

Striking the right balance between secrecy and accountability when undercover policing goes wrong

February 9 2018

Media coverage of alleged historic misconduct by undercover police officers has led to the creation of a public inquiry into undercover policing. The inquiry has highlighted the tension between accountability and secrecy when mistakes have been made.

In a new paper published in the current issue of *Criminal Justice Ethics*, Dr. Katerina Hadjimatheou of the Interdisciplinary Ethics Research Group, part of the University of Warwick Department of Politics and International Studies, tests some of the arguments used by the police to defend secrecy in the face of calls for disclosure, and explores whether and when the veil of secrecy should be lifted if undercover operations go wrong.

Established legal opinion is that decisions about disclosure should be made on the balance on interest on a case-by-case basis. Police and other Government agencies have preferred a kneejerk 'Neither Confirm Nor Deny' (NCND) stance, relying on two arguments identified by Dr. Hadjimatheou. They are:

- Scappaticci – the risk that confirming, or denying, an undercover officer's identity would put him, or another, at direct risk of harm. Freddie Scappaticci was named in the British press as IRA informer Stakeknife, and, in fear for his life, asked the UK Government to deny the allegation

- Mosaic Effect – the risk that revealing any feature or aspect of an undercover operation will, when combined with information already held by criminals, 'complete the mosaic.'

Dr. Hadjimatheou critically examines whether these carry sufficient weight to justify a blanket NCND policy, particularly in the context of the public inquiry.

She finds that neither argument justifies a blanket refusal to provide information, and concludes that to ensure a fair balance between accountability and secrecy, police should undertake risk assessments for each case in which disclosure is requested: "case by case risk assessments provide objective reasons for secrecy in the face of legitimate requests for disclosure."

Dr. Hadjimatheou said: "My aim was to improve the clarity and rigour of the debate by critically examining the arguments used by the police to justify a blanket NCND policy.

"Accountability, trust and legitimacy are central to the British tradition of policing by consent. Secrecy can be justified if it protects the public interest in effective undercover policing. But it can also be used to conceal failings, misconduct, and abuse of power. In a democracy, the [secrecy](#) afforded to the [police](#) must be rendered accountable.

"Accountability does not require [disclosure](#) of all information held by the state. But it does require objective reassurance that there are good reasons by information should be protected or concealed, and this is what the [risk](#) assessment is designed to provide."

More information: Katerina Hadjimatheou. Neither Confirm nor Deny: Secrecy and Disclosure in Undercover Policing, *Criminal Justice Ethics* (2018). [DOI: 10.1080/0731129X.2018.1424756](https://doi.org/10.1080/0731129X.2018.1424756)

Provided by University of Warwick

Citation: Striking the right balance between secrecy and accountability when undercover policing goes wrong (2018, February 9) retrieved 20 May 2024 from

<https://phys.org/news/2018-02-secrecy-accountability-undercover-policing-wrong.html>

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