

ISSUE 1 - 2024

The Investigator

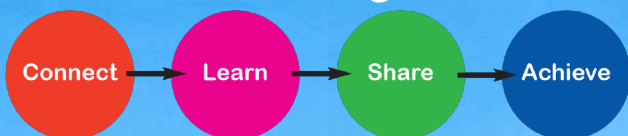
ESSENTIAL LEARNING FOR TODAY'S INVESTIGATORS

Inside
Paws for Support
Covert Challenges
Interview Innovation
Spiking: Will a change in the law help?

11th National Analyst's Annual Conference

8-9 April 2024

Denham Grove Hotel, Denham, Buckinghamshire, UK



Welcome to the latest issue of our new look magazine that aims to highlight latest thinking and best practice in the world of criminal investigation.

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CONTENTS

ISSUE 1 - 2024

5 Interview Innovation: concerns have been raised over the fact that forensic interviewing in relationship-based crimes has become a neglected craft. Dr Patrick Tidmarsh and Professor Becky Milne explore the key issues and provide advice on the way forward.

11 Spiking: will a change in the law help? Dr Amy Burrell a Research Fellow at the University of Birmingham considers whether a law change will help tackle increasing incidents of drug and alcohol spiking.

14 Covert Challenges: exploring issues regarding Directed Surveillance and the use of Covert Human Intelligence Sources (CHIS) under RIPA 2000 and how this applies to online activity by public bodies. Covert trainer, investigator and subject matter expert Adrian Ramdat from The Signature Brand reports.

17 Victim Voice: Achieving Best Evidence Language Screen (ABELS) is an innovative communication screen that supports police decision making as to whether to use an intermediary in interviews and courts. Co-founder Ruth Jackson reports.

19 RIPA under the Microscope: in the digital age, where people share personal information widely and privacy concerns are ever-growing, the use of surveillance powers by public authorities is becoming a focal point of legal and ethical debate. Covert trainer, investigator and subject matter expert Adrian Ramdat from The Signature Brand reports.

22 University Challenge: the University of Sunderland has been providing continuing professional development (CPD) opportunities for investigators for nearly 20 years by building on the existing training and experience of practitioners. Professor Gary Shaw, MBE reports.

22 Mobile Momentum: the fact that most investigations now have a digital element makes it vital that investigators have an effective strategy to review mobile forensics extractions. Elliot Wilding-Glendye, Course Manager at Control-F reports.

26 Paws for Support: a trauma support dog called Holly is providing Wellbeing and Trauma Support for police officers alongside former officer Paul Roe as part of his Blue Paw company.

28 Upwardly Mobile: Detego Global has developed mobile deployment kits that effectively meet the needs of mobile crime units, intelligence agencies, border agents and police forces, providing fast digital forensics investigations from any location.

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Interview Innovation

Concerns have been raised over the fact that forensic interviewing in relationship-based crimes has become a neglected craft. Dr Patrick Tidmarsh and Professor Becky Milne explore the key issues and provide advice on the way forward.

The UK has long been an innovator in forensic interviewing, with developments such as PEACE, tiered training, and intermediaries. As a nation we are also good at embracing novel ideas, giving them a go (e.g. the cognitive interview).

There's also a history of collaborative efforts between practitioners and academics, to advance our practice and increase professionalism.

More than 25 years of co-joined effort is now spreading like wildfire over the globe (see the UN driven Mendez Principles, 2022) with many law enforcement organisations now striving to reach 'best practice', taking the lead from the UK. However, in recent times, effective forensic

interviewing seems to have fallen by the wayside, and into disrepair, in the UK. In a recent meeting, we listened as colleagues discussed what needed to be done to improve matters, lamenting the realisation that they had all been in similar meetings, a decade or so ago, having the same conversation. If we are not to be here again in ten years' time, there are some fundamentals we need to address.

There's the age-old problem, that policing tends to see training as a 'one off' need, whereas interviewing is a skill set that needs constant upkeep and development. Hard to do when times, and budgets, are tough.

