concern?

Citation:

Kapend, R., Button, M., & Stiernstedt, P. (2024). Private investigations and ethical orientations: a cause for concern?. *Journal of Financial Crime.* https://doi.org/10.1108/JFC-02-2024-0066

Abstract

Purpose

A significant number of criminal and deviant acts are investigated by non-police actors. These include private investigators who charge fees for their services, professional services firms such as firms of accountants who also charge fees, in-house investigators employed by private organisations and in-house investigators of public sector organisations who are not sworn police officers. Some of these investigators, such as private investigators, have been exposed in unethical activities such as illegal surveillance and blagging to name some. In this respect, this study aims to uncover ethical orientations of investigators using cluster analysis.

Study design

This study is based upon an online survey of private investigators *predominantly in the UK*, i.e. investigators beyond the public police. An innovate statistical inferential analysis was used to investigate the sample which resulted in the development of three ethical orientations of such investigators.

Findings

Based upon a survey response from 331 of these types of investigators this study illustrates the extent they engage in unethical activities, showing a very small minority of largely private investigators who engage in such activities.

Originality/value

A unique feature of this study is the use of an innovative statistical approach using an unsupervised machine learning model, namely TwoStep Cluster Analysis, to successfully group and classify respondents based on their ethical orientation. The model derived three types of ethical orientation: ethical, inbetweeners and risk takers.

Key words: private investigators, investigations, ethics, regulation.

Introduction

In 2023 allegations of private investigators illegally bugging phones, intercepting communications, and blagging (*using impersonation to secure sensitive information - see definition in specific sections later*) information received extensive media attention in the legal action brought by Prince Harry against the UK Associated Newspapers Group (Guardian, 2023).

Whether or not they are true, they are certainly comparable to numerous scandals that have arisen in the UK involving some private investigators' illegal gathering of information (Information Commissioner's Office in 2006; House of Commons Home Affairs Committee, 2012; Leveson, 2012; Panel, 2021). There have also been concerns over the quality of some private investigations. The largest miscarriage of justice to date in the UK, involving the wrongful prosecution of over 500 postmasters, was the result of both a private investigation and prosecution (BBC News 2022). Despite the significant problems documented with private investigation there has been relatively little academic or policy related attention to their unethical activities, with the small base of research largely exploring who they are and what they do (Button et al, 2007; Gill and Hart 1997a and b; Gottschalk, 2017, 2019 and 2020; King and Prenzler, 2003; Meerts 2020 and 2021; Prenzler, 2006; Stenström, 2018; Schneider, 2006).

This paper provides the first significant data of the extent of unethical activities that private investigators admit to, drawing upon a survey which secured 331 responses *predominantly from the UK*. It uses TwoStep Cluster Analysis to also provide a novel means of developing three models of the orientation of private investigators. The article begins by exploring the small literature on private investigators and some of the academic and media exposes of malpractice and unethical conduct. The article then sets out the methodology before providing some descriptive statistics from the survey which illustrate some malpractice among a small group of respondents. The article then utilises innovate statistical inferential analysis to investigate the sample which resulted in the development of three ethical orientations of such investigators.

Private Investigators

Scope and definition

Broadly there are four main groups of investigators that are involved in private investigation beyond the police. Private investigators who charge fees to clients for investigative services; the professional service practices based in the accountancy and legal sectors who also offer investigative services for fees; in-house investigators of private organisations such as those employed in banks and insurance companies; and finally in-house investigators of public organisations serving their internal investigative needs (Button, 2019). The latter is more controversial in inclusion because of their primary location in the public sector, which some might dispute as 'private'. However, an investigator employed by a local authority or government department in the UK to deal with fraud and corruption are ultimately serving the private interests of that authority. Senior managers will decide what they should investigate and what outcomes they can pursue with the findings. They are not like the police serving the general public. They are not police officers serving the public, rather employees of an organisation serving that body. None have the constabulary powers of a police officer and consequently don't make an oath to serve the King 'with fairness, integrity, diligence and impartiality'[1], they serve the organisation they work for. The authors argue that although they are less private than the other categories, they exhibit a degree of privateness that warrants inclusion (See Button, 2019, for discussion of privateness). And even if this is not accepted by some readers they provide a useful point of comparison.

[1] All police officers in England and Wales swear an oath on taking office.

These public investigators were also therefore within the scope of this research - although as will be shown later, many of the problems are more closely linked to the private sector.

Another area of contention to some readers might be the inclusion of forensic accountants employed by big accountancy firms. These accountants and the investigative staff that work with them generally focus purely on economic crime investigations. Many of the other investigators within the scope of this article offer investigative services on a much wider range of activities. However, although narrower in focus the forensic accountants are still providing investigative services for hire. Therefore, for these reasons the authors considered them within scope for this research.

Problems

There have been frequent problems exposed with private investigations in a wide range of contexts, which often shine a light on their ethical shortcomings. One of the longest areas of concern associated with investigators has been the involvement in industrial relations, particularly in the USA, where investigators have been used to gather information on trade union activists (Weiss, 1978). Research has also highlighted investigators' involvement in securing information on political protesters for large corporations, foreign governments and the security services (Bunyan, 1976; Button, 1998; Walby and Monaghan, 2011).

