

POLICE AND CRIME COMMISSIONER FOR LEICESTERSHIRE

ETHICS, INTEGRITY AND COMPLAINTS COMMITTEE

PAPER MARKED

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Report of	OFFICE OF CHIEF CONSTABLE
Subject	POLICE SPECIAL OPERATIONS
Date	FRIDAY 18 DECEMBER 2020 – 2:00 p.m
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Purpose of Report

1. The purpose of this report is to provide an overview to the Ethics, Integrity and Complaints committee of the current approach the force takes to manage a specific ethical dilemma relating to Specialist Police Operations.

Recommendations

2. It is recommended the Committee discuss the contents of the report and consider the ethical considerations relating to the described Specialist Police Operations.

Ethical Dilemma

3. The ethical dilemma is related to using drug addicts as intelligence sources, and what are the ethical considerations for the police when considering the authorisations for this activity in relation to the proportionality and necessity, two important aspects required in law.
4. The force is an intelligence led organisation. The force gathers information effectively from multiple sources, which is then assessed and where appropriate proactive action is taken in order to achieve a desired outcome, which is linked to the force Strategic Priorities and the PCC Crime Plan.
5. The supply of illegal drugs and illicit substances has significant detrimental impact within our local communities. In order to effectively tackle drug related organised criminality it is sometimes necessary to utilise covert policing activity to develop human sources to provide information.

6. The challenge the police face is that those often with the greatest level of knowledge and information relating to the organised crime and local drug supply are those involved in the drug trade and in particular those using illicit drugs. Those supplying drugs develop relationships with drug addicts, in what could be described as a customer or employee relationship. This intelligence often provides an opportunity for the Police to start to identify the upstream suppliers of the drugs, identify those involved in the network, the business model, locations of assets and illegal substances, but also importantly the vulnerable people the suppliers are exploiting.
7. The ethical challenge for the Police is in balancing this opportunity for good intelligence with the fact that the relationship between drug user and supplier is not balanced and there is often significant exploitation of a vulnerable person. There are often real risks that have to be managed when the police decide to create a covert relationship with the drug addict, but there are also set processes, policies and procedures in place to safeguard the individuals and the decision makers.

Background

8. Tackling organised criminality is becoming more complex as criminals become more adept at taking steps to conceal their behaviour from the authorities
9. There are a number of technological advances that criminals are exploiting that make it even more difficult for law enforcement agencies to deal with the issue and hide their illegal activity.
10. Organised criminality takes many guises, and as such the special operations and tactics required to deal with it are varied. No one approach can solve the issue. Class A drugs are a constant presence within organised criminal groups.
11. In relation to upstream drug suppliers, as well as exploiting technology to avoid detection they will often utilise “runners” or “mules” to do their dealing for them so they are not linked directly to the crime. These individuals will often either be substance misusers or juveniles, both of whom are easily exploited by those controlling the operation.
12. Substance misusers will be offered drugs as payment to sell on behalf of the dealers, whereas often juveniles will initially be offered material items as an incentive to deal. In many cases runners are faced with threats or violence if they try to withdraw from their involvement in the matter and can often end up in debt to the suppliers.
13. In the case of both, they carry all the risk whilst the upstream supplier is relatively untouchable through conventional policing methods. The use of drug addicts and runners does however present a unique opportunity for the Police, because whilst the upstream supplier may be unknown to law enforcement, someone in the supply chain will know who he or she is.
14. There is a distinction to be drawn between the overt and covert formation of relationships with those individuals who the Police can use to assist in tackling organised criminality.

