

GWENT POLICE SURVEILLANCE POLICY



Heddlu
Gwent
Police

SUMMARY

'STAFF ARE REMINDED THAT THIS SUMMARY IS STRICTLY AN OVERVIEW OF THE KEY ELEMENTS OF THE DOCUMENT AND FOR A MORE COMPREHENSIVE EXPLANATION THE SURVEILLANCE PROCEDURE WHICH IS RESTRICTED SHOULD BE READ'

This policy aims to provide consistency in respect of all surveillance application completions and submissions. It also aims to assist in the prevention of crime and disorder and to protect the rights and freedoms of others.

Gwent Police will ensure that the purpose of surveillance and level of intrusion is proportionate to the matter under investigation and that other less intrusive methods are considered prior to the application being made. Gwent Police requires that surveillance must be necessary and, importantly, the evidence or intelligence required could not have been achieved by other conventional means. The surveillance must be proportionate to the objective to be obtained. The surveillance must have a clear legal basis and the level of collateral intrusion will **always** be a factor. It will be necessary that in the pre-planning stage of all operations, that a strategy is included to reduce the risks of collateral intrusion.

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION CAN BE FOUND ON THE INTRANET POLICIES SITE.

INDEX

1.0 Policy Identification Page

2.0 Policy Statement & Intentions

- 2.1 Principle & Scope of Policy
- 2.2 Aims of Policy

3.0 Introduction

- 3.1 Origins / Background Information
- 3.2 Motivators / Driving Forces
- 3.3 The Legal Basis and Legitimate Aims

4.0 Implications of the Policy

- 4.1 Financial Implications
- 4.2 Human Resources / Training
- 4.3 Strategic Plan Links
- 4.4 Diversity
- 4.5 Consultation

5.0 Human Rights Consideration Certification

- 5.1 Auditing for Potential Interference and Discrimination
- 5.2 Key Human Rights Principles
- 5.3 Rights, Publication, Audit and Inspection
- 5.4 Certificate of Compliance
- 5.5 Legal Vetting

6.0 Promotion and Distribution

7.0 Monitoring / Review

1.0 Policy Identification Page

This policy has been drafted in accordance with the principles of Human Rights Legislation and can be disclosed to the public.

Policy Title: SURVEILLANCE POLICY

Reference: 273/3 a issue 5

Historical Reference: Surveillance Policy Oct 2004 issue 3, Surveillance Oct 2000 issue 2 Information and Procedure, Surveillance Policy Statement Dec 1999 issue 1 policy statement and procedure

Underlying Documents: Part 111 Police Act 1997, Regulation of Investigatory Powers Act 2000, Criminal Procedures and Investigations Act 1996 and Human Rights Act 2000.

Policy Ownership: Detective Superintendent (Operations)

Portfolio/Business Area Owner: ACC

Policy Written By: Manager (Special Operations)

Department Responsible: Specialist Operations

Policy Lead: Detective Superintendent (Operations)

Links to other Policies/Procedures: Surveillance Procedure, CHIS and Confidential Contacts Procedures

Policy Implementation Date: OPG 12th May 2006

Policy Review Date: every two years

Reviewed 6.5.2009

2.0 Policy Statement & Intentions

2.1 Principle & Scope of Policy:

This policy provides guidance for staff on the completion of all applications, authorities, reviews, renewals and cancellations in respect of surveillance which will be completed using the Charter UK Covert Application.

This policy identifies the routes the applications take dependant on the use of technical equipment, or the use of the Force Crime Team.

This policy identifies the relevant Authorising Officers dependant upon the level of surveillance required ie Directed Surveillance, Intrusive Surveillance, Property Interference.

This policy identifies the relevant authority level should Confidential Material be sought namely :-

Matters subject to Legal Privilege
Confidential Personal Information
Journalistic Material.

2.2 Aims of Policy

This policy aims to provide consistency in respect of all surveillance application completions and submissions. It also aims to assist in the prevention of crime and disorder and to protect the rights and freedoms of others.

3.0 Introduction

3.1 Origins/Background Information

This policy is specific to Gwent Police. It does however reflect National Policy in respect of Surveillance as outlined at 3.3. The National Policy was developed following consultation with ACPO, National Crime Squad, NCIS and HM Customs and Excise in order to set the National Minimum Standards in respect of surveillance. The policy sets out standards for best practice and ensures compliance with the relative legislation. Compliance with the policy will ensure that the relative legislation is being adhered to and will produce parity across the force in respect of completion of all applications and authorities.

3.2 Motivators/Driving Forces

This policy is required in order to comply with legislation. Having a policy on this matter is identified as good practice by the Office of Surveillance Commissioners and will prevent potential problems occurring.

3.3 The Legal Basis and Legitimate Aims

The legal basis for this policy can be found within the following :-

- Part 111 Police Act 1997,
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Criminal Procedures, Investigations Act 1996 (CPIA)
- Human Rights Act 2000.

4.0 Implications of the Policy

4.1 Financial Implications

There should be no additional best value or financial implications with the introduction of this policy.

4.2 Human Resources/Training

There should be no additional financial implications with the introduction of this policy. However line managers will be required to ensure that they closely monitor the performance of staff and their understanding of legislation to ensure that their staff comply accordingly.

