Summary

Sanctions have long been considered important in preventing businesses from conducting criminal behavior (i.e., corporate crime). However, academic studies have repeatedly shown that this assumption about the crime-deterrent effect of sanctions is largely incorrect. In fact, businesses are more concerned with the possibility of being caught than they are with the cost of the sanction. However, regulatory academic scholarship has focused on intervention rather than detection. In particular, studies have debated inspector styles and the optimal way to blend persuasive and punitive interventions in order to achieve the most effect on business compliance. However, accurate detection is a precondition for appropriate intervention. Inspectors thus need to be able to assess actual compliance levels. This may be problematic because businesses that conduct criminal behavior could conceal their illegal actions. Moreover, reporting on corporate crime is generally expected to be low because of its diffuse victimization, for example. These informational problems complicate the ability of an enforcement agency to accurately detect such behavior. A second problem is the agencies resource constraints, which require them to carefully manage detection efforts.

Inspired by recent food fraud affairs in Europe and beyond, this study focuses on the food fraud detection practices of one such enforcement agency. Food fraud has been understudied in criminological literature, which makes this research academically relevant. It is also of societal relevance because food fraud corrodes consumer trust in the food industry and the food safety system, and it may have massive financial and economic consequences and can be physically harmful. In addition, the complexity of the modern food industry has increased opportunities for fraudulent business behaviors. Enforcement agencies are key actors in the fight to curb food fraud, and high expectations exist both in society and within government institutions. Academic insights that assist the improvement of future governance strategies are therefore highly relevant.

In sum, this study addresses the gaps in regulatory literature concerning detection, especially with respect to the niche area of criminal behavior by businesses, with a focus on the enforcement agency. The aim of this study is to build theory about the detection of corporate crime by government enforcement agencies. The central research question is thus as follows:

*What explains the detection of food fraud in the Netherlands?*
The dissertation consists of three partial studies. The first is a theoretical study of the various bodies of literature relevant to this topic, which consist of public administration, criminology, and food fraud specifically. The second study concerns a broader empirical background study of the “detection of corporate crime” in the Netherlands. These studies present a broad theoretical and empirical context of the detection of corporate crime and specifically food fraud. Against this backdrop, the third study takes an in-depth approach to the detection of food fraud through case study research with a comparative design.

The main government agency under study is the Netherlands Food and Consumer Product Safety Authority (NVWA), which is the national enforcement body in the Netherlands that is tasked with detecting food fraud. The central research question is answered by first analyzing the agency’s ability to detect food fraud, taking into account both the noticeability of the food fraud as well as the agency’s detection methods. Second, the study analyzes the agency’s “willingness,” i.e., how it copes with and prioritizes the information gathered on food fraud within its resource constraints. The Netherlands is particularly interesting as a country to research because the NVWA has a specialized crime unit that may use intrusive “police” powers under the authority of the Public Prosecution Service.

The case study research comprises the main body of this dissertation, as it produces the detailed data that is necessary to answer the central research question. Data was collected from criminal investigation files and a wide range of respondents at the NVWA. The dataset consists of all cases of food fraud the agency successfully detected in the period of 2010-2017 (n=33). In addition, it contains all alleged cases of food fraud where detection ended during the process, thus not leading to an intervention, during the period of 2014-2017 (n=28). This results in 61 cases of (alleged) food fraud during the period of 2010-2017.

Before the detection process is dissected, the study details the types of food fraud that have been discovered. This allows a more detailed definition of food fraud and its offenders. Food fraud involves a vast array of modi operandi and concealing tactics that are used to launder illegal food into the food chain, fraudulently enhance the value of food, or facilitate either of these two. The offenders in this dataset vary in nature and cover the full supply chain of food production, including servicing businesses such as logistics companies and laboratories. The majority of offenders operate in the processing stage of the food chain and are captured by a typology of four offenders: Regulars, Invaders, Wayward, and Lookalike offenders. This typology reflects the fact that food fraud offenders are mostly regular food businesses (i.e., corporate crime).
but also entail some outsiders to the food industry or offenders that perform criminal activities in organized structures. Further, the levels and means of concealment as well as the observability of the food fraud are analyzed and described in detail. Based on these findings, a definition of food fraud is formulated: food fraud is committed by any actor who is intentionally involved in illegal acts for economic advantage, thus causing or facilitating illegal food to be laundered into the food chain or for food to be fraudulently value-enhanced.