Along with this sits the notion that everyone can do it, so all interviewing is seen as an omniscience. If only that were true. Not only is interviewing not something that anyone can do, but even if it were, it is beyond any organisation to maintain the skillset of so many people to the standard required.

So, with all these issues, where will the improvements come from? What can we do to stop the rot? Let us start by reminding ourselves what investigative interviews are for, and what we hope to achieve with them.

As an agent of the criminal justice system, we all make decisions. It is a truism that decisions are only as good as the information used to inform them, and information is only as good as the questions used to elicit it. It thus follows that poor questioning is likely to result in unreliable information and produce ill-informed decisions.

First, and foremost, interviewing is a memory task for interviewees, and a communication task for interviewers. Follow the wrong process (i.e. one that is not science-based), and the returns will be small and erroneous.

When multiple communications occur, it is likely that the memory will differ too (i.e. a consistency issue), creating problems for prosecutions. So, job number one (1): understand how memory works, because in any effective interview, it is the complainant's memory that is in charge. Interviewers need to understand how fragile memory can be, how the types of memory they are dealing with influence the utility of the range of tools available to unlock that all-important relevant detail.

Secondly, interviewing should be a therapeutic process, having therapeutic jurisprudence at its heart. This is particularly important when interviewing people who are traumatised, as complainants of relationship-based crime will be.

When we get it right, and gather a thorough exploration of their story, it can do so much to aid their recovery. Having autonomy in the process, and having control over their own narration, are the keys to empowerment.



Becky Milne

These are achieved with simple techniques and instructions, like open questions, and using the 'transfer control instruction' in cognitive interviewing. There is an abundance of research evidence telling us that effective, victim-centred interviewing, can have significantly positive effects on victims' health and wellbeing, irrespective of any court outcome. So, job number two (2): be victim-centred and get the social dynamics of the interaction right.

Only when these first two steps are done effectively, and compassionately, can interviews provide investigators with the relevant evidence they need to conduct investigations effectively. Interview outcomes then form the basis of the last three functions: (3) to elicit information-evidence that assists officers in charging decisions, (4) helping prosecutors form case concepts to relay that evidence to jurors, or other fact finders, and (5) helping those fact finders come to a decision beyond 'reasonable doubt.'

Investigative interviews (e.g. 999/101 interactions, gathering first accounts, and substantive interviews- VRIs), must all serve the need of all five inter-related corners of the CJS.

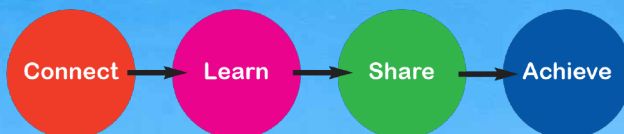
Questions and answers

Once we are clear on the multi-faceted aims of an investigative interview, the next step is to work out how best to achieve them. In relationship-based crimes, there is usually one witness, meaning interviews are the 'be all and end all' of the case.

We will need a reliable, relevant, complete, consistent, and coherent account of what has taken place, throughout the abusive 'relationship,'

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or the case is not going anywhere, falling at one of the hurdles that permeate the CJS.

There is universal scientific agreement as to what is best practice with regard attaining these aims, though be mindful that learning is a continual process. Indeed, UK National guidance has been and is based on such research (e.g. ABE, 2023). Effective and skilled interviewers avoid the trap of thinking their questions are the key, knowing that listening is the far more crucial element and knowing what questions NOT to ask.

They also know that the use of open questions and behaviour, while appearing to relinquish control of the interview, allow the 'boss' (the complainant's memory) free reign to give investigators the evidence they need in a trauma informed way.

Open questions are by far the most efficient way to elicit reliable evidence, albeit that they require a leap of faith to get there. Specific-closed questions can be useful, but they should be used sparingly.

By far the most common advice we give to interviewers is, "Ask an open question, then Shut Up and listen!" If you do that, then the story, and reliable and relevant evidence, will come to you.

