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Undercover Police – An Legal Analysis

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ABSTRACT

Given its expense and risk, undercover policing, also known as covert policing operations, is one of the investigative tools utilized by law enforcement. It is only employed in cases of significant crimes after all other operational options have been explored. Undercover police officers run the risk of being discovered and facing severe retaliation. In addition to the constant risk, this job requires a lot of physical, mental, and emotional effort. Anecdotally, this component of law enforcement has a reputation for having a high human cost in terms of psychological and psychiatric aftereffects. Undercover operations have been proven to be a successful complement to and alternative to conventional investigative methods by law enforcement authorities (Vasquez & Kelly, 1989)[21]. In the United States and other countries, undercover policing has been firmly established among numerous law enforcement agencies since the 1960s. Despite the regular deployment of police officers in this capacity, little research has been done on the psychological effects of covert policing. The standard source is still Girodo's 1985 paper.

This article will discuss the psychological aspects of undercover policing, including the unique psychological pressure, associated stressors, and necessary personality attributes, as well as the unique psychological skills and services. The psychological input is crucial and strongly advised in order to maximize efficiency throughout all operational phases, counteract adverse psychological impacts and repercussions, and ensure a more secure reintegration into the existing work environments. Using Braun and Clarke's framework, data were thematically analyzed (Braun and Clarke 2006). The results were consistent in that undercover officers' well-being and interpersonal connections were significantly impacted by their fear of violence. The conclusion of the paper discusses the implications for covert police and outlines appropriate recommendations for further study.

KEYWORDS

Undercover, stress, coping, identity, police well-being

INTRODUCTION

Despite being a highly specialized, sensitive, and difficult topic of policing study, it has garnered little attention and isn't discussed enough in academic journals. The unique experience and pressures, various identity difficulties, high risk, and maladaptive post-symptoms discovered as repercussions all contribute to the special nature of this unconventional police strategy. They point to the significance of a particular safeguard team and procedure, where psychological therapies play a vital role during all phases of operation. The legitimacy of undercover operations and techniques, as well as their institutional placement and legal context, are further issues.

There is little information available about the pressures associated with working in covert and undercover policing duties and how they may

[21] https://www.sciencedirect.com/science/article/abs/pii/0160252795000097

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affect the physical and mental health of police officers. The focus of currently available material is on the societal effects of covert and undercover policing in democratic societies, particularly in regard to the policing of political organisations.

Undercover operations are discovered as a successful complement or alternative to the classic investigative tactics, which have become more widespread practice of law enforcement in recent decades, in an era of modern and sophisticated crime. Therefore, the undercover operation can be described as a sophisticated strategic police-tactical method with a conspiratorial nature, used only for serious criminal offences, organized crime, and international crime when other tactical methods are impractical or when the results of the applied methods are not what was intended or expected. In order to identify the criminal structure, primarily its leaders, the undercover operative is a police officer who has been placed in a targeted criminal milieu under a false identity.

In general, covert operations can be used to gather data in order to identify, explain, or prove illegal activity or to stop planned future offences. While the objectives may or may not be known in advance, it entails gathering evidence and supplying appropriate information to serve as guide for future forensic or prosecution work. The uniformed police officer has historically been and remains the subject of great academic attention[22].

It is becoming more and more obvious that research focuses on the observable, public, and visible components of policing[23], whether it is when looking at police culture itself, police and institutional racism[24], or the wellbeing of police personnel and stress in policing.

PSYCHOLOGICAL ANALYSIS OF THE "SUITABLE UNDERCOVER OFFICER"

The efficacy of an undercover cop is greatly influenced by psychological traits, especially when the considerable psychological demands of the position are taken into account. Scientific literature contains a very small number of studies on psychological predictors, primarily due to the highly classified activities with extremely complex performance that constrain research opportunities or publishers, as well as the confidentiality and high cost of selection procedure know-how[25].

It is intriguing that a number of personality traits that have traditionally been viewed as desirable for a police officer, even an undercover officer, have been shown to be unrelated to success or even to an increased risk of psychological issues or internal conflict in the undercover officer. This is especially true of the militaristic mindset that is required in typical police training. About the ideal traits for this occupation, there are several draughts, though.

The most common prerequisite is that the candidate be a volunteer in order to support the objectives and operating procedures and to avoid any potential conflicts between their moral principles and their understanding of the duties of law enforcement towards the public. Regarding age, police experience, and other factors, the approaches vary.

The most typical need is that the applicant be a volunteer in order to support the goals and methods of operation and to prevent any potential conflicts between their moral principles and their comprehension of the obligations of law enforcement towards the public. The methods change depending on age, police experience, and other variables.

While some law enforcement agencies favour hiring young officers in their early 20s or straight out of recruit training ranks to avoid the "quasi-militaristic" behaviour seen in older and more seasoned police officers that frequently reveals their undercover true identity, others prefer

[22] Loftus et al. 2016
[23] Souhami 2014
[24] Violanti et al. 2017
[25] Picano & Roland, 2012

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experience and maturity that correlates with "secure police identity" explained by psychological stability because it lowers the likelihood of losing one's moral compass or experiencing psychological problems. Other desirable traits include being single or married without children, having a strong memory, knowing another language or common slang, having knowledge of the area of infiltration and the people who need to be investigated, and having a certain type of personality that could hinder the agents' success. Self-control and self-awareness have proven to be the foundation of some crucial performance requirements, such as high acting capacity along with the ability to maintain real identity in constrained and dangerous circumstances.