There have been some other fascinating historical exposes of the activities of private investigators. Gregory (1994), in his investigation to the British Airways 'dirty tricks' operation against Richard Branson, notes how 'Operation Covent Garden' (the name the project was given) involved private investigators stealing rubbish to sift through and illegal bugging of conversations. Murray (1993) offers a far deeper variety of exposes based upon private investigators' work for the security services and other controversial clients, such as the South African Apartheid led government, among other unsavoury clients. Some of the abuses noted included bugging of a Chief Constable's telephone, the meetings of anti-apartheid protestors, the homes of opponents in exile to the government of the Seychelles and even an example of the police illegally using a private investigator to bug premises of a drug gang – because it was feared that any formal police activity would be exposed by corrupt officers. In Vidal's (1997) exploration of the longest libel trial in history he also noted how McDonalds hired not one, but two firms of private investigators to infiltrate the campaign group protesting outside their restaurants, such was the penetration at some meetings, there were more private detectives than activists. These exposes - although damning - are all dated. More specific and more recent examples will now be considered using some key themes.

i) Abuse of personal information

One of the fundamental roles of private investigators is to secure information on individuals that is not easily in the public domain. For example, the collection of information on political activists and trade unionists for the use of corporates for recruitment purposes has been well documented in the past (Bunyan, 1976; Hollingsworth and Norton-Taylor, 1988). Data-protection regulations have made the collection of such information more legally challenging, but the enforcement of such legislation is weak. Nevertheless, there have been some insights into private investigators' involvement in the illegal gathering of information on individuals. In 2007, Ian Kerr who ran the Consulting Association, was convicted of running an illegal 'blacklist' database of Trade Union activists for members of the

construction industry. The court action, which was regarded as a test case, came after a raid by the Information Commissioner's Office on Kerr's own offices in Droitwich, Worcestershire in March 2009. Investigators unearthed details held on over 3,000 workers: details that were being used by 40 construction companies to vet employment on their building sites. Kerr was subsequently fined £5,000 plus £1,187 costs (The Guardian, 2009). In another case in France, the head of IKEA was exposed as using multiple means - including private investigators - to secure confidential information on employees and prospective employees, particularly related to trade union activities (Yahoo Finance, 2023). The lengths some private investigators will go to was highlighted by the Bureau of Investigative Journalism which found one firm had set up fake job interviews to enable them to secure information from key individuals (Calvert and Arbuthnott, 2023). Such impersonation is commonly used and known as blagging, which will now be explored in more depth.

ii) Blagging

'Blagging' is where investigators impersonate a person to seek to secure personal information such as banking information, tax records, medical records etc (Information Commissioner's Office, 2006). The British quality newspaper the Independent has sought to expose this trade and argued:

> British law enforcement and other government agencies have known for more than 12 years that sophisticated "blagging" tactics have been deployed by investigators commissioned by insurance firms, finance companies and solicitors. They used the techniques to illicitly obtain private information by raiding official sources including the National Health Service, Customs & Excise, Social Security, Royal Mail, high street banks, utility companies, credit card firms and councils (The Independent, 2013).

A report by the Information Commissioner's Office in 2006 exposed this widely used practice with one couple of investigators who were convicted, the report noted:

> The couple used 'blagging' techniques to obtain and attempt to obtain personal information about individuals from a number of organisations including Her Majesty's Revenue and Customs, British Telecommunications plc and various banks. On a number of occasions, the 'blaggers' purported to be employees of these organisations and deceived the true members of staff into disclosing personal information about individuals. The evidence gathered by the ICO showed that the couple had obtained account details, income tax information and telephone numbers relating to a number of different 'victims' (2006, p 8).

In 2005, Steve Whittamore was one of four men given a two-year conditional discharge at Blackfriars Crown Court in London after being convicted of breaching the Data Protection Act by selling confidential information to newspapers, such as social security records, criminal records, vehicle registration numbers to name some (The Guardian, 2012).

iii) Illegal surveillance and hacking

Surveillance by investigative operatives is strictly regulated by the state in most jurisdictions. Tapping telephones, placing bugs and cameras in private locations and even following people are usually regulated and in some areas, these are activities prohibited for non-state

operatives to undertake. In many countries private investigators require a licence too, which often means they can do certain types of surveillance, but only if regulated (Button, 1998).

There have been many examples of investigators using hacking. In the UK, the phone hacking scandal involving tabloid newspapers, illustrated the industrial levels of hacking of mobile phone voice mail by private investigators such as Glen Mulcaire (Leveson, 2012). In 2007 in the UK, six men were convicted, including two former police officers, for running a private investigation firm – Active Investigation Services. The firm offered a range of illegal services, some of which included hacking for the purposes of industrial espionage (House of Commons Home Affairs Committee, 2012, Ev 82). A report from the Bureau of Investigative Journalism (2023) suggested courts were being 'swamped' with hacked evidence and illustrated a leaked database of how City of London based private investigators were outsourcing hacking to an Indian network of skilled personnel.

Hacking is not the only form of surveillance which has been abused. The Sunday Times exposed one case where one team of investigators had been recruited to spy on a Kazakh human rights lawyer based in Brussels. The investigators had:

> spied through the lawyers' windows, monitored her family, attached an electronic tracker to her car, hid cameras in infant seats in rental cars outside her property - and even plotted to rifle through her rubbish (Calvert and Arbuthnott, 2023, p 11).