We suggest that effective interviews, in relationship-based crime cases, need two different interviewer roles, and three distinct phases of interview. As cases can be complicated (defined by a multitude of factors e.g. level of trauma, time...), evidence can span long time periods, particularly in domestic violence or historical child sexual abuse cases, roles should thus be separated between the interviewer in the room and the co-interviewer, observing from outside.

The interviewer in the room should be focused on getting the social dynamics right (e.g. being mindful of interpersonal cues to maintain levels of rapport), facilitating communication (e.g. using the DeMo technique), and maximising the interviewees cognitive processing (e.g. skilful use of silences, techniques, and questions). The interviewer outside the room (the co-interviewer), has many tasks.

They should focus on the information/evidence being elicited, any gaps and anomalies that need

to be explored further, remaining wise to any future defence strategies.

If an interview team can identify potential assumptions and misconceptions that may weaken the prosecution's case narrative, smart interviewing may help complainants explain them in their story, diminishing the damage they might subsequently do in court.

These two interviewer roles would then combine to cover three different interview phases: (i) breadth - gaining an extensive free narrative, (ii) depth - development of the narrative, and (iii) 'curiosity' - understanding the narrative. 'Breadth' elicits the free narrative, and then extends the breadth of this narrative using open-ended behaviour, techniques (e.g. drawing to remember) and open-breadth questions such as 'Then what happened?,' making sure to get as full a free narrative as possible.

When complainants start with an abridged version, it is essential to go back and prompt a fuller one. Planning and preparation are the key here, such as understanding what a barrier might be to giving a full account or identifying how to particularise memory (if a repeated event). Phase 1 is where the most reliable memory is likely to be gained.

'Depth' asks complainants to give more detail about an area already noted, using open-ended behaviour and open-depth questions such as 'Take me back to the part where, and tell me more about,' alongside techniques such as 'spotlighting' the offender actions). Topic selection is key and should be compatible with the memory of the complainant.

After each of these first two phases, a break could be taken (we would suggest in most cases), to establish what information is missing, to allow the complainant a break (the task of searching memory and relaying it, is mentally exhausting), and to help reduce the cognitive load of the interviewer. In a break before Phase 3 – the Curiosity Phase, co-interviewers should suggest areas that need to be approached to help minimise defence strategies, particularly those that prompt juror assumptions and misconceptions.

These include delays in complaints and reporting,



continued relationships with alleged perpetrators, and lack of injuries etc. (see references for further reading). These form the cornerstone for phase three, where interviewers use 'curious' questions and techniques about these important topics.

Interviewers need to understand memory to know what format the information is held within the complainant's brain. Gone are the days of 'Why did you wait so long to tell us, love?' replaced with 'So you said this happened two weeks ago... tell us what's been going through your mind since then, or... what prompted you to come in today?' With the right approach, techniques, and questions, complainants should be able to give the reliable, relevant, complete, consistent, and coherent account of what has taken place that investigators and prosecutors need.

As we have already said to be able to do this complex task, investigators dedicated to this role (as practice is key) must be well trained, by knowledgeable trainers, with adequate CPD in place. (see the Framework of Investigative Transformation (FIT) for more on achieving reform in forensic interviewing and investigation).

Getting the Whole Story

Finally, whilst the interview skills and processes described may be useful in all sorts of investigations, they are particularly essential in relationship-based crime investigation, where they must be paired with the necessary knowledge and attitudes of offender behaviour to elicit all available evidence. We call it a 'Whole Story' approach, developed in Australia, which is now part of the National Operating Model for RASSO offences, introduced by Operation Soteria.

'Whole Story' teaches investigators that relevant evidence is available to investigators from the entirety of the abusive 'relationship' between offender and victim, particularly in the various grooming strategies employed by offenders.

Grooming is broken down into different sections, used in distinct phases of the abuse. Most assumptions and misconceptions around sexual offending, or domestic abuse, centre on victim behaviour, many of which can be explained by an understanding of what offenders were doing.