PSYCHOLOGICAL IMPACTS OF UNDERCOVER WORK

Undercover work is distinct from all other vocations due to its particular character, which is centred on dealing with a number of particular pressures. The undercover operator must be immediately and effectively identified and controlled in order to prevent their mental status from breaking down, which is a crucial criterion against mission failure. As a result, the effectiveness of the operation greatly depends on the initial team expertise and comprehension of the pressures. In cases of psychological unfitness in undercover work, the mental strain brought on by the high level of stress can have negative psychological side effects that harm the operative's mental health and behaviour, impairing effectiveness, revealing identity, or resorting to breaking the law and endangering citizens' rights.

The psychological phenomena of suppressing one's genuine self in favour of taking on a whole new character is known as the "loss of self," and it is the most common result of identity struggles even if both are clearly at odds with the law. This suggests a high likelihood of experiencing a "split personality" or a "self as unreal"—traits typical of the dissociative personal disorder, in which a person's behaviour is frequently taken over by numerous identities.

LAW & ORDER

Unless the president determines that another agency should assume leadership of covert operations and properly notifies Congress, the Central Intelligence Agency (CIA) is required by U.S. law to do so[26]. Typically, only the CIA is authorized by law to conduct covert operations on behalf of the United States[27]. The National Security Act of 1947 gave the CIA the right to carry out clandestine operations[28]. Executive Order 12333, titled United States Intelligence Activities, was issued by President Ronald Reagan in 1984. This directive described covert action as "special actions" that the US Government may legally deny, including political and military activity. The 1991 Intelligence Authorization Act and Section 413 of Title 50 of the United States Code both named the CIA as the only authority.

The oversight committees in the U.S. Senate and House of Representatives then keep an eye on these results[29]. The CIA's Directorate of Operations' Special Activities Division (SAD) is in charge of covert action and "Special Activities." Paramilitary missions and covert influence and power are examples of these particular activities

The effects of undercover work are similar to those of trauma, with outcomes that can include depression, PTSD, suicide, or many other side effects of various combinations, including corruption, anxiety, discipline issues, substance abuse, interpersonal issues, paranoia or identity strain resulting from paranoia, extreme narcissism, hyper vigilance, filings of isolation and self alienation, guilt, value system changes, or criminal sympathy.

[26] William J. Daugherty, Executive Secrets: Covert Action and the Presidency, University of Kentucky Press, 2004.
[27] All Necessary Means: Employing CIA operatives in a Warfighting Role Alongside Special Operations Forces, Colonel Kathryn Stone, Professor Anthony R. Williams (Project Advisor), United States Army War College (USAWC), 7 April 2003, page 7
[28] Daugherty, 2004, page 28
[29] Daugherty, 2004, page 29

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A PSYCHOLOGIST'S PARTICIPATION IN UNDERCOVER TASKS

Several operational protocols for including psychologists in this type of action are used by departments all over the world. Hiring a psychologist without the proper knowledge, personality, and skills—which also differ across the operation's phases—will severely hinder or entirely obstruct the operational success. The psychological role requirements are complex and particular for various operations. Hence, in order to choose and hire a psychologist appropriately and to ensure appropriate use in order to maximize operation success, the management team must first be aware of and comprehend the contribution of psychological services.

CONCLUSIONS

Law enforcement agencies conduct undercover operations to gather evidence that can be used in court from within the criminal enterprise. Doing terrible for doing right is described as having particular laws of the game that only a select few are able to play, as well as distinct experiences and pressures that must be managed. Human rights are promptly suppressed, but success is elusive and difficult to attain. The success is credited to a collaborative effort built on strong capacity for planning, evaluation, and stress management. Special measures must be implemented for mission protection and success due to the high psychological and professional demands, hazards, and sacrifices.

It entails including a psychologist in the group whose primary responsibility is acting as an honest middleman between the people participating, ensuring that all of their requirements and risks are recognized and taken into account in order to produce the best possible results. This entails using behavioral principles and skills, such as direct and indirect evaluation, personnel assessment and recruitment, training, and stress management, to enhance security managers' operational decision-making. For departments and security professionals who have not previously participated in such operations, the psychological viewpoints can be used to improve present operational procedures and introduce opportunities for appropriate psychological involvement.

Undercover Involvement in Crime draws attention to a routine but rarely scrutinized police practice: allowing undercover officers to commit crimes to advance an investigation. Police have, for instance, set up fencing enterprises in covert operations that paid cash for stolen goods and gave phoney testimony in real-world court cases. This practice of sanctioned criminality is illegal, secret, and at odds with some of the fundamental tenets of democratic policing. Additionally, it erodes public support for the police to the extent that permitted criminality sends contradictory messages about their moral standing. Although it poses some of the most fundamental problems about the role of the police in a democratic society, legalized criminality has rarely been the focus of academic research. Furthermore, there is little real regulation of a complicated and paradoxical policing activity. The paper encourages a wider discussion about the normative choices and boundaries of misleading investigation by highlighting the harms caused by approved criminality.

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