The team had been conducting the investigative work in Brussels where a licence is required, and the police found over 180,000 photographs.

iv) Miscarriages of justice

There have also been examples of significant incompetence by private investigators that have caused serious harm to individuals. Perhaps one of the most high-profile examples of incompetent investigation is the UK Post Office investigation and prosecution of 736 postmasters for fraud. The Post Office, formerly a British state enterprise which was privatised, has its own prosecution and investigation capacity that regularly investigates crimes by staff and pursues its own private prosecution. In this case, most of the investigations were built upon a failing IT system called Horizon. After a lengthy campaign and legal action, the Post Office reached a settlement with 555 claimants paying substantial damages and to date 72 have had their convictions quashed, with more expected (BBC News, 2022). The case which was ultimately investigated by the Post Office's own internal investigators has proved to be the largest miscarriage of justice in the UK to date.

v) Other criminal unethical activities

There is a wide range of other areas where there have been media exposes of unethical activities by private investigators. For example, the Guardian exposed one private investigator who ran a network of police officers, who he bribed for information, for the purposes of stories in the News of the World (The Guardian, 2011). The Panel (2021) inquiry into the investigation of the murder of private investigator Daniel Morgan illustrated numerous corrupt and unethical relationships between serving police officers and private investigators.

The UK civil justice system has become a centre of dispute resolution because of its quality of justice, in what is reported to be a £15 billion industry (Calvert and Arbuthnott, 2023, p

1). This has resulted in many states and corporations turning to this sector to secure the necessary information to win disputes. Some authoritarian regimes, oligarchs and even hostile states have also employed private investigators to simply find people or secure information on opponents. China and Iran have been implicated in such activities (New York Times, 2022). Sometimes the investigators do not know the client is an authoritarian regime and are tricked, but there is also plenty of evidence historically of willing accomplices (Murray, 1993). Powerful Russian oligarchs have been implicated several times using private investigators in unethical contexts. In one case an Israeli private investigator was implicated in using a network of skilled Indian hackers to secure information for one such oligarch (Reuters, 2022).

VI) Regulation of private investigators

In the UK unlike many other countries like the USA, Australia, Belgium among others, private investigators are not subject to statutory regulation (Button, 1998; Prenzler, 2006). Instead in the UK there is a self-regulatory system where some private investigators voluntarily join the professional body, the Association of British Investigators. These investigators are subject to the code of conduct and standards of this association. However, this association tends to have as members only private investigators not in-house private investigators, in-house public investigators or forensic accountants. Further, it only covers a minority of the private investigators. Its reach and impact is therefore limited. No surprisingly many investigators have called for statutory regulation and in 2001, the Private Security Industry Act included provisions for the licensing of private investigators. This to date has not been implemented and even if it was would still exclude many in-house investigators (Button and Stiernstedt, 2021; Lonardo et al., 2009; Scheerlinck et al., 2020).

Methods

This article is based upon an online survey of private investigators, i.e. investigators beyond the public police. Unlike some occupations there is no easily accessible list of investigators to send the questionnaire to. However, private investigators offering their services for hire generally publicise themselves, including an email contact. The researchers used the following lists: Association of British Investigators (https://www.theabi.org.uk/); UK Professional Investigators Network (https://www.ukpin.com/index.html); and a general Google search. From these sources the researchers built a database of 460 firms in the UK offering investigation services with a contact email to which a questionnaire was sent. UKPIN were also supportive of the research and sent an email encouraging members to respond. To secure forensic accountants the researchers targeted the top 20 accountancy firms which listed forensics as an area of expertise and also used the contacts on the Network of Independent Forensic Accountants (https://nifa.co.uk/), although only 33 were listed (Button et al, 2023). The top 20 firms would generally only have one contact listed, so reaching their staff beyond the named contact was purely at their good will. To secure in-house investigators the researchers used their professional networks and secured distribution or publicity of the survey link among the following: University of Portsmouth database of fraud contacts; Midlands Fraud Forum; Cabinet Office Knowledge Hub; ACFE (UK); Security Institute; and the authors' Linkedin networks.

Some of these networks also cover private investigators and forensic accountants. The distribution encouraged participants to share. Securing in-house private responses was a much more challenging task because of the lack of a relevant association and lack of co-

ordinating body. Public investigators in central government, particularly fraud related, were much easier to target due to the Cabinet Office infra-structure professionalising and co-ordinating them. Overall, the researchers are confident that the survey reached a good proportion of private investigators listed in the UK, public in-house investigators, but are less confident of the private in-house investigators and forensic accountants' staff (Button et al, 2023). A total of 339 responses were received, from which after scrutiny 8 were excluded. It is important to note that the nature of distribution meant some responses were from investigators based beyond the UK, with 87% of respondents primarily based in the UK. However, some of the remaining investigators often worked in the UK, even though based in another country and for this reason the researchers have assessed the total sample (Button et al, 2023). The findings should be considered as exploratory and a basis for further quantitative and qualitative research. The current study is also based upon some innovative statistical approaches, which it is important to note.

Statistical approach

The current article set out to further an understanding of ethical orientations associated with investigators' activities. The goal of this section is to present valuable application of the TwoStep Cluster Analysis procedure which is an exploratory tool designed to reveal natural groupings (or clusters) within a dataset that would otherwise not be apparent (IBM SPSS Statistics, 2023). The procedure is deemed appropriate for many reasons including the fact that it helps avoid social desirability bias or situations where respondents tend to give responses that are more socially acceptable than they truly are to project a favourable image and avoid negative attitudes (Callegaro, 2008).

i) Cluster analysis

More generally, cluster analysis is a statistical approach for processing data by organising cases into an optimum number of meaningful groups or clusters based on how closely associated they are (Everitt et al., 2011). Typical research questions cluster analysis answers include the following:

- *Medicine* – what are the diagnostic clusters? Here the researcher would devise a diagnostic questionnaire that would include possible symptoms i.e. anxiety, depression etc. the cluster analysis can then identify groups of patients that have similar symptoms.