For example, defence commonly suggest that delays in complaints are suspicious, but exploration of offender power and control tactics, through grooming or coercive and controlling behaviours, may help fact finders understand the confusion and sense of powerlessness that led to a delay in reporting.

All investigators and interviewers require a combination of scientific and legal knowledge, appropriate attitudes, and the correct skill set. Interviewing is THE critical skill, and we need to place it at the heart of policing again.

Further reading

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<https://www.cps.gov.uk/legal-guidance/rape-and-sexual-offences-annex-tackling-rape-myths-and-stereotypes>



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A close-up photograph of a hand holding a small white pill between the thumb and index finger, positioned above a glass containing a yellow liquid. The background is dark and out of focus.

Spiking: Will a change in the law help?

Dr Amy Burrell a Research Fellow at the University of Birmingham considers whether a law change will help tackle increasing incidents of drug and alcohol spiking.

I was running a workshop on spiking for practitioner partners in Birmingham on the day we found out that the King's Speech was going to include an announcement about a change in the law around spiking.

My initial reaction was 'great, some progress at last!' but, on reflection, I realise that legislative change is only one step towards tackling the problem. Let me explain.

What is spiking?

Before I go any further, it may be worth defining spiking. Spiking is the covert administration of substances (eg drugs, alcohol) to another person without their knowledge or consent. Methods of administration include via drinks, food, vape/cigarettes, and injection (ie where a needle is injected into the person). Spiking can occur on its

own or be a precursor to a follow-on offence (eg, sexual assault or robbery).

We also know that spiking and/or the follow-on offence can have negative, long-term impacts for victims including mental health and/or physical consequences. Spiking has been an issue for a long time and can impact people of all ages in lots of different spaces, including bars and clubs but also house parties, festivals, or even your own home.

I have been researching the topic over the past few years – particularly in relation to measuring prevalence and determining motivation – and have found this a challenging area for research.

Prevalence is notoriously difficult to measure, not just due to under-reporting but also as it is difficult to disentangle from within data samples (more on this later). Motivation is another grey area as there is limited data on this from the perpetrator perspective, especially here in the UK.

I have, therefore, become quite attached to spiking

as it is a key area that needs good data, robust analysis, and proactive policy change. I have found myself engaged in research and have been campaigning to raise awareness of spiking and so knowing that change is coming, in the form of a new law, is exciting.

The Kings Speech

On 17th July 2024, King Charles III gave a speech for the State Opening of Parliament. In this, he announced the Government's intention to introduce a law to make spiking a specific offence. This is important as, although spiking is covered by existing legislation, it can be captured under different offence types – such as assault or maliciously administering a poison, making it difficult to extract data that relates to spiking offences from within police databases. I am hoping that the new law will help the police to identify spiking more easily in their data. This will help analysts to identify the characteristics of spiking offences and overarching trends which will support the police to better respond to incidents. It should also send a clear message that spiking is illegal and will be taken seriously, which will hopefully also increase reporting.

Measuring prevalence

Whilst the news of the change in the law is positive, it is naïve to think that it will be a silver bullet for measuring prevalence. Firstly, under-reporting is a massive problem for spiking. Victims do not always realise they have been spiked and, if they do, there can be a lack of corroborating evidence (eg no drugs found in their systems by the time they are tested).

Add to this that alcohol is one of the most common ways to spike people and it is easy to see why testing (even quick, responsive testing) would also not fill in all the gaps.

Even when researchers can access test results, again datasets can be incomplete. For example, it is not always possible to separate out what has been administered covertly from what the person has consumed voluntarily.

Furthermore, samples might not capture spiking incidents where the person did not present to healthcare services following a suspected assault or where there was no follow-on offence. Another

complication is that spiking behaviour might not be captured separately if there was a more serious follow-on offence.

Thus, analysts working on spiking would still need to review subsets of other offences to gain a more complete picture of spiking. In summary, whilst a new specific offence of spiking is welcome, work will still be needed to source and analyse data to gain a fuller picture of prevalence.

