

Information, Risk and Covert Policing

Alastair Luff and John Buckley take a critical look at the problems of managing information in covert operations

Good quality information received from the public forms the backbone of crime prevention – simply speaking, policing success is impossible without it. As the focus on neighbourhood policing in the fight against terrorism increases and many youth gun and knife crimes remain unsolved due to lack of information, law enforcement agencies are working to impress upon the public the importance of stepping forward with information that may be critical to solving a crime.

But how will law enforcement agencies deal with the public's reluctance to bring forward new information? The issue of public safety is a very real fear that will hold back police investigations if not tackled. Any incident that demonstrates a failure in police protection or misuse of information has the potential to impact across the whole of the UK law enforcement community in terms of damaged reputation. The locality of a police failing is irrelevant to the public – even an international incident has the potential to negatively impact attitudes in the UK. Where a member of the public comes forward with information in sensitive cases the police have a duty of care towards that individual and must ensure that they themselves understand the risks involved. In recent cases, such as the Stirland murder in Lincolnshire in 2004, the police have failed in their duty of care. These, however, are not isolated failings.

Risk Management

Covert policing is dangerous. There are risks for all involved, whether it is a surveillance

team, covert human intelligence source (CHIS), member of the public or police officer. These risks must be properly identified, documented, and managed. Furthermore, every time the police use information provided by a member of the public there is the potential to put that person in jeopardy and this risk must be identified, documented and measures put in place to mitigate the risk. Cases such as Stirland and the shooting in Stockwell the following year of Jean Charles De Menezes, where police failures resulted in tragedy, are opportunities to learn how to better manage risk. Greater risk management is required in order to avoid operational failings. The public perception is that the police haven't learnt from past failings and this creates fear. These incidents cannot be viewed in isolation or hold up particular forces or individuals. They are the corporate failing of UK law enforcement and therefore the whole of the law enforcement community must learn from the mistakes. The question is whether all law enforcement agencies across the country and beyond recognise and act upon the need for greater risk management in relation to their own processes.

There is currently a lack of true understanding of the risk management process. It is not about filling in a form or writing out reams of information, but about providing the right information at the right time to enable sound

decision making. Not understanding the importance of risk can result in tragedy. There are three key elements for risk management:

- having an effective risk strategy and procedures in place. In order to create this, law enforcement professionals must have knowledge of the risk as well as an understanding of the risk process.
- risk management training for officers at every level. Even community beat officers have a duty of care to members of the public that provide them with information. The police force then needs to effectively record that information not only to utilise it but also to protect the individual.
- an effective IT system to support procedures is essential. Information must be available to the right people at the right time to enable good decision making. In covert policing there is a lot of potential for tragedy – technology saves valuable time spent chasing information and makes it available minute by minute, hour by hour.

Bureaucracy or Misunderstanding?

Integrity of information is fundamental to the success of any police investigation. Legislation

such as the Regulation of Investigatory Powers Act (RIPA) and the European Convention of Human Rights exists to ensure this integrity. However, much of the legislation in existence does not come with clear guidance and is open to interpretation. It is often viewed, therefore, as overly bureaucratic and this negative perception can result in cutting corners in relation to the legislation or non adherence to the spirit of it. This has the potential to impact the overall use and effectiveness of covert policing particularly when failures in compliance mean evidence is ruled inadmissible in subsequent judicial proceedings.

the public perception is that the police haven't learnt from past failings

Where the perception of bureaucracy exists, there is a lack of knowledge about what the legislation is actually trying to achieve. If law enforcement professionals understood what the legislation is trying to achieve from a risk management perspective, the perception of bureaucracy would reduce. It is a matter of training. Currently, many police officers are of the opinion that if they write down enough information in a report then they are covered, but that isn't the case at all. Having a system in place to ensure that police officers are taken through exactly what data needs to be entered – no more no less – makes the process significantly easier to follow. Having a fully auditable system also enables superintendents to spot problems and make quick decisions and technology is the only effective way to do this.

Legislation must not simply be viewed in isolation, but a joined-up approach needs to be taken. In the De Menezes case, the police failed to adhere to section 3 of the Health and Safety Act. The question that must then be asked is how many law enforcement professionals involved in the management of their covert operations have read the Health & Safety Act? How many policing managers in charge of surveillance or a firearms team understand the Human Rights Act and how health and safety ties into this? Are law enforcement professionals looking in advance at the new legislation around corporate manslaughter and developing a process for it?

Legislation will always exist and therefore needs to be dealt with. Being more aware of all legislation and developing a greater understanding through training of exactly what it is trying to achieve, in terms of risk management, will enable law enforcement agencies to put processes in place so that legislation can work for policing success rather than against it.

Overcoming the Barriers

Successful policing is not about how you gather information but what you do with intelligence once you have it. As criminals become more sophisticated, there has been a significant shift towards a more proactive, intelligence driven approach to policing. Maximising the usage of intelligence is vital in tackling crime – if you can't readily see and understand the available intelligence then operational effectiveness is seriously impacted. Yet this sharing of information must be done alongside the protection of the public.

A range of issues can impact the effective management of information. Police officers are understandably protective of members of the public who have the courage to provide information. If the officers involved don't have sufficient faith in the system to protect the person providing the information, they may not feel they can be open with their supervisors about the identity of that person. This can result in key information being withheld and an inability to protect fully the individual. It may also open the officer up to allegations of a corrupt relationship. An integrated IT system allows information to be securely disseminated to end users that require it, whilst protecting the source of that information. This ensures the safety of the public and helps build public confidence in the abilities of the police.

Law enforcement agencies need to take an integrated approach to managing intelligence through one central repository of information, so that decision makers are able to see what an organisation is doing as a 'whole' rather than dealing with information in isolated silos. There may be little point in deploying a surveillance team against a target if there is already a CHI in place. If senior management does not have an overview of all relevant information, they will be unable to make the best decisions. This means that things are more likely to go wrong and leaves the manager and the force vulnerable when things go wrong.

Technology equips and protects police officers. It doesn't simply guide them through the process of inputting information, but it also guides them through the thinking process to ensure that everything has been considered and the evidence of that thought

process exists in black and white. There is a fear that if something is written down that person can be held accountable for it, but claims of neglect of duty can only be refuted with evidence. An effective audit trail protects officers of all ranks. Lack of technology wastes resources and reduces the ability to be operationally effective. If a report could be generated and made available to a chief constable in minutes rather than days consider how much time as a whole must be wasted through inefficient processes.

The greatest barrier to technology is cost, but there are several things to consider here. Firstly, Chief Constables need to ask themselves what a reasonable amount of money is to protect the public? Secondly, how much might be paid out in civil litigation as a result of police failings if the appropriate measures to manage risk are not taken? Finally, how much will be saved in time and efficiencies? When dealing with police failings, it is all too easy to think it will never happen to your force, or to you. But when a failing has the ability to reverberate across UK policing as a whole and impact the quality and frequency of public information which is so vital to success, the question that needs to be asked is how much damage UK policing is prepared to tolerate before action is taken to better manage risk?



Alastair Luff is the Managing Director of ABM UK Ltd, a global supplier of crime reduction products and services to criminal justice bodies, including UK police forces and commercial organisations.



John Buckley is an independent consultant on risk and covert law enforcement.

For further information, contact Alastair Luff at a.luff@abm-uk.com or go to www.abm-uk.com or John Buckley at info@hsmtraining.com or www.hsmtraining.com