- *Education* – what student groups need special attention? Research may measure psychological aptitude, and achievement characteristics. A cluster analysis may then help identify what homogenous groups exist among students i.e. high achievers in all subjects, or students who excel in certain subjects but fail in others.

- *Credit card fraud* – what card transactions are fraudulent? Cluster analysis can be used to detect unseen or hidden/unlabelled types of frauds by characterising the data distribution of transactions (Carcillo et al., 2021).

In the current article, TwoStep Cluster Analysis procedure has been performed using the IBM SPSS (Version 20) (IBM SPSS Statistics, 2022). Unlike its previous versions (K-means and Hierarchical Cluster Analysis), the algorithm employed by TwoStep Cluster Analysis has several desirable features including:

- The ability to convergently process both categorical (i.e. variables that contain a finite number of categories or distinct groups, e.g. binary yes/no, or Likert scale) and continuous (i.e. variables that in principle have an infinite number of values between any two values) variables. Here, by assuming variables are independent, a joint-multinomial distribution can be placed on categorical and continuous variables.
- An automatic selection of an optimal number of clusters. Here, the procedure can automatically determine the optimal number of clusters by comparing the values of a model-choice criterion across different clustering solutions.
- The scalability – by constructing a cluster features tree that summarises the records, the TwoStep algorithm allows the analysis of large datasets.

TwoStep procedure is used in this article to effectively segment and group cases based on investigators' ethical orientation. Ethical orientation is determined based on similarities and dissimilarities of investigators' activities deemed as ethical, risky, or somewhere in-between the two.

Findings

Key descriptive statistics

The first set of findings published from this survey explored their background, roles undertaken, tools used and outcomes of their work (Button et al, 2023). The survey asked a further series of questions, including the investigators' own opinion and practice around issues such as abuse of personal information, blagging, illegal surveillance and hacking, incompetent investigations, and other criminal unethical activities. This further data has not yet been published and this information was quantified and coded to allow further statistical analysis.

Patterns and trends observed around specific activities, as shown in (Button et al 2023), were mainly descriptive and speculative, therefore suggesting/needing the formulation of informed working hypotheses that needed to be tested using appropriate statistical tests. The current article set out to take a deductive approach by formulating these hypotheses and testing them using appropriate statistical tests. However, before delving into the inferential statistics that will enable testing these hypotheses, and as a reminder of the observed trends and patterns, the next section provides basic descriptive statistics to highlight the distribution of investigators by selected variables of interest, which also highlighted ethical concerns, prompting the authors to conduct the deeper cluster analysis which will shortly be illustrated.

[Table I. Number of respondents engaging in unethical activities], to be added here.

Table 1 above shows that most participants reported to never participated in the activities described in the question, which is normal because most investigators would be expected to show ethical behaviour in their practices. However, some participants reported to have occasionally and even frequently participated in practices that can be deemed as unethical such as illegal surveillance, planting evidence and impersonating a person.

In the previous article, based on the same survey, (Button et al, 2023) it was noted that as many as 2,762 persons were convicted in the courts for a criminal offence (mean of 11.51 times 240 who responded to this question) and a total of 4,325 persons had lost their jobs, as a result of investigations in which participants in this survey were involved. The work of many of these investigators can lead to serious consequences for individuals. Given the small minority openly admitting unethical concerns, this warranted further, more detailed analysis to explore hidden ethical orientations of the sample.

To validate potential ethical orientations, the current article deemed it necessary to conduct further analyses with the aim to ascertain, through a series of hypotheses, whether there are statistically significant effects between selected variables of interest, including participants' socio-demographic characteristics, professional conduct and overall satisfaction with current arrangement and regulation/licensing of private investigators where they live. Before testing hypotheses, the next section explains the clustering procedure undertaken in the current article to segment investigators based on their ethical orientation.

Application of the TwoStep cluster analysis and assignment of the observations

Observations are assigned into the nearest cluster as there is no transformation of the outliers. If there is a transformation, then the log-likelihood distance is used. Table II below presents values of the Bayesian criterion and value of BIC (Bayesian Information Criterion) change for solutions with different number of clusters. In this procedure IBM SPSS automatically selected 3 clusters as the best clustering solution because it has the highest value for the ratio of distance measures and the lowest value of the Schwarz's Bayesian Criterion.

[Table II. Automatic clustering process], to be added here.

By selecting a 3 clusters solution, the SPSS algorithm finds that the gain in information from having more than the automatically selected 3 clusters specified by BIC alone is not worth the increased complexity (diminution of parsimony) of the model as shown in Fig. 1 below.

[Fig. 1. Number of clusters automatically selected by IBM SPSS using Ratio of Bayesian Information Criterion (BIC)], to be added here.

In Figure 1 above, the area shaded in blue shows the best solution is the one with 3 clusters, because this solution gives the highest value for the ratio of distance measures and the

lowest value of Shwartz's Bayesian Criterion (Garson, 2009). After ten iterations, the final solution successfully clustered 190 cases out of the initial 332 or 57.20% into three separate clusters. 142 or 42.80% of the initial cases were inconclusive therefore excluded from the clustering process. Cases have been excluded mainly because the TwoStep Cluster algorithm does not handle missing values. Records with blank entries for any of the input fields were ignored when building the final model (IBM SPSS Statistics, 2023).

