

Text of the speech given by Sir Denis O'Connor at the APA-ACPO Conference

1 July 2010

The Greatest Risk of All.

The more observant of you will be wondering why there is a Christmas present sat on the stage in the middle of summer? All will become apparent later...

Introduction

Great changes are upon us for the first time in a long time. Police, like other public services, face real cuts over the next 3 years navigating into the downturn, the paradox is that being too cautious, too risk averse in adversity, may be the greatest risk of all.

Risk, threats and harms have evoked a flood of expectations, legislation, guidance, and requirements, for example on crime reporting, to the point where the police cannot keep up – as our work on public order illustrated last year.

Our public sampling last year revealed a strong public desire to know 'Where are the Police?' - And this occurred whilst police numbers were growing.

The service needs to revisit the fundamentals as it rethinks policing and not waste the opportunity provided by the financial crisis. The aim should not be to retain a smaller version of the status quo in aspic, or simply strive to protect the present thin front line – as Lincoln put it 'as our case is new we must think anew and act anew'.

Revisiting the Status Quo on managing Risk

Here is why – the status quo promise on managing risk for the public in policing:

- Isn't affordable or doable – last year alone, we calculate at least 4000 new promises were made on what police should do in guidance provided to them;

- It's creaking under the weight of its own massive, well intended bureaucracy – there were at least 52 guidance documents amounting to 2615 pages published last year;
- This is the tip of the iceberg – on further examination we have found that there are 60 more documents in the pipeline and 6497 pages of guidance in existence. Are we serious – This looks like guidance Mania! I'm told that if you laid all of the pages end to end they would be three times higher than the Eiffel tower...!

The highlight for me last year was the manual on cycling. I had always wondered how to deploy covert officers on bikes – now I know...

I hope that you do not allow financial pressures to cause this great public service to put its head down, I hope the service can revisit and restate the British Police approach to prevention and risk. Sir Ronnie Flanagan, the Risk and Regulation Advisory Committee and Jan Berry have all had good things to say about risk and risk aversion. But what has changed? I hope a much leaner approach to guidance / doctrine can be developed - for police officers need a body of knowledge to work with. I hope for an approach that celebrates the need for that jewel in the British Police model – discretion. The key point is this: **Police cannot exhaustively offset particular risks to particular individuals without reducing the resources to provide general safety for all us – Isaiah Berlin, one of the leading academics of the 20th Century, told us that all choices have costs – we can't have it all.**

The result is to transfer risk to remaining frontline officers and staff for triage of particular interests, all noble in their own way, on drunkenness, mental health, missing persons, hate crime etc. They cannot possibly keep up with this torrent of advice / guidance / doctrine. The police may have become more sophisticated in their approach, but they have lost something along the way. Consider for a moment a typical Friday night in most towns in the country. A constable has a conversation with someone who is clearly drunk, and becoming slightly rowdy. They give the reveller some words of advice and send them on their way. The most likely outcome is that the person spoken to goes home and sleeps it off. Every now and again however they might fall foul of a tragic set of circumstances that ultimately leads to their death (be it through accident, misadventure or unrelated natural causes). Should that happen the actions of that unfortunate PC will be scrutinised with the benefit of hindsight, as a “death following police contact”.

Specialisation around risks depletes street availability

The police cannot eliminate risk, nor can they offset all risks – the more they attempt to do so around particular harms, the less that's available for everyday prevention. Reading through the guidance published, we could be forgiven for believing that the police can offer a more sophisticated service than they are geared to provide – a false promise. They can do more on particular risks at a price, but there is a cost which the public were entitled to know. During the last 5 years of growth street prevention and peace keeping by warranted officers has been depleted. Everyday availability of police officers locally has reduced in many places as more and more become specialists. Since 2005, based on forces own returns, there has been a 31% rise in officers engaged in national functions, 9% rise in investigators 12% in intelligence and a 2% **reduction** in community police officers – 'covered' only by the increased presence of PCSOs.

My point in highlighting this issue is not to assign blame (there are many who have their part to play – including HMIC) but instead to:

- Acknowledge where the service is at; and
- Suggest ways that the situation can be turned around to support the frontline rather than merely imposing more and more requirements on already stretched officers.
- If I had more time I would also look at how the service got here.

An Example

The rate at which guidance is produced has grown steadily over the last 6 years.

Scratch the surface and it's worse than it looks. Just look at the National Intelligence Model (NIM), which to my personal knowledge started as a 4 boxes option on one page, and has now become 213 pages. But it's bigger than this, just look at the associated documents around NIM, 9 in total amounting to 816 pages – with two further documents in the pipeline!

Key point

It seems evident that nobody has been keeping an 'account' of all of this – i.e. the affordability and doability of each new requirement given other commitments. If taken seriously, the 52 documents from last year raise the spec of policing considerably. What business, public or private could absorb this level of growth?

Action Principles

Doctrine **is** used by businesses and others, because, in its absence, each new intake has to learn the key issues in their domain. Indeed if it doesn't exist in a simple, straightforward way the culture in policing or elsewhere, imparts its own 'rules of engagement'. I think of doctrine not as being encyclopaedic but as being action principles – a small set of rules to live by e.g. on murder or suspicious deaths - never make assumptions.