Food fraud detection is a process consisting of three sub-phases. After a variable period of “ignorance” that starts when an act food fraud is first committed, detection begins with a discovery phase, in which the agency gathers information about alleged food fraud and an offender; it then needs to substantiate this information in the evidence phase of detection. This completes the detection and enables the development of an intervention, such as prosecution. The agency itself, another government agency, or a private third party produces or reports information on (alleged) food fraud. The study of this information reveals that discovery is not a linear, chronological process. Information fulfills different roles that may be dispersed over time and over various sources. In addition, methods can be interconnected. The discovery and subsequent successful or unsuccessful evidence-gathering related to food fraud is therefore best captured and explained by four causal detection pathways.

These pathways, in an ascending level of initiative (or effort) of finding food fraud, are the Routine, Reactive, Induced, and Proactive pathways. These represent different information-gathering strategies. The pathway with low agency effort in detection is the Routine pathway, where the agency only latently seeks food fraud during routine compliance inspections. The other three pathways are all specifically aimed at detecting food fraud with various levels of agency effort. The intermediate pathway (Induced) demonstrates that reactive and proactive strategies are not a dichotomy; rather, agency activities are essential in inducing reports by third parties, such as protecting their identity or by performing an inspection. The different pathways yield different types of food fraud and offenders. The Routine pathway generally detects fewer concealed crimes at regular food businesses. Reactive and Induced pathways also find other offender types. Furthermore, serendipity is important for food fraud discovery during routine inspections, as well as during proactive, targeted activities based on data analysis.

The agency’s willingness to dedicate resources to investigating an instance of food fraud co-varies with the effort made with the discovery. This is accompanied by the agency’s judgment of the importance of detecting that instance of
food fraud. The agency’s priorities, reflected in its resource decisions, concern discovering food fraud that is connected to unfit and unsafe food and high illegal profits. The Induced and Proactive pathways detect longer-hidden and effectively concealed crimes, though they come at a price: they also produce the most false discoveries, and sometimes the agency fails to successfully complete evidence-gathering of the food fraud. The agency’s ability to detect wrongdoing therefore decreases inversely to its willingness. This means that, despite attempts to find food fraud of a certain importance, the agency is limited to the extent it can exercise control over the types of food fraud that are detected, and reputational and strategic motives strongly influence it in this process. Resource availability and scarcity are important drivers of fluctuating strategic motivations and can be a threat to investigating important cases.

The answer to the central research question is that detection of food fraud is explained through a set of differentiated pathways, each of which has its own characteristics and associations with a different level of agency effort, and each of which leads to the discovery of a particular type of food fraud.

Enforcement agencies are not able to detect all kinds of food fraud merely by performing routine compliance inspections; these explained 10% of the food fraud detected. The Reactive pathway, comprised of government agency and third-party reports, is responsible for 45% of the food fraud that is successfully detected; the Induced pathway accounts for 30% and the Proactive pathway for 15%. A variety of information-gathering strategies, and some luck, are thus required to find the full range of food fraud and offenders that may silently operate within and around the food industry. Hence, the extent to which an enforcement agency invests in these detection pathways defines the pattern of crime it is likely to detect.

This study thus suggests differentiating detection strategies within business regulation in order to obtain unbiased detection and insights on the range of food fraud that occurs. If this is not done, regulatory supervision may well provide a false sense of security and over-focus on observable, less important frauds. Further research could concentrate on testing, expanding, and improving the theory developed here. A second direction for future research is to expand research on the detection task of regulatory enforcement agencies, including all kinds of non-compliance, rather than merely fraud. The emphasis proposed here is the effectiveness and efficiency of detection methods and studying optimal interfaces between methods. These need not be limited to government methods and could include alignment with private detection methods.
Finally, the study provides useful insights upon which enforcement agencies can build. It provides a framework for them to assess their effort in detection, the types of methods they use, and the associated types of food fraud these have discovered. It also sensitizes agencies to the idea and importance of differentiating detection methods rather than trying to fit the food fraud detection task into a one-size-fits-all inspection regime. In particular, EU Member States need to be aware of this while implementing the new control regulation (EC) 2017/625, which expects them to be more vigilant towards food fraud and incorporate this risk in their inspection regime. Specific recommendations are made about inspection methods and reporting, though most benefits are to be gained from improved targeting. Further, this study suggests continuing discussions about which types of food fraud are most important to address, and the agency is advised to refine its decision-making process.