An optimal number of 3 clusters has been automatically determined based on the variables of interest and the BIC. Applying TwoStep Cluster algorithm to this study's survey, variables of interest (variables which capture investigators' reported activities on a scale of compliance with what is deemed ethical practices) were gradually added to the model allowing SPSS to select the optimal number of clusters consistent with key traits of ethical orientations.

[Table III. Cluster distribution based on automatic model selection], to be added here.

Table 3 above shows that out of 332 cases contained in the survey and processed through the TwoStep cluster analysis, only 190 cases were successfully clustered, and the rest were deemed as inconclusive and hence not included in further analyses.

Model validation

To check the independence and distributional assumptions, the level of cohesion or internal consistency amongst clusters compared to other clusters was estimated. 18 variables have been gradually entered in the TwoStep Cluster procedure and 3 clusters have been derived as a result. The model is deemed fair with the average silhouette of *0.3* as shown in Fig. 2 below.

[Figure II. Silhouette measure of cohesion and separation for the selected model], to be added here.

The level of cohesion is measured on a scale going from [-1 to 1] where -1 indicates cases are poorly clustered and 1 that cases are well clustered. In social sciences and according to SPSS any silhouette measure falling between 0.2 and 1 (the yellow and green areas from Fig. 2 Cluster Quality) is considered fair or Good (Zou, H. B. and Gao, J. T. 2014).

Key traits of ethical orientations

This clustering process culminated in the classification of three key traits of ethical orientations including: [1] ethical; [2] in-betweeners and [3] risk-taker as set out below in Table IV.

[Table IV. Key traits of ethical orientation], to be added here.

Cluster 1 groups 90 cases or 47.37% of respondents who have in their majority reported to have engaged in activities deemed as more consistent or compliant with ethical practices. Such activities include to have:

- never terminated an investigation before conclusion,
- never conducted unlawful surveillance,
- never hacked a computer, or related device or account,
- never used forged credentials,
- never impersonated a person where it is unlawful to do so,
- never intimidated a person, never trespassed,
- never committed theft,
- never planted evidence,
- never concealed crime or destroyed evidence and
- never engaged in other unlawful activities.

Based on their reported activities, cases included in cluster 1 has been defined or classified as **ethical**.

Cluster 3 groups 28 cases or 14.74% of respondents who have in their majority reported to have engaged in activities deemed as less consistent or compliant with ethical practices. Such activities include to have frequently or occasionally engaged in the activities listed in the previous cluster. Based on their reported activities, cases included in **cluster 3** has been defined or classified as **risk takers**.

Cluster 2 groups 72 cases or 34.89% of respondents who have in their majority reported to have engaged in activities deemed as being both ethical and risk taking. Such activities include to have both rarely and occasionally conducted the above-mentioned activities. Based on the reported activities, cases grouped in cluster 2 has been defined or classified as **in-betweeners**.

Similarities identified in the derived clusters and the ensuing classification of types of investigators are not only consistent with the investigators' reported activities but also the Institute of Professional Investigators Code of Ethics, (2023). Further inferential tests conducted to ascertain any association or difference in means between the derived clusters and variables of interest have yielded statistically significant results.

Discussion

This article used a TwoStep Cluster Analysis to effectively segment, and group cases based on investigators' ethical orientation. Cluster analysis is a statistical approach for processing data by organising cases into an optimum number of meaningful groups or cluster based on how closely associated they are. Here, ethical orientation is determined based on similarities and dissimilarities of investigators' activities deemed as ethical, risky, or somewhere in-between the two.

The findings of this study suggest that unethical activities are prevalent within the private investigation industry in the UK, with a very small minority of respondents reporting engaging in unethical behaviour at some point in their careers. Commonly reported

unethical activities include using deceitful tactics, such as lying or misrepresenting oneself to obtain information, and violating privacy rights by using illegal surveillance methods or accessing personal information without consent. The data also finds the risk takers tend to be older at 50+, working as private investigators who charge fees for services or in-house private investigators. In-house public investigators and those investigators employed by accountants and lawyers were more likely to ethical. Commercial pressures and less focus on criminal investigations might explain the public private differences, but those employed for accountants and lawyers also have commercial pressures. This illustrates the need for further research on these different types of investigators.

These findings are concerning, as private investigators play a crucial role in the justice system and are often relied upon to conduct investigations that the police are unable or unwilling to pursue. The prevalence of unethical behaviour within the industry, particularly considering that there is a small but significant group of "risk-takers", raises questions about the legitimacy of evidence gathered by private investigators and the potential for miscarriages of justice.

There may be a cultural norm within the industry that tolerates and even encourages unethical behaviour. This highlights the importance of addressing the ethical climate within the industry, and the need for firms to establish clear ethical standards and provide training and support to their employees. This could address some of these underlying issues and may be an effective way to reduce the prevalence of unethical behaviour within the industry.

The results highlight the need for increased regulation and oversight of the private investigation industry. Many of the respondents indicated that they believe the industry should be regulated, and there is a clear demand for standards of conduct and professional qualifications to be established. However, opinions were divided as to the nature of regulation and whether a regulatory body should be government-led or industry-led. These are important questions that require further consideration and debate.