What next?

Crucially, I think more work is needed to understand the motivations for spiking. Our recent work in this area only identified two papers including the perspectives of spiking perpetrators. Both papers found that motivations relating to 'fun' or 'to have a laugh' were common.

This mirrors the experiences reported by charitable organisations who are highlighting that spiking can be done by people who love us and don't realise that what they are doing is spiking (eg buying doubles, putting alcohol in the punch at a house party).

To me, this signals that work is needed to raise awareness of what spiking is and why is it harmful as well as more enforcement focused tactics for those who are behaving in a predatory way and using spiking to facilitate more serious offending, such as sexual violence.

The good news is that awareness of the dangers of spiking is rising, and campaigners have been working hard with media partners to ensure spiking is portrayed accurately to the public.

A new spiking storyline addressed in an EastEnders mini-series is just one way that spiking can be brought to public attention and start a conversation. In the meantime, those of us working in data analysis wait with bated breath for the new law to be introduced, to see if this helps us answer (at least partially) the prevalence question.

Further information

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Covert Challenges

This article explores some of the issues regarding Directed Surveillance and the use of Covert Human Intelligence Sources (CHIS) under RIPA 2000 and how this applies to online activity by public bodies. Covert trainer, investigator and subject matter expert Adrian Ramdat from The Signature Brand reports.

The Regulation of Investigatory Powers Act 2000 (RIPA) has been a significant piece of legislation in England, Wales and Northern Ireland since it was enacted in October 2000. Scotland has its own version called the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA).

I would like to explore some of the issues regarding Directed Surveillance and the use of Covert Human Intelligence Sources (CHIS) under RIPA 2000 and how this applies to online activity by public bodies. All references in this article are to RIPA but these can equally be applied to RIPSA.

The purpose of RIPA is to ensure that such activities respect individual rights such as the right to respect to a private and family life, while balancing the need for effective law enforcement for preventing and detecting crime, matters of national security, public safety or other statutory reasons.

Directed Surveillance and CHIS

Directed Surveillance is in simple terms defined as covert surveillance that is conducted for a specific investigation or operation and is likely to result in the obtaining of private information about a person. It is generally pre-planned and not an immediate response to events.

A CHIS is, in essence, someone who establishes or

maintains a personal or other relationship with a person for the covert purpose of facilitating access to or obtaining of information or they covertly disclose information to a member of a public authority. This often involves members of the public who provide information to public bodies but it equally applies to undercover operatives and can also include employees of local authorities or government departments.

Online Research and Investigations

When RIPA came into force in 2000, there was no Facebook, X (Twitter), LinkedIn or the other substantial number of social media platforms that are available today and, I speak from experience, online research certainly didn't feature in intelligence or investigative activity.

However, over this period the Investigatory Powers Commissioners Office (IPCO) and their predecessors the Office of Surveillance Commissioners (OSC) interpreted the legislation and when they overlaid the legal definitions discussed above against activities that are regularly conducted in the online world, they formed the opinion that these activities should, where necessary be authorised under RIPA.

The Code of Practice for Covert Surveillance and Property Interference states that in relation to information which is online.

Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. '

This passage in the Code of Practice, while being supportive of the fact that investigators should be able to access lots of online information without an authorisation under RIPA goes on to talk of 'persistent monitoring' and also of 'extracting information from ANY check' so this needs to be carefully considered and not overlooked.

Legal Definitions

Some of the issues that have been seen in this area where errors are being made are a result of staff not being aware of the legal definitions of directed surveillance and CHIS, not understanding the exact point at which their activities meet the legal thresholds or too often, mistakenly, believing that if an individual places something on their personal social media account without them put on any form of protection on it then it is 'fair game'.

The Investigatory Powers Tribunal (IPT), the tribunal established to hear complaints and provide judgements on RIPA activity, said not too long ago, in one of its judgements, about an investigator's lack of knowledge of RIPA "A detective of any standing, let alone one with several years' experience, should have knowledge of the legal requirements relating to the investigation of crime, including RIPA, and ignorance is neither excuse nor mitigation."

