Undercover Policing Deployments in the United Kingdom

Chris Nathan and Kat Hadjimatheou

Announcement of 2016 public consultation on Authorised Professional Practice document

Undercover police 'rulebook' published for first time

Our Activity with College of Policing

Membership of College of Police Undercover Policing Oversight Group

Academic-focused workshop funded by PAIS (15th October 2015)

Day long workshop funded by CoP (8th June 2016), attended by police, academics, activist groups, and representatives of the Home Office. The workshop made use of a fictional scenario to inform delegates about current police practice and governance so as to enable them to explore fundamental questions about the practice of undercover policing in the UK. for training and consultation purposes in the future.

Building on this and in combination with our research we produced twelve recommendations for the CoP (see right).

Summary of Recommendations to College of Policing

1. Authorising Officers should understand the ‘proportionality’ of intrusion so that it incorporates the target’s perceived degree of deliberate involvement.
2. Applications should consider type and nature of relationships directly.
3. Applications should indicate expected duration of deployment and exit strategy.
4. Aims of operations should be explicitly articulated in applications.
5. Extra considerations to be made in cases of deployments upon those who are at the periphery of the target criminal group.
6. ‘Collateral intrusion’ should be understood broadly to include all collateral harms.
7. College of Police should seek requirement that a single Authorising Officer is engaged for the duration of a deployment.
8. Produce a branched decision-making scenario for training purposes.
9. Replace the blanket policy of ‘neither confirming nor denying’ information about deployments with a policy of considering cases on their merits.
10. Publicly set out example circumstances in which information about deployments would be provided.
11. College of Police to facilitate mandatory channels of communication between Authorising Officers so that AOs can consider the proportionality of an operation as a whole.
12. Establish a programme of research focusing on best practice in undercover policing.

Results

Recommendations discussed at Undercover Oversight Meeting at College of Policing 5th July 2016. Two being implemented (nos. 8 & 12, concerning training and research). Two rejected (nos. 9 & 10, regarding NCND). Remaining nine to be taken forward in redrafting Authorised Professional Practice.

References


Christopher Nathan, ‘Proportionality, Responsibility, and Collateral Intrusion in the Use of Investigatory Powers’ (working paper)

Kat Hadjimatheou, ‘Against the Blanket Policy of ‘Neither Confirm nor Deny’” (working paper)

Background

A series of revelations and scandals has undermined public confidence in police use of undercover tactics. The wide-ranging Pitchford Inquiry into Undercover Policing is ongoing. The HMIC report of 2014 heavily criticised the College of Policing. The College of Policing desires to enhance public engagement.

Our goal is to enhance the institutional self-reflection of the College of Policing with regard to its role in overseeing the training and management of undercover police deployments.

Press article on 2014 HMIC report

Underpinning Research

1. Analysis of the norms that may justify undercover policing. Nathan argues that people can make themselves ethically liable to deception and manipulation. The debate on undercover policing will proceed more fruitfully if the tactic can be conceptualised along those lines, rather than as essentially ‘dirty hands’ activity, in which people are wronged in pursuit of a necessary good, or in instrumentalist terms, according to which the harms of undercover work are straightforwardly overcome by its benefits.

2. This framework has the implication that the governance of undercover policework should be directly sensitive to factors pertaining to a target’s perceived degree of responsibility for the harm to be prevented or apprehended. Such a consideration is not offered by the current legal framework. Although the category of ‘collateral intrusion’ is widely assumed to take account of this notion, it fails to do so.

3. Hadjimatheou argues that police duties towards transparency can require them to reveal details about past deployments, and that they are not consistent in claiming a blanket policy of ‘neither confirm nor deny’. In particular, a decision to NCND should be a function of: (i) any threat to the officer, and (ii) the balance of other interests.

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