It is important to note that this study has limitations. The sample may not be fully representative of the wider industry and the use of an online survey may have limited the depth and richness of the data collected. Additionally, the study relied on self-reported data, which may be subject to social desirability bias and may not accurately reflect the true prevalence of unethical behaviour within the industry. Indeed, it would be reasonable to assume many unethical investigators would have either avoided the survey altogether or skipped or falsely answered the questions where they reveal their true behaviours. *Perhaps this study illustrates the need for more qualitative research that might be more likely to secure a deeper understanding of investigators ethical approach to investigation.*

Conclusion

This paper has provided the first data on the unethical activities of private investigators showing a small minority who regularly engage in activities such as unlawful surveillance and blagging. This study has innovatively applied TwoStep Cluster Analysis to the survey data gathered and produced three models of investigator ethical orientation which have been called: ethical, inbetweeners and risk takers (IBM, 2023). There are limitations to this study but the findings highlight the need for more research on private investigators to try and gain

a deeper understanding of the use and extent of illegal and unethical activities. The problems highlighted also illustrate the need for closer attention to the need for more effective regulation of this sector.

References

Agresti, A. (2018). An introduction to categorical data analysis. John Wiley & Sons.

Banfield, J. D., & Raftery, A. E (1993). Model-Based Gaussian and Non-Gaussian Clustering. Biometrics, 49(3), 803–821. https://doi.org/10.2307/2532201

BBC News (2022) Post Office scandal: What the Horizon saga is all about. https://www.bbc.co.uk/news/business-56718036

Bunyan, T. (1976). Political Police in Britain: History and Practice. St. Martin's Press.

Bureau of Investigative Journalism (2023) Hacked evidence and stolen data swamp English courts. https://www.thebureauinvestigates.com/stories/2023-01-15/hacked-evidence-and-stolen-data-swamp-english-courts

Button, M., Johnston, L., Frimpong, K., & Smith, G. (2007). New directions in policing fraud: The emergence of the counter fraud specialist in the United Kingdom. *International journal of the sociology of law*, 35(4), 192-208.

Button, M., Kapend, R., & Stiernstedt, P. (2023). Investigative private policing beyond the police: an exploratory study. *Policing and Society*, 33(2), 150-169.

Button, M. (1998). Beyond the Public Gaze—the Exclusion of Private Investigators from the British Debate over Regulating Private Security. International Journal of the Sociology of Law, 26(1), 1-16.

Button, M. (2019). *Private Policing*. Routledge.

Button, M., & Stiernstedt, P. (2021). Comparing private security regulation in the European Union. In The Rise of Comparative Policing (pp. 35-51). Routledge.

Callegaro, M. (2008). Social desirability. In P. J. Lavrakas (Ed.), Encyclopedia of survey research methods (pp. 826-826). Sage Publications, Inc., https://dx.doi.org/10.4135/9781412963947.n537

Calvert, J and Arbuthnott, G (2023) Revealed: Elite Former British Soldiers Hired to Spy for the Super Rich. *The Sunday Times*, March 12, p1, 10-11.

Carcillo, F., Le Borgne, Y. A., Caelen, O., Kessaci, Y., Oblé, F., & Bontempi, G. (2021). Combining unsupervised and supervised learning in credit card fraud detection. *Information sciences*, 557, 317-331.

Chiu, T., Fang, D., Chen, J., Wang, Y., & Jeris, C. (2001, August). A robust and scalable clustering algorithm for mixed type attributes in large database environment. In Proceedings of the seventh ACM SIGKDD international conference on knowledge discovery and data mining (pp. 263-268). https://doi.org/10.1145/502512.502549

Everitt, B. S., Landau, S., Leese, M., & Stahl, D. (2011). *Cluster analysis: Wiley series in probability and statistics*. Southern Gate, Chichester, West SussexUnited Kingdom: John Wiley & Sons.

Field, A. (2013). *Discovering Statistics Using IBM SPSS Statistics 4th Edition.* London: SAGE Publications Ltd.

Field, A. (2016). *An adventure in statistics*: The reality enigma. Sage.

Garson, D. 2009: *Cluster analysis from Statnotes: Topics in Multivariate analysis* retrieved from http://faculty.chass.ncsu.edu/garson/pa765/statnote.htm.

Gill, M., and Hart, J. (1997a). Exploring Investigative Policing: A Study of Private Detectives in Britain. The British Journal of Criminology, 37(4), 549-567.

Gill, M., and Hart, J. (1997b). Policing as a Business: The Organisation and Structure of Private Investigation. Policing and Society: An International Journal, 7(2), 117-141.

Gottschalk, P. (2020). Private policing of white-collar crime: case studies of internal investigations by fraud examiners. Police Practice and Research, 21(6), 717-738.

Gottschalk, P. (2019). The Privatization of Fraud Investigation: Internal Investigations by Fraud Examiners. Routledge.

Gottschalk, P. (2017). Investigating White-Collar Crime. Springer.

Gregory, M. (1994) Dirty Tricks. Little Brown and Co.

