MODERN CRIMINAL INTELLIGENCE IN HIGHER EDUCATION TRAINING AND PRACTICE

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INTRODUCTION

In the criminal context, the word ‘intelligence’ means the discovery of acts or events that are concealed or otherwise latent, relevant to the crime, the clarification of unknown circumstances or details, and the making known of these to others for the purposes of further proceedings and action (Boda, 2019). It was only in the 18th century that the activities of law enforcement authorities in the field of criminal intelligence and investigative support began to develop in Europe, following the French model of Eugene Francois Vidocq’s secret police in Paris. As with military and national security intelligence, domestic criminal intelligence gradually developed separate, specialised organisational elements, human and technical resources and a methodology and intelligence model.

More than a hundred years have passed since the establishment of the Hungarian Detective Corps until the change of regime, and the nature and character of crime and criminal offenses have changed significantly, but the circumstances underpinning confidential information (e.g. victimlessness, organized crime) have not changed. These circumstances continue to justify collecting information and recording data without the knowledge of the party concerned, using appropriate external control.

The purposes and means of criminal intelligence and investigation are also different. The criminal intelligence assumes that the crime has not yet begun, that crime must be known and prevented, and the dangers of crime must be known as a current threat. The investigation is aimed at getting to know the suspicious behaviour that took place in the past, reconstructing the facts, and establishing the identity of the perpetrators. The main tools of the investigation are the open means of proof, the purpose of which is to reveal the illegal acts that have taken place in the past, to reconstruct the facts, and to gather evidence.

After a long preparatory work, The Act on the Police was adopted in 1994, regulating the secret gathering of information for “criminal purposes” in a separate chapter (VII.), which became a new, legal-level name for the activities called earlier ”covert confidential procedures” and later in the Soviet era “secret operational tools and methods”. With this, the prevention, detection and proof of crime have gained new, available, legally regulated opportunities, with little external control.

Criminal proceedings did not regulate, but allowed the use of secretly obtained information in criminal proceedings. Although this activity has been authorized by law, this has been regulated in detail in internal standards and instructions. The open and secret components of the knowledge have rightly given rise to a kind of segregation, as the collection of secret information as an option is not secret from the public, but the detailed regulation and the specific application remained secret, and this was accompanied by restrictions on confidentiality (Szendrei, 2020).

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Learning about the theory behind the use of covert investigative tools and how to use them effectively can be of great help in disrupting and preventing current and future crimes, and can add to the catalogue of evidence tools.

PURPOSE

The aim of the article is to present the teaching of criminal intelligence in law enforcement higher education, as well as to present the practice developed in the new legal environment.

DESIGN/METHODS/APPROACH

The author presents and examines the legal framework and practical aspects of the operation of Criminal Intelligence in Hungary and the situation of training, with special regard to the new Criminal Procedure and Police Law.

FINDINGS

Findings: On the one hand, analysis of the domestic legal regulation of criminal intelligence and the relevant EU recommendations the subject of the critical review, and on the other hand, the analysis of the development of criminal intelligence training in the domestic law enforcement higher education. The development of domestic training follows legislative changes, but the uniform application of criminal intelligence in practice needs improvement.

ORIGINALITY/VALUE

The article can contribute to the uniform practical and training application of criminal intelligence. The monitoring of changes in established practice can be the subject of further articles.

THE NEW LEGAL REGULATION OF CRIMINAL INTELLIGENCE

Criminal Procedure Law

In 2018, the time has come to transform the domestic criminal intelligence system and legal bases in order to ensure the continuity of supervision and investigations, prevent the loss of information and strengthen the law. The new Criminal Procedure Act, which entered into force on 1 July 2018, changed the law enforcement model according to which the tasks of criminal intelligence remained in the Police Act, the National Tax and Customs Administration Act and the Prosecution Act. The covert methods for criminal investigation purpose are set out in the Criminal Procedure Act.

The established system of procedures ensures the possibility that proactive, early detection can be applied within a short period of time before ordering an investigation, but already within the framework of criminal proceedings (Nyeste & Szendrei, 2019).

This has made it possible to avoid the practical problem of law enforcement arising from the separation of the regulation of secret information gathering out of criminal proceedings and in the framework of criminal procedure. And the acquisition of secret and other data in the framework of criminal proceedings was regulated separately from the secret information gathering of law enforcement agencies. The established system of procedures ensures the possibility to apply proactive prior detection in a short period of time before ordering an investigation, but already in the framework of criminal proceedings in order to establish or exclude the suspicion of criminal offenses (Nyeste & Szendrei, 2019).

The new procedural system - according to the law's explanation - creates the possibility of applying a proactive surveillance within a short deadline (6 months or some cases 9 months) before the criminal proceedings be initiated but within the framework of the criminal procedure. The new Criminal Procedure Act called this phase preliminary proceedings. The aim of this proceeding is to ascertain or exclude the suspicion.

