

Book review

'The Human Factor – Maximising the Use of Police Informants'

by **Tim Roberts**

(New Police Bookshop, Bristol, England; 2002 ISBN 0-9533058-4-8 (paper))

The 'human factor' element of the title of this book must be emphasised. Roberts states that his book is a 'useful tool' for those who work with informers, and in terms of the broad considerations involving sensitive interactions with other people, it has some value. However, in not including detailed reference to legislative and other constraints (his aim is to make his text 'accessible' to all) the book is of limited value in providing concrete guidance for dealing with informants in accordance with jurisdictional limitations.

The book is divided into ten chapters. Early chapters include discussions about recruiting informants, handling informants, and the dangers associated with informants. These chapters provide practical guidance within the context of recognised problems described in the existing literature, and arising from the author's personal experiences. Subsequent chapters adopt an increasingly psychological approach to describing and analysing aspects of human interactions, namely: 'Understanding Motivation'; 'Communication'; 'The Art of Questioning'; 'The Ways of Confrontation'; 'Blame'; 'Emotional Resilience'; and, 'Entropy, Crisis, and Chaos'. Throughout the book Roberts succeeds in portraying complex issues in an approachable and understandable manner. The text is supported by references to appropriate authorities, and

illustrated with textual and cartoon illustrations. This approach certainly encourages the practitioner to reflect on the nature and quality of their contact with informants and potential informants. As such, it should be a useful tool in professionalising such encounters and increasing their productivity.

Nevertheless, for us, the book's concentration on human factors in isolation from specific legal and procedural guidelines forms a notable weakness. Regardless of the jurisdiction one is operating within, obtaining actionable intelligence whilst strictly adhering to the rules is what effective and ethical informer handling is all about. Information is only valuable if it supports an investigation and, demonstrably, must be obtained *lawfully* or resulting prosecutions are bound to fail. In England and Wales, the use of informers is regulated by the Regulation of Investigatory Powers Act 2000 (RIPA). Rules for their use are found in the, unpublished, Association of Chief Police Officers (ACPO) Manual of Minimum Standards. RIPA and the Manual together are detailed and prescriptive. Many rules for informer use herein have come about because of past mistakes or malpractices (often a subjective assessment). Effective and ethical usage today can only properly be discussed in terms of RIPA and the accompanying rules. Officers tasked with managing or handling informers must

operate within those rules and also within the spirit of those rules; supervisory structures and procedures now in place aim to ensure that they do so.

Albeit that RIPA (unlike the Police and Criminal Evidence Act 1984 (PACE), which also directs police behaviour) is permissive legislation and that failure to operate in accordance with the Act will not *necessarily* mean that any evidence obtained will be excluded under PACE, s. 78, it is clear that courts will *usually* refuse to allow such evidence. There is very little scope for deviation from the law/rules and therefore little opportunity to put into practice many of Roberts' 'creative' strategies.

Some of those strategies are questionable. 'Julian' the uncooperative informant (pp. 38–39) provides an example. The suggested action (of confronting Julian with a videotape of his activities and threatening arrest and a remand into custody if he does not fully cooperate) may be legal in some jurisdictions (probably not in the UK) but its ethical veracity is highly questionable.

The section 'When informants become targets for other officers' is an example of the sometimes conflicting advice that pervades this book. Roberts suggests that a way of protecting one's informer from the attentions of other police officers is to 'execute a warrant . . . by your own department to take the heat off him at a time when he is unlikely to have evidence of further offences around him' (p. 40). The contents of the information *sworn* before a magistrate (or other member of the judiciary) to justify the issuing of the warrant can only be

guessed at here but could form the basis of a prosecution of the officer(s) for attempting to pervert the course of justice and perjury. It is difficult to square Roberts' suggestion here with his later statement that 'courts must never be deceived at any stage . . .' (p. 87).

The reality is that the world has turned; New Labour's universal acceptance of European Convention on Human Rights principles (enshrined in the Human Rights Act 1998) meant that the use of informers by law enforcement agencies had to be put on a statutory footing and since 2000 (with the enactment of RIPA) the UK has had legislation in place to regulate informer use and to ensure that citizens' rights are upheld. Published in 2002, Roberts takes no account of these changes; his book is all the poorer for that. Any examination of informer use that does not pay any regard to the legislation supporting and regulating that usage (whatever the jurisdiction) must be considered deficient *per se*. There is, however, sufficient merit within the 'human factor' elements of the book to recommend it to practitioners provided they accept its limitations and ensure their practice accords with current legislation and guidelines.

Adrian James
Associate Lecturer
The Open University

Tim John
Senior Lecturer
Centre for Criminology, University of
Glamorgan