The Guardian (2009) Warning for firms that set up trade union blacklist. Retrieved from https://www.theguardian.com/politics/2009/jul/16/companies-warning-trade-union-blacklist

The Guardian (2011) Jonathan Rees: private investigator who ran empire of tabloid corruption. https://www.theguardian.com/media/2011/mar/11/jonathan-rees-private-investigator-tabloid

The Guardian (2012) Steve Whittamore's lucrative network of private information. Retrieved from https://www.theguardian.com/media/2012/mar/28/steve-whittamore-network-private-information

The Guardian (2023) Witness in Prince Harry's case against Daily Mail owner unreliable, say lawyer. https://www.theguardian.com/uk-news/2023/mar/29/witness-in-prince-harrys-case-against-daily-mail-owner-unreliable-say-lawyers

Hollingsworth, M., and Norton-Taylor, R (1988). Blacklist: The inside Story of Political Vetting. London: The Hogarth Press

House of Commons Home Affairs Committee. (2012). *Private investigators*. Retrieved from https://publications.parliament.uk/pa/cm201213/cmselect/cmhaff/100/10002.htm

IBM (2023) What is unsupervised learning? https://www.ibm.com/topics/unsupervised-learning

IBM SPSS Statistics (2023). IBM SPSS Statistics. https://www.ibm.com/products/spss-statistics

Independent (2013) Exclusive: New blue-chip dirty tricks scandal revealed after 12 years of silence Retrieved from http://www.independent.co.uk/news/uk/crime/exclusive-new-bluechip-dirty-tricks-scandal-revealed-after-12-years-of-silence-8721325.html

Independent Office for Police Conduct (IOPC) (2018) Hillsborough investigation. https://www.policeconduct.gov.uk/investigations/hillsborough-investigation

Information Commissioners Office (2006) What Price Privacy? Retrieved from http://www.ico.org.uk/for_the_public/topic_specific_guides/~/media/documents/library/Corporate/Research_and_reports/WHAT_PRICE_PRIVACY.ashx

Institute of Professional Investigators (2023) Joint Code of Ethics and Professional Conduct. https://ipi.org.uk/code-of-ethics/

King, M., & Prenzler, T. (2003). Private inquiry agents: Ethical challenges and accountability. *Security Journal*, 16, 7-17.

Lakens, D. (2013). Calculating and reporting effect sizes to facilitate cumulative science: a practical primer for t-tests and ANOVAs. *frontiers in Psychology*, (4) 1-12.

Leveson (2012). An inquiry into the culture, practices and ethics of the press: report. Volumes 1 to 4. London: Stationery Office.

Lonardo, T., White, D., & Rea, A. (2009). To license or not to license revisited: An examination of state statutes regarding private investigators and digital examiners. *Journal of Digital Forensics, Security and Law*, *4*(3), 3.

Meerts, C. (2020). Corporate investigations: Beyond notions of public-private relations, *Journal of Contemporary Criminal Justice*, 36 (1), 86-100.

Meerts, C. (2021). Struggles in cooperation: Public-private relations in the investigation of internal financial crime in the Netherlands, in: Lord, N., Inzelt, E., Huisman, W. and Faria, R. (editors), *European White-Collar Crime: Exploring the Nature of European Realities*, Bristol University Press, UK: Bristol.

Murray, G. (1993) Enemies of the State. Simon and Schuster.

New York Times (2022) Iran and China Use Private Detectives to Spy on Dissidents in America. https://www.nytimes.com/2022/11/13/nyregion/china-iran-private-detectives.html

Panel (2021) The Report of the Daniel Morgan Independent Panel. https://webarchive.nationalarchives.gov.uk/ukgwa/20220331103928/https:/www.danielmorganpanel.independent.gov.uk//wp-content/uploads/2021/06/CCS0220047602-001_Daniel_Morgan_Inquiry_Web_Accessible.pdf

Prenzler, T. (2006) Private Investigators. In, M. Gill (Ed) The Handbook of Security. Basingstoke: Palgrave.

Reuters (2022) Israeli private detective used Indian hackers in job for Russian oligarchs, court filing says. https://www.reuters.com/world/israeli-private-detective-used-indian-hackers-job-russian-oligarchs-court-filing-2022-05-27/

Scheerlinck, G., Buts, C., Reniers, G., & Cools, M. (2020). A private security regulation index: Ranking EU member states from 1931 until 2018. *Security Journal*, *33*, 266-292.

Schneider, S. (2006). Privatizing economic crime enforcement: Exploring the role of private sector investigative agencies in combating money laundering, *Policing and Society*, 16 (3), 285-312.

Stenström, A. (2018). The private policing of insurance claims: Power, profit and private justice, *British Journal of Criminology*, 58 (2), 478-496.

SOCA (2008). Private Investigators: The Rogue Element of the Private Investigation Industry and Others Unlawfully Trading in Personal Data. London: SOCA.

South, N. (1988) Policing for Profit. Sage.

Vidal, J. (1997) McLibel. Macmillan.

Walby, K., and Monaghan, J. (2011). Private Eyes and Public Order: Policing and Surveillance in the Suppression of Animal Rights Activists in Canada. Social Movement Studies, 10(1), 21-37.