The new Criminal Procedure Act creates the possibility of carrying out this activity in the course of criminal proceedings in order to establish suspicions, and in order to avoid the exclusion of evidence that does not fulfil the condition of "immediacy" in the criminal proceedings. During the preliminary proceedings, only those covert and open investigative measures could be used that do not yet assume the suspicion of a crime and the Prosecutor exercises supervision of preliminary proceedings. After this phase, under the investigation all of the special investigation measures can be done.

Special investigative means in criminal proceedings are those related to the detection and proof of criminal offenses, which are carried out without the knowledge of the person concerned are partly similar to the secret information gathering means. Techniques whose existence presupposes a suspicion of a criminal offense can only be used in criminal proceedings, etc. decoy or investigative bargain. Under previous regulations, the trap could also be used in secret information gathering procedure, for example.

This concept is compatible with the European Union's recommendation, according to which special investigation techniques (SIT) are applied by competent authorities in the context of criminal investigations for the purpose of detecting and investigating serious crimes and suspects, aiming at gathering information in such a way as not to alert the target persons. As the name suggests SITs are such proactive investigative methods that give the opportunity to the investigator to detect, ascertain or exclude the suspicion (Recommendation Rec (2005)10).

And the domestic concept compatible with the Project of Criminal Asset Recovery in Serbia of the Council of Europe includes those means or techniques used to gather evidence and/or intelligence and information in such a way (covertly) that they do not alert those being investigated. Invariably their deployment will involve a breach of the right to a private life, which will have to be justified by those carrying out/authorising the operation (Council of Europe Office in Belgrade, 2013).

The Special investigative measures regulated in the Criminal Procedure Act are as follows:

Not subject to judicial authorization:

- Informant
- Surveillance
- Disinformation
- Trap, decoy
- Covert information gathering
- Replacement of the victim or other person

Prosecutor's authorization:

- Covert investigations
- Controlled deliveries
- Pseudo purchase
- Plea/investigative bargaining
- Monitoring of payment transactions
- Monitoring with consent (victim)

Judge's authorization:

- Interception of communications
- Interception of post
- Wiretapping,
- Secret search
- Remote searches and bugging

Police Act

With limited facilities, law enforcement (or law enforcement support) and crime prevention purposes, the regulation of sectoral laws still allows for the secret information gathering. The Police Act defined the concept of secret information gathering: the secret information gathering is a special activity carried out by the police without the knowledge of the person concerned, involving the restriction of the fundamental rights to privacy, the private home and the secrecy of correspondence and the protection of personal data.

Pursuant to the Police Act, the possible purposes of collecting secret information are: crime prevention, sting operation, circling procedure, provision of personal protection, preparation and implementation of the Protection Program, personal protection and facility insurance tasks, placement and removal of technical equipment or data used in the application of covert means subject to judicial authorization, in the framework of cooperation with a Member State of the European Union or a third country under the law or international agreement on international law enforcement cooperation, in order to protect a covert investigator or covert organization, recruiting and protecting an informant.

Possible means of secret information gathering (that is not linked to a specific crime) include:

Not subject to judicial authorization:

- use of informant;
- collecting and verifying information by keeping the real purpose of the proceedings secret and by using a police officer or undercover detective;
- secret observation of a person, an apartment, another room, a place open to the public, or a vehicle, collecting information about what has happened and recording what has been detected by technical means;
- replacing a person with a police officer if necessary in order to protect his or her life and physical integrity;
- obtaining the data necessary to establish the fact of communication by an electronic communication device or information system, to identify the electronic communication device or information system or to establish its location;

- requests for data from service providers designated with the permission of the public prosecutor;

Subject to judicial authorization:

- secret search,
- secret surveillance of a private home,
- confidential access to the consignment,
- wiretapping,
- secret monitoring of an information system.

The law enforcement concept change of 2018 took into account international patterns and the Police Act in its preventive tasks in criminal intelligence uses a stepwise approach. In general, the law stipulates that - among the tasks of the police - what is meant by crime prevention implies police activities in general. The crime prevention task does not only apply to the criminal intelligence activities of the police, but also to all types of tasks that enable the implementation of crime prevention objectives (e.g. detection of public order disturbance, traffic police patrols).

In order for the goal set by law to be achieved, it defines the intelligence (not just criminal) needs at the organization level, their priorities (this can be one of the tasks of the daily command instructions), and their implementation must be continuously monitored and if necessary, modified tasks need to be followed by an appropriate analysis. The general crime prevention task definition is followed by a set of criteria for the applicability of secret information gathering, which sets out the conditions under which secret information gathering may be carried out for the purpose of crime prevention. The final step in the regulation concerns the applicability for criminal prevention purposes of the most severely restricted means of gathering information subject to judicial authorization.