What next?

1. Moratorium on guidance

On 21st December 2009 I wrote to the President of ACPO and the Chief Executive of the NPIA pointing to the dust-storm of guidance (52 documents, 2615 pages etc) and suggesting a moratorium. It was in a box very like this! Both have been responsive. Hugh Orde gave immediate support in his own characteristic way and many of his ACPO colleagues have been steadfast since - for now the 'tap' is officially off' – but just 'stopping' for now won't resolve this

2. Self Denying Ordinance

Let's have a self-denying approach on this from everybody (I include ACPO, APA, HMIC and HO in this) and the bureaucracy it brings, which recognises the realities of police operations and police work.

3. Layered approach

Let's look at a new modern way of layering knowledge transfer and information made available to the frontline – the 'apps' approach on iPhone is more like it, than telephone directories of guidance.

4. Keeping count

Let's revisit who holds the police 'account' spent on risk legislation guidance issues – answer: nobody! There is a sub-committee charged with looking at priorities (the Policing Portfolios Group) which has had little impact on this issue until very recently – when the President of ACPO has intervened – but it probably won't be able to do the job required in the future, unless there is a better touchstone for police handling of risk, and a determined service view of the importance of the preventative street presence and that approach has support from Government. The public want to see the police, and leaders must stand by those who have to make tough decisions on

the information they have and allow reasonable mistakes to be made without a witch-hunt.

5. A new touchstone on Risk

Can the police really deliver on this promise, from a 2007 guidance document: ‘the public is entitled to expect the police and public-authorities to **take all reasonable action to keep risk to a minimum** when offences such as.....are brought to police attention’. Without constraint! The Human Rights Act doesn’t demand this. For some, it seems as though the more areas are covered by central guidance, the more the sun shines...

This is well intended but is it deliverable? – I doubt it - unless police IT systems automatically connect the dots and capacity exists to follow up each possibility. The search for safety, for good public protection is a balancing act. Minimising danger to some people is costly but understandable, but cumulatively it can result in less safety for a large number of the public if the police are not available to them.

Does ‘keep risk to a minimum’ mean ‘all conceivable’, ‘all known’, ‘all identifiable’, ‘all anticipated’ ‘all foreseeable’ risks? If some probabilities had been calculated it would help with some of these risk procedures because it would make ‘payoffs’ for the public explicit – but that hasn’t happened.

The leading case on this is Osman v UK which states:

*“... bearing in mind the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, **such an obligation [to protect life] must be interpreted in a way which does not impose an impossible or disproportionate burden on authorities.**”*

Osman makes it clear that **even in the context of threats to life**, every claimed risk does not require the police to take operational measures to prevent that risk from materialising. It is only when there is a **real and immediate risk** of which the police have, or ought to have, knowledge that they are expected to do all that could **reasonably be expected of them** to avoid the risk.

As a service the police have strayed away from this benchmark towards an approach that uses hindsight to assume that officers can mitigate against all possible risk. I have been speaking to officers at the front end of policing – their touchstone is 'just in case'. As Ronnie Flanagan's report said in 2008, nothing has changed, "risk aversion" as described in his report may be entirely understandable if seen from these officers' view point. This precautionary approach by officers that I have come across includes:

1 – Officers dislike leaving people suffering from Mental Health problems by themselves if they come across them. They would much rather try and find someone to hand them onto lest they be blamed should something later go wrong.

2 – Officers resort to walk / drive drunk people home as the only other alternative is to take them to hospital, which would take even more officers off the street.

3 – Officers recognise that some of the bureaucracy associated with attending a domestic dispute is regarded as essential. But in some areas the remit has been extended to attending arguments between parents and children. Now that we know much more about this issue, shouldn't the service revisit which circumstances merit the completion of the standard 27 question risk assessment.

As a result forces are not only losing officers to specialist roles, but even those who are out and about are spending significant amounts of time managing social care issues – just in case.

In my letter to Peter and Hugh I suggested by way of a start, that a new touchstone was needed for actions - principles for policing i.e. **the most probable (most likely) risks that arise routinely that police can reasonably be expected to deal with.**

Conclusion

But - the truth is that the mountain of guidance is a symptom of the real issue here, not the cause. Neither really is risk. Both arise from a fudged, over elastic view of what the police can and should do 24/7 for the public.

The departure of police from the street, the accumulation of guidance, the drift to specialist posts are all of a piece. The service needs to tackle risk and so called 'risk aversion' at source. It needs to ration top down requirements and look very hard from

the bottom up at demands made by forces themselves (yes they too have specified procedures, information demands on public facing operators...that's another story!) The Inspectorate is working with ACPO colleagues to identify systems from the bottom up that are 'super out putters' of bureaucracy. We should assume that those working in roles making requirements I have mentioned from outside or inside forces are all working in good faith, but it doesn't add up and is not sustainable. It is right to call time on this in the interest of the general public who long to see the 'lesser spotted constable'. The time the police have to be **available, accessible, contactable** by the police is a precious asset – which is why Peel guarded it jealously marching the police out to their beats. Its time we guarded it jealously too!