Information will be provided to personnel to raise awareness of RIPA and functions of the Specialist Operations Registry.

4.3 Strategic Plan Links

This policy links to the aims of the Force as set out in the Annual Best Value Performance Plan. Specifically, this policy document will assist through the use of surveillance in the detection of a range of criminal offences.

4.4 Diversity

In the application of this procedure consideration must be given to the possible social impact of this procedure on the community. An equality impact assessment is a requirement to ensure all issues are considered. This is also a requirement of the Gwent Police Race Equality Scheme. Equality impact assessments must be undertaken before and after the application of this procedure.

Under the Race Relations (Amendment) Act 2000 Gwent Police is required to undertake proactive work to meet the General Duty of :

- Eliminating unlawful racial discrimination;
- Promoting equality of opportunity;
- Promoting good relations between people of different ethnic groups.

The General Duty is outlined in Section 71 (1) of the Act, and must be met **in its entirety**.

Monitoring must be undertaken to ensure that there is no adverse impact either positive or negative upon any one particular social group or individual. The results of monitoring must be analysed and be available for publication, and appropriate changes made.

All individuals using this procedure must be aware of the potential impact that this procedure has on the individuals to whom it is applied. The following strands of diversity and their corresponding pieces of legislation must be considered.

- Welsh Language Act 1993
- Race – Race Relations Act 1976
- Race Relations Amendment Act 2000
- Disability - Disability Discrimination Act 1995
- Gender – Sex Discrimination Act 1975
- Equal Pay Act 1970
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006

4.5 Consultation

Police Authority

ACPO

Heads of Service Area and Departmental Heads

Information Security Officer/Data Protection Officer

Superintendents Association

Federation

UNISON

Force Solicitor

Freedom of Information Officer

Gwent Women's Police Association

Gwent Black Police Association

Gwent Disability Network

Gwent Police Gay Support Network

5.0 Human Rights Consideration Certification

5.1 Auditing for potential interference and discrimination

Q1. What articles of the Human Rights Act 1998 may be engaged?

Article 2
Article 3
Article 5
Article 6
Article 8
Article 9
Article 10
Article 11
Article 14

Q2. Where individual rights are engaged what is the potential to discriminate against the parties involved?

Where people are involved there is always the potential to discriminate but :-

" In the application of this policy the Force will not discriminate against any persons regardless of sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under article 14 of the European Convention on Human Rights ".

5.2 Key Human Rights Principles

Q1. What is the legal basis for your policy?

See Section 3.3

Q2. Does the policy provide details of what could be considered as a legitimate aim for the potential interference with an individual's rights, through the exercising of this policy?

Restrictions on the rights protected in articles 8 - 11 in the Human Rights Act will be compatible with the convention only if they are aimed at protecting one of the interests listed in articles 8(2), 9(2), 10(2) and 11(2) respectively. The interest protected are broadly the same and generally include:

1. National Security
2. Public Safety

3. The protection of health or morals
 4. The prevention of disorder or crime; and
- The protection of the rights of others.

Q3. How are staff made aware of the clearly defined decision making processes?

By referring to Section 1.2 of the Surveillance Procedure.

Q4. What are the minimum standards of documentation in relation to decision making?

By referring to Section 1.2 of the Surveillance Procedure.

Q5. How does your policy provide guidance on the justification for assessment and actions as to whether the action is the least intrusive?

By referring to Section 1.2 of the Surveillance Procedure.

5.3 Rights, Publication, Audit and Inspection

Q1. Are there any sections of the document which should not be disclosed to the public on the Force Publication Scheme; because they consist of tactical or operational procedures, that would inhibit the apprehension or prosecution of offenders if publicly known, or would compromise the ability of the force to carry out its duties?

This policy can be disclosed

Q2. What rights to make representation and appeal process are available?

Persons who wish to make representations regarding the operation of this policy will have recourse to both civil and criminal law. There is also the right to use both formal, informal and organisational complaints procedures in respect to the operation of this policy.

Q3. What internal review and audit process is in place or is proposed?

This policy has been drafted in accordance with the principles and rights contained within the Human Rights Act 1998. It will be reviewed and continuously assessed in the light of any relevant changes and developments in the application of the Act.

Q4. What external independent scrutiny is recommended?

This policy document will be scrutinised annually by the Office of Surveillance Commissioners during their Force Inspection.

5.4 Certification of Compliance

Consideration has been given to the compatibility of this policy and related policies and procedures with the Human Rights Act; with particular reference to the legal basis of its precepts: the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making process's and outcomes of actions.

5.5 Legal Vetting

There are no issues in this policy under ECHR which cannot be resolved.

This policy has been vetted.

6.0 Promotion and Distribution

In order to highlight the existence of this policy to staff there will be the following:

General Orders entry .

Publication on the Force Intranet and Internet web sites

It will be made available on the Specialist Operations Registry site

It will be included in the Training Officer package for RIPA

7.0 Monitoring / Review

7.1 Monitoring

The monitoring of the aims of this policy will be the responsibility of the managers and supervisors of the Detective Superintendent (Operations).

The principles of the Race Relations Amendment Act must be adhered to in that any recognisable adverse impact should be identified and appropriate action taken.

Reviewed 6.5.2009