It can be said with some certainty that none of us want that to be said of us, especially in a court or tribunal so, we must understand the law and how it is applied to our activities and we should take this very seriously in all of the online research that we undertake.

In my training, I often find that some delegates go on the offensive and tell me that I am trying to make them complete RIPA applications for activities that have always undertaken, or I am being too 'safe'.

Not too long ago, a group of investigators that I was training said that they didn't worry too much about what the law said!

Criticism

I was rather shocked, to say the least, and for me, if we work in law enforcement then the law is just as important as the enforcement part of what we do. That

view is borne out by the criticism from the IPT to the investigator above and anyone who knows me knows that I have never sought an authorisation 'just to be on the safe side'.

Good quality training should focus on clearly understanding the law, applying it and then if an authorisation is needed, obtain one.

Equally, if we conclude that an authorisation is not needed that should be written as a defensible decision, with the relevant legal definition and relevant guidance in the forefront used as our justification.

Through this approach, we can be satisfied that we are legally compliant and safe in the knowledge that the material that we have obtained is not open to challenge which may lead to an acquittal.

Plus, in the event of someone complaining to the Investigatory Powers Tribunal (IPT) then we know that we have obtained the material by following the law we won't be required to destroy the material and we can continue to use it as intelligence or evidence and, we won't be required to pay potentially significant amounts of compensation to the people whom we have conducted the activity against.

Authorisation

The Codes of Practice, for me, should be the first port of call for anyone involved in investigative activity and if you undertake this online research then you should have a good read of these, particularly the sections on covert online activity as there are some excellent examples of when an authorisation is or isn't required.

There are also some very clear explanations of whether material placed online should be considered as private or not.

For example, people often try to tell me that if someone puts something on their personal social media account with no form of protection then that is their lookout, and they can't have any expectation of privacy over that information.

As much as they may want to believe that is the case, the facts don't support that view. The Codes of Practice refer to this expectation of privacy by stating 'Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information.

This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public

authority of that person's activities for future consideration or analysis.

Privacy

Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites.'

It then goes on to discuss this in the context of online research by discussing the expectation of privacy when posting online and the use of privacy settings by saying 'This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity.

This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.'

So, as we can see, it matters not if the person has used the privacy settings on their account or not.

However, let's not only think that we need an authorisation for directed surveillance for the monitoring of a person's social media account, as we saw earlier it also states that the extraction of data may require an authorisation.

Profiles

This often comes as a shock to delegates on training courses, particularly in the intelligence arena, where they often talk of building profiles of people but don't seem to be aware of the provision of extracting data potentially needing to be authorised as directed surveillance. As much as we might want the situation to be different, it isn't and the Code of Practice is clear as to what is expected.

Turning our attention to CHIS activity this not only applies to members of the public who provide information to public bodies but it can equally apply to staff members, which can easily be missed when undertaking online activity.

The Code of Practice gives three situations where people may easily meet the threshold of being a CHIS in the online arena. These are:

1. An investigator using the internet to engage with a subject of interest at the start of an operation, in order to ascertain information or facilitate a meeting in person
2. Directing a member of the public to use their own or another internet profile to establish or maintain a

relationship with a subject of interest for a covert purpose

3. Joining chat rooms with a view to interacting with a criminal group in order to obtain information about their criminal activities.

Sadly, I have trained investigators in the last six months who have done all of these activities and were oblivious to the fact that they should have had an authorisation in place.

Not only does this mean that the information we obtain could be vulnerable to attack in legal proceedings or at the IPT but if the activity should have been authorised and wasn't then this means it is an error that should be reported to the Investigatory Powers Commissioners Office (IPCO).

This type of error could lead to financial penalties, the subject potentially being told of the activity or ultimately, if it is a systemic failing then the powers to undertake this activity being removed.

Conclusion

In conclusion, RIPA and the Codes of Practice provide the legal framework that protects individual rights and identifies the activities that qualify as directed surveillance or the use of CHIS and require proper authorisation. By adhering to these guidelines, public authorities can balance the investigative demand, effective administration, and privacy rights effectively and maintain the trust and confidence of the public.

In the training that I deliver and during my presentations for The Investigator regarding RIPA and Online Activity, not only do we consider when an authorisation is required but we also examine the twelve or so methods that we can use to gather information online without needing an authorisation.

By operating in this we can feel confident in deciding on whether we do or don't need an authorisation, to ensure that we are legally compliant and that the material that we obtain can be safely used in our investigations and will stand scrutiny in courts or tribunals.

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Victim Voice



Achieving Best Evidence Language Screen (ABELS) is an innovative communication screen that supports police decision making as to whether to use an intermediary in interviews and courts. Co-founder Ruth Jackson reports.

Communication is a skill we often take for granted. It may seem simple, but it is a complex system requiring many skills: listening, processing, understanding, formulating ideas, reading body language, understanding social cues to name but a few. How often do we stop to consider if someone can really understand and communicate at the same level as us – or at the level required to give evidence in an investigative interview or at court?

Communication difficulties are often hidden, and people become skilled at masking using techniques such as agreeing with the questioner, diverting the conversation to familiar topics, shutting down and giving minimal responses. This makes interviewing a person with communication difficulties challenging and may result in confused or unreliable evidence.

Safeguarding

Safeguarding investigations frequently rely on the information provided by the victims/survivors, building a picture of what has or hasn't happened. Many investigations start in settings where the Designated Safeguarding Lead is responsible for decision making and obtaining accounts.

While police and social workers jointly investigate risk of significant harm to children, police are often solely responsible for investigating many other serious crimes. Victims are often either vulnerable because of their needs or because of the crime they have experienced. All professionals are building evidence that will be scrutinised by supervisors, governing bodies, disciplinary panels, Crown Prosecution Service (CPS), defence and courts.

Risk

Identifying communication difficulties before asking questions or carrying out an interview is critical. Failing to identify communication difficulties at an early stage in any investigation could result in misunderstanding, unreliable evidence and missed safeguarding opportunities, leaving children and vulnerable young people exposed to risk.

Achieving Best Evidence Language Screen (ABELS) is an innovative communication screen. Originally designed to support police decision making as to whether to use an intermediary in forensic interviews and courts, it is now used more widely in many investigative settings.

Resource

Intermediaries are communication specialists who facilitate communication within the criminal justice system but are a finite resource. ABELS triages cases, aiming to reduce the pressures on the intermediary service, waiting times for victims and potentially speeding up matching of intermediaries.

ABELS enables professionals to identify potential problems in communication and decide if these can be safely managed in an interview. For example, if someone does not understand complex vocabulary such as 'clarify' 'obstruction' an interviewer can plan and prepare questions using simple everyday wording.

Support

However, if someone has more significant difficulties such as understanding sentences, problems with chronology, time concepts etc, then specialist support such as referral for an intermediary should be considered.

ABELS can and should be used by the wider safeguarding community to identify communication difficulties. If required a practitioner or advocate could explain their findings to non-ABELS trained police investigators or social workers to help them understand the communication needs of the individual.



Rapport

ABELS is carefully designed to assist with rapport building. Child ABELS uses a series of child friendly activities to engage the child, build rapport and work through picture-based tasks that match the requirement of Achieving Best Evidence guidance for preparation for forensic interview.

The teenager/adult version uses a simple structured conversation to begin to understand if there are any communication difficulties which are then explored using structured tasks.

ABELS is simple to use with a traffic light scoring system (Red, Amber, Green enabling professionals to easily interpret the outcome. The findings of ABELS supports decision making and subsequent planning and preparation.

Criticisms

ABELS goes some way to mitigate the criticisms that have repeatedly been levelled at policing during many reviews relating to