Intelligence gathering and the need for control: managing risk in public order policing

Charmian Werren explores the benefits and drawbacks of an intelligence-led approach to policing protest

When policing public order, the police are asked to consider and protect the democratic and human rights to assemble in public and to express our political opinions. The police are also tasked with preventing or managing disorder. The tension between these competing duties affects how the police react to public order situations and contributes to their noted desire to maintain as much control as possible over their often precarious working environment (Waddington, 1994).

One way in which the police have sought to balance these competing duties and maintain this control is by using as much information as possible to improve their plans and responses. The success of this form of 'intelligence-led policing' is dependent on access to reliable and timely information about what is likely to happen, or is already happening, at a public order event.

Collection of information

In the police forces of England and Wales intelligence gathering functions are often fulfilled by Forward Intelligence Teams. These teams are made up of pairs or groups of trained officers who attend protests in order to collect information on any individuals or groups attending who they think may pose a risk to public order. This might involve measuring the mood or gauging the intended behaviour of crowd members, or identifying individuals or groups suspected to pose a risk (ACPO, 2010). This information will often be instantly passed on to commanders to aid their real-time decision making. While Forward Intelligence teams collect largely written or radio-transmitted information, the related Evidence Gathering Teams will often also be deployed to secure photographic, video and audio evidence which can be used to support investigation and prosecution (ibid). This intelligence may also be retained by the police for use in planning their actions in future events; as a police spokesman confirmed:

> *FIT [Forward Intelligence] Teams are something that have been around for a long while and are an overt tactic at high-profile demonstrations and events. They are there so that if people get out of hand…evidence has already been gathered.*
> (Blunden, 2010)

It would appear that using such intelligence-led tactics can offer benefits to both the police and those attending public order events. While these specific tactics are relatively recent inventions (at least in name), the principle of gathering information before and during a major public order event is well-established. Doing so theoretically enables the police to better judge their actions and arguably lead to better planned and more proportionate public order policing. Police approaches to policing protest events have been criticised for viewing crowds as a single entity and not as a group of individuals. Tactics used against the crowd as a whole have often proved controversial: containing or 'kettling' large groups of protesters in order to prevent disorder, for example, can adversely affect many peaceful demonstrators. Using good quality intelligence should in theory enable the police to target their interventions only at those engaging in criminal behaviour; for example, an individual might be arrested using such information at a later point, without creating tensions in the surrounding crowd, or a message might be passed back to commanders saying that although raucous those attending the event are not engaged in disorder. Using information to target policing in this way may help to leave the majority of the crowd reasonably unaffected by both the police and disorder.

'Strategic incapacitation'

The increased use of information gathering or surveillance in order to assess risk can be seen as forming part of a wider shift in the style of public order policing. This style, termed 'strategic incapacitation' (Gillham, 2011), is characterised by tactics such as controlling space in order to disrupt or incapacitate those deemed to be a potential for risk. Such a policing style reflects the desire for police to maintain control over an unpredictable situation. The desire of police to maintain control can clash with the aims of protest organisers, who often see an element of surprise and unpredictability as essential requirements for a successful and noticeable protest. Gillham noted that the 'strategic incapacitation' approach to policing protest had caused relations between the police and protesters to become more adversarial, with less trust, cooperation and communication. Indeed, the move towards 'strategic incapacitation' as a policing style may have originally been necessitated by the failure of previous communication between police and protesters. As protesters grew increasingly frustrated that despite platitudes of police facilitation, demonstrations were

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so heavily controlled as to prove ineffective for attracting attention, many considered breaking off communication in order to preserve the vitality and visibility of their events (Gillham and Noakes, 2007). It may be that in trying to obtain the intelligence that can help them maintain control of a crowd, the police have damaged the very communication channels which could have provided them with much of the information they needed in a way that would have been more acceptable to protesters.