15. From an overt policing perspective forming strong bonds with the communities in which officers serve is essential for effective policing. If a member of the public provides a Police officer information it will be graded utilising the national “3 x 5 x 2” method and any subsequent action taken on the intelligence will be individually risk assessed.
16. There is in effect an ethical dilemma that most officers consider every day within this scenario. If officers are provided information from a member of the public with the express instruction they don't want identifying, there is a decision to make. Should officers act upon the intelligence regardless because of the risk of NOT acting on what is known? Or is a greater risk caused to the informant by acting on what is known because they may be seen as a “grass”. The force manages this on a daily basis and will seek to corroborate the intelligence from other physical sources such as CCTV or forensics in order to remove the risk to any individual.
17. The development of relationships from a covert perspective is a far more complex issue.
18. The use of tasked Police informants is well governed by the Regulation of Investigatory Powers Act 2000 (RIPA), and the legislation mandates suitable checks and balances where the use of such a tactic is concerned. They are known as Covert Human Intelligence Sources (CHIS).
19. These individuals know the role they are performing in giving information to the Police, and do so through a designated Police contact, known as a “handler”. The handler will be responsible for the grading of intelligence passed and is specially trained to consider issues of compromise dependent on what the information is and what the circle of knowledge is.
20. There is a bespoke risk assessment for the individual that considers the personal circumstances and context of the situation and level of intelligence. The risk to the individual is always managed with safeguards agreed and their safety is paramount. Often intelligence is known and not acted upon directly to ensure their safety is achieved. The risk is regularly reviewed and the use of a covert human intelligence source, such as a drug addict is authorised by an Authorising Officer, who is at Superintendent Rank.
21. The Authorising Officer has a role in law. They have to ensure any authority is legally compliant and within an authority they must consider the proportionality and necessity of developing the covert relationship, identify potential risks and ensure they are managed and mitigated. They also set the level of reward which can take many different forms.
22. The final aspect of utilising relationships covertly formed are those where the individual has no idea the person they are speaking to is in fact a Police officer. The use of undercover police officers (UCO's) is again governed by RIPA, which sets out the circumstances in which an officer can be deployed in this capacity.
23. The authorisation for the use of a UCO is outlined in legislation and the Police must set out in detail the necessity and proportionality for the use of such a tactic. There are further checks and balances built into the process through reviews by the Investigatory Powers Commissioners Office to ensure the legality of the authorisation.

24. Specific use and conduct must be clearly outlined in respect of the undercover officers and covert human intelligence sources, which can include the formation of basic relationships with individuals linked to criminality, of which some may be drug addicts.
25. All operations are subject to regular risk assessments, a full debrief and a cancellation review once they are concluded to ensure any issues identified are shared.
26. Through the course of our investigations the police are usually successful in identifying upstream suppliers and this information may be as a result of developing the initial intelligence gathered through a relationship developed with a drug "runner" or "mule". When that dealer is eventually arrested, it can become apparent (through the disclosure of evidence for example) that the Police found them because the "runner" inadvertently led the Police officer to them.
27. The police do not confirm or deny whether an investigation has involved a source or undercover officer and drug suppliers will never truly know where the information has come from.
28. These are risks that are very carefully managed and the police hold a duty of care towards the source of the information and we comply with legislation, formal guidance and best practice. There are national processes and support available to manage individual's safety if they are potentially exposed.
29. Through the effective management of risk and ensuring there is a clear compliance with the law and a strong assessment of proportionality and necessity, covert human intelligence sources provide intelligence that keeps people safe across Leicester, Leicestershire and Rutland every week.

Question

30. When considering the background, the force will continue to manage the identified risks associated with managing covert human intelligence sources. The proportionality and necessity of this are two important elements within the law when authorising this type of covert activity.
31. The question for discussion by the committee, in order to ensure our thinking and assessments relating to proportionality and necessity in authorising drug addicts as covert intelligence sources are diverse and based on a strong foundation is - What are the ethical considerations for the police when gathering intelligence and developing covert relationships with drug users.
32. The Force recognise the ethical challenges associated with receiving information from known drug users and covert tactics. What additional measures/ethical considerations would the Panel highlight for the Force to consider from the public's perspective.

Implications

Financial: There are significant Financial costs if a covert intelligence source is compromised.

Legal: Nothing in addition to what has already been covered as this risk area of police work is covered by legislation and best practice.

Equality Impact Assessment: This is always a relevant consideration, especially in regard vulnerable people but is considered on an individual case basis.

Risks and Impact: As detailed above, every operation and deployment is risk assessed and debriefed at the end of an operation

Link to Police and Crime Plan: Special operations can be used linked in with various strands of the plan and protecting our communities.

List of Appendices

Nil

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