CRIMINAL INTELLIGENCE TRAINING IN HIGHER EDUCATION

Ludovika University of Public Service (Ludovika - UPS) is the only higher education institution in the Hungarian education system where criminal intelligence is taught in a complex way. The majority of law schools naturally deal with the regulation and legal basis of covert means used in criminal proceedings, but their topics do not cover practical implementation and methodological issues. They also do not deal with criminal intelligence under the Police Act.

Students at the Law Enforcement Faculty are offered four-year full-time and three-year part-time BA programs, two-year part-time MA programs, three-term specialised further training courses, and also a four year long doctoral program.

Two of the Ludovika - UPS's Bachelor's degrees (BA) offer a total of three specialisations in criminal intelligence. Each of these courses includes an integral part of the three-semester course "Criminal Police Service Studies" and additional courses depending on the specialisation chosen.

In addition to the Bachelor's degree (BA), students must also complete 4 weeks of compulsory professional training after the academic year, which is related to the chosen specialisation and can be completed at the body that is appropriate to it.

In the Ludovika - UPS's Master programs in Law Enforcement Leadership Management (MA), the four-semester Leadership Studies for Criminal Police specialisation and the Master of Criminalistics Master program are concerned with criminal intelligence. Among the NKE's courses, we should also mention the three-semester "Law Enforcement Organiser", which is a retraining course, and the two-semester “Theory and Practice of Combating Organised Crime”, which was launched at the university in 2018. The latter will provide practising judges, prosecutors and members of the investigating authorities with an additional opportunity to learn more about the possibilities of fighting organised crime, including lectures on criminal intelligence.

Further training and development opportunities are also provided by the Doctoral School of Law Enforcement at the Ludovika - UPS, where several research topics (e.g. “Intelligence gathering for law enforcement purposes and covert means” or “The criminology of intelligence gathering”) are also related to criminal intelligence.

The professional conduct of criminal intelligence is an essential prerequisite for adequate preparation. The specificity of law enforcement training is that it requires students to be trained in an activity that is based on law, but also regulated in detail by restricted internal standards. This limits the scope of the technical concepts of conspiratorial activity that can be taught, so that training at school level, whether at BA or MA level, cannot cover all the details. For this reason, in addition to school-based training, there is a special role for further training and education within the law enforcement organisation, which, however, must be carried out alongside professional work; both for instructors and students.

The correspondence and full-time BA courses are available in 6 and 8 semesters respectively. The correspondence courses are open to law enforcement personnel, while the full-time courses are typically open to civilian graduates from secondary school. A new initiative is the possibility of opening a full-time course for talented non-commissioned officers, with classes of 15 to 18 students starting with non-commissioned officers already in the field of law enforcement and criminal justice.

In the BA criminal specialisation, both full-time and part-time, the course “Criminal Police Service Studies” provides the basic knowledge of criminal intelligence. However, criminal intelligence is not only taught to students in the criminal specialization, but also to other specialisations, such as the border police, traffic police, administrative police and public order protection, in the core subject “Criminal Investigation Studies”.

In order to meet the needs of law enforcement organisations, a human intelligence BA specialisation has been available on a correspondence basis for several years. This training is open only to police officers with at least 3 years of field experience and national security clearance. The students learn the importance of human source intelligence, the potential sources they will be able to use, the rules and recommendations of selection, background-checking and recruiting sources in practice. They learn the communication and psychological background of human source intelligence, the rules of covert contact. This special knowledge can help increase the effectiveness of criminal intelligence.

The parts of the theoretical instruction that are more difficult to understand are typically mastered during the practical sessions, which are more focused in the second semester, such as a full-day surveillance exercise with the assistance of the Special Service for National Security, the use of specific tools, or the complete processing of a concrete (but fictitious) case, including planning, administration and execution. Both these practical exercises and the third semester lectures (which cover the possibilities of detecting certain types of crime) are carried out with the help of experts invited from the field.

In our experience, the number of student feedbacks about inconsistencies between theory and practice is decreasing year by year. There is an increasing convergence between the taught curriculum and the applied practice, which is confirmed by the satisfaction of the senior police officers and police managers who took part in the exercises and final examinations.

Our higher education has responded to the growing number of crimes committed in the online space. We have launched a new BA specialisation in cybercrime investigation 4 years ago based on the needs of the police. Some characteristic subjects of the cybercrime investigation specialty include: infocommunication tools, basics of information security, infocommunication networks and telecommunication systems, criminological characteristics of cybercrime, criminal law features of cybercrime, cyber investigator work in the field, open and secret information gathering in cyberspace, aggression and sexual deviances in cyberspace, investigation of intellectual property crimes in cyberspace, investigation of financial crimes in cyberspace, organized crime in cyberspace.

From August 2024, the Law Enforcement Faculty of the Ludovika University will have a separate Cybercrime Department. The Department will include specialised classrooms and specific analytical programmes.

TRAINING AND CRIMINAL INTELLIGENCE MODELS IN PRACTICE

The central training of the body set up to carry out general policing tasks is organised and implemented by the Rapid Response and Special Police Service, but in recent years the capacity of these training courses has been significantly reduced. Instead of 100-120 persons being trained annually in three modules at three levels, they can now only accommodate 30% of the former number of staff in intermediate level training.

In the regional and local bodies, training is largely limited to the transfer of up-to-date theoretical knowledge, but training for practical application has almost disappeared. Typically, the lack of experienced professionals, turnover in the field of intelligence and understaffing result in a lack of training of sufficient quantity and quality, but the organisational structure, which is not yet adapted to the new rules created by the new Regulation, also has a negative impact (Csizner, 2024).

The police's organisational level solutions for criminal intelligence present a very varied picture. In the international literature, many studies have examined different policing models, describing their advantages and disadvantages. Problem-oriented policing (Herman, 2003) can help to better understand criminality rooted in social processes and to predict trends and changes, but information can only be obtained through close cooperation and serious analytical work. Intelligence-led policing shares many of the characteristics of the above strategies, but differs from them in some respects (Tilley, 2003). Intelligence-led policing has been used successfully to tackle major crime problems as they arise, but is not in itself effective in identifying new patterns and processes of crime and formulating responses (Maguire, 2008).

Community policing is one of a number of policing theories that were developed as a policing concept and strategy in the USA and then transferred to Europe in the 1980s (Skogan, 2004). The basic idea of community policing is to decentralise the police closer to local communities, to increase police visibility in public spaces and to involve the community in the definition of the problems they face. Community policing is preventive rather than reactive, as the main aim is to increase the public's sense of security (Jaschke, et al., 2007). However, the crime-reducing effect of increased police presence alone cannot be conclusively demonstrated (Bradford, 2011). Some studies suggest that a 10% increase in police presence may have a 3% crime-reducing effect on low-value property and related crime, but the effect on violent crime is no longer clearly demonstrated (Levitt, 1997). The effectiveness of community policing, the acceptance of policing measures and the development of partnerships with the public may be hampered by the variation in the ethnic composition of the population and their different cultural attitudes (Bottoms & Tankebe, 2012).

Based on the analysis of the above-mentioned documents, the basic steps for the development of criminal intelligence capabilities are the establishment of an appropriate organisational element (criminal information unit), the selection of specialists and professionals for each job, continuous training, education, provision of human, material and technical resources, dissemination of intelligence awareness and intelligence priority points within the organisation.

In domestic practice, both under the previous legislative framework and under the current legislation, different specific intelligence organisation models have been applied. The Directorate General of Criminal Investigation of the National Tax and Customs Administration has developed its criminal intelligence model (e.g. use of a controller, employment of only ad hoc informants at local level, etc.) for several years, in line with the specialities of the field and taking into account international experience.

The National Bureau of Investigation of the Rapid Response and Special Police Service and the Budapest Police Headquarters, as larger units with concentrated criminal tasks, use mainly specialised integrated intelligence units (human intelligence, analysis, case processing), which are separated at organisational level.

The intelligence gathering tasks of criminal intelligence are carried out by the intelligence units of the police, but the use of covert means is already carried out by other organisational elements in several territorial services (e.g. economic protection, criminal investigation department) and the relevant analyses are also carried out by other organisational elements. There are also organisational arrangements whereby the territorial bodies also meet the criminal intelligence needs of the local bodies, but there are also examples of operations requiring more resources and manpower being carried out jointly by the criminal intelligence units of the territorial bodies with the local bodies. In other words, there is no single integrated criminal intelligence model that is adapted to local specificities. Yet in response to the emerging trends in cybercrime, specialised cyber investigation units have been set up in the police force, with 300 officers.

CONCLUSIONS

The legal basis for the development of modern criminal intelligence in Hungary is in place. Reforms in the 2018 Criminal Procedure and Police Act can support criminal intelligence and investigation adequately. The law enforcement higher education curricula have responded appropriately to the legislative changes. The use of more hours of practical sessions could, of course, further enhance the proper application of theoretical curricula in practice.

The learning of criminal intelligence through training in law enforcement agencies is mixed and the models of criminal intelligence are not uniform. Police professional management does not show a consistent picture either.

On the basis of the above, I recommend that law enforcement agencies should hold more criminal intelligence training courses with a larger number of participants, more hours and a uniform theme. Furthermore, I would consider it necessary to set up train-the-trainer courses, even at our universities. The development of an effective, coherent, but at the same time organisationally tailored, integrated criminal intelligence model, following the same enforcement, case processing and control protocols, and its development at the organisational elementary level, remains a challenge for police researchers and the criminal intelligence branch of the police.

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