Some protesters have responded to being filmed by blocking police cameras or engaging in 'sous-veillance'

The surveillance gaze

Concerns might also be raised over the effects of the 'surveillance gaze' on those involved in peaceful protest. Where Evidence Gathering Teams are videoing or photographing a crowd, the resulting images are bound to contain more individuals than those originally targeted. It is important also to consider the consequences of the preventative functions of such tactics. Forward Intelligence officers aim to identify individuals who are likely to cause disorder, so risks can be assessed and responded to in real-time. Previous studies have highlighted the damaging effects that surveillance of social movements may have (Starr et al., 2008), with fear of surveillance causing activists to waste their energies on security rather than campaigning.

Various campaign groups have argued that the overt way in which Forward Intelligence and Evidence Gathering Teams operate causes a 'chilling effect' on the right to protest. Groups such as FITWatch and the Network for Police Monitoring have campaigned to raise awareness of the use of such tactics, and some protesters have responded to being filmed by blocking police cameras or engaging in 'sous-veillance': filming the filmers back. Such acts of resistance suggest that these tactics are seen as unjustified and illegitimate by protesters, with potentially damaging effects on perception of police legitimacy.

Use of intelligence

Concerns as to what will be done with the resulting intelligence materials have also been raised. The case of *Catt* (*v ACPO* [2013] EWCA Civ 192) is particularly striking in this regard. Many details relating to Mr Catt's involvement in various protests were catalogued on police databases. A recent ruling at the Court of Appeal found that despite his appearance at protests at which disorder had occurred, as he himself had never been involved in or even suspected of criminal activity it was unjustified and disproportionate for intelligence gathered about him to be retained.

Her Majesty's Inspectorate of Constabulary's (HMIC) *Adapting to Protest* (2009) assessed the use of both Forward Intelligence and Evidence Gathering Teams, noting that where intelligence was gathered on those lawfully expressing their rights to protest 'it is not at all obvious under what powers the police are acting in these circumstances.' In 2010 the Metropolitan Police Authority's Civil Liberties' Panel recommended yet further clarification of their purpose and the proportionality of Forward Intelligence deployment, while the Association of Chief Police Officers' *Manual of Guidance on Keeping the Peace* (2010) warns commanding officers to consider not only the potential impact that deployment may have on public perceptions and crowd dynamics, but also the possibility for infringing privacy rights under Article 8 of the European Convention of Human Rights.

A precarious balance

The police have responded to such criticisms: HMIC reports tighter control over the deployment of Forward Intelligence Teams (HMIC, 2011), and policies concerning the retention of intelligence were changed following legal challenges such as *Catt*. Forward Intelligence teams in particular have begun to be deployed in a less overt manner. Yet legal challenges to the collection and retention of protesters' data are continuing to be made. The theory behind the use of 'intelligence-led' policing in the public order field suggests the possibility of a more proportionate and justifiable use of police resources, with the potential to improve the precarious balance between the competing requirements of facilitating protest and controlling disorder. However, used indiscriminately, intelligence-led policing risks being perceived as just another illegitimate method of imposing control over those involved in public protest. ■

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References

Association of Chief Police Officers (2010), *Manual of Guidance on Keeping the Peace*, London: NPIA.

Blunden, M. (2010), 'Protesters' rights were violated by Met surveillance', *The Evening Standard*, 28 July.

Gillham, P. (2011), 'Securitizing America: Strategic Incapacitation and the Policing of Protest Since the 11 September 2001 Terrorist Attacks', *Sociology Compass*, 5(7), pp. 646-652.

Gillham, P. and Noakes, J. (2007), 'More than a March in a Circle: Transgressive Protests and the Limits of Negotiated Management', *Mobilization*, 12(4), pp. 341-357.

Her Majesty's Inspectorate of Constabulary (2009), *Adapting to Protest*, London: HMIC.

Her Majesty's Inspectorate of Constabulary (2011), *Policing Public Order*, London: HMIC.

Metropolitan Police Authority Civil Liberties Panel Report (2010), *Responding to G20*, London: Metropolitan Police Authority.

Starr, A., Fernandez, L., Amster, R., Wood, L. and Caro, M. (2008), 'The Impacts of State Surveillance on Political Assembly and Association: A Socio-Legal Analysis', *Qualitative Sociology*, 31 (3), pp. 251-270.

Waddington, P.A.J. (1994), *Liberty and Order: Public Order Policing in Capital City*, London: UCL Press.