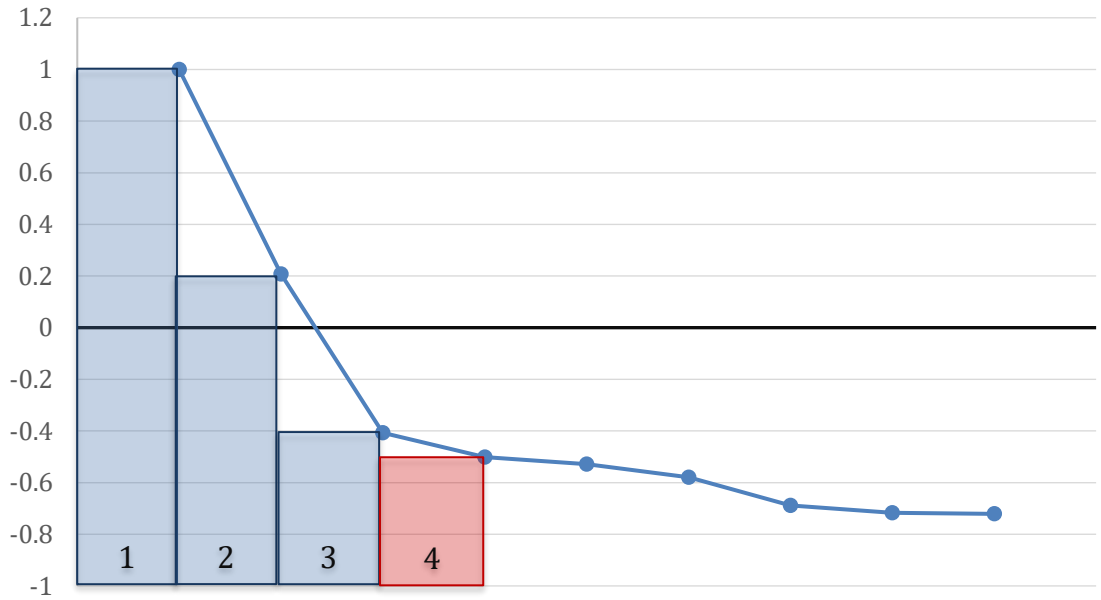
Weiss, R. (1978) The Emergence and Transformation of Private Detective Industrial Policing in the United States, 1850-1940. Crime and Social Justice, 9(1), 35-48.

Yahoo Finance (2023) Court reduces spying sentence for Ikea France ex-boss. https://uk.finance.yahoo.com/news/court-reduces-spying-sentence-ikea-152516119.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAC3HyxtIwqiiRQuRo1YfaOsUh9CS6Mms5Cne5KPF6MHc3nAP-SdMsx7-acQWjiwAsGd3HtHb5BPQi8BSW0dXhJpHbbPYMQSFnngRTxO2Zc2Fmg3weogodyn15KUPSaxdNubGuEK8OUXSQ-_SJm-YYmkUFtPyx5qCenBty2wnd3zc

Zhou, H. B., & Gao, J. T. (2014). Automatic method for determining cluster number based on silhouette coefficient. In *Advanced materials research* (Vol. 951, pp. 227-230). Trans Tech Publications Ltd.

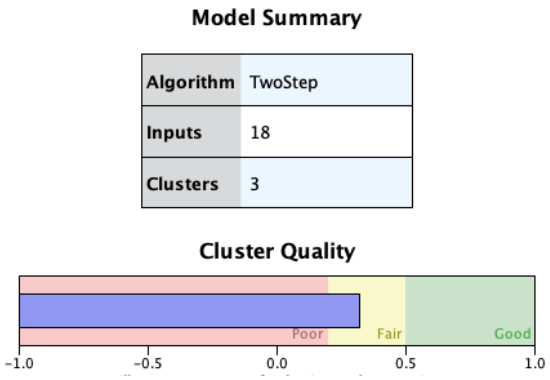
Figures created by authors

Fig. I Number of clusters automatically selected by IBM SPSS using Ratio of Bayesian Information Criterion (BIC)



Source: Figure created by authors

Fig. II Silhouette measure of cohesions and separation for the selected model



Source: Figure created by authors

Table 1. Number of respondents engaging in unethical activities.

Activity	Frequently	Occasionally	Rarely	Never
Terminate an investigation before conclusion where there was clear evidence of criminal misconduct	6	46	54	219
Conduct unlawful surveillance	3	22	33	266
Hack a computer related device or account	8	13	22	282
Use forged credentials	3	8	15	298
Impersonating a person where it is unlawful to do so	3	4	10	308
Intimidate a person	2	2	13	307
Trespass	2	8	20	295
Commit theft	1	2	7	315
Plant "evidence"	0	2	6	316
Conceal crime/destroying evidence	2	2	8	312
Other unlawful activities, please specify	2	4	7	281

Source: Table created by authors

Table II. Automatic clustering process

Number of Clusters	Schwarz's Bayesian Criterion (BIC)	BIC Change (a)	Ratio of BIC Changes (b)	Ratio of Distance Measures (c)
1	3525.672			
2	3305.689	-219.983	1	1.618
3	**3259.979**	-45.71	0.208	**1.921**
4	3349.404	89.425	-0.407	1.166
5	3459.709	110.305	-0.501	1.051
6	3576.078	116.369	-0.529	1.101
7	3703.442	127.364	-0.579	1.284
8	3854.861	151.419	-0.688	1.079
9	4012.490	157.629	-0.717	1.013
10	4171.117	158.627	-0.721	1.084

Source: Table created by authors

(a) changes from the previous number of clusters in the table.

(b) ratios of changes relative to the change for the two-cluster solution.

(c) ratios of distance measures based on the current number of clusters against the previous number of clusters.

Table III. Cluster distribution based on automatic model selection.

Cluster	Number of cases	% Of Combined	% Of Total
1	90	47.40%	27.10%
2	72	37.90%	21.70%
3	28	14.70%	8.40%
Successfully Clustered	190	100.00%	57.20%
Excluded Cases / Inconclusive	142		42.80%
Total	332		100.00%

Source: Table created by authors

Table IV Key traits of ethical orientation

Cluster	1	2	3	
Orientation	**Ethical**	**In-betweeners**	**Risk takers**	**Total**
Number	90	72	28	190
Percent	47.37%	37.89%	14.74%	100.00%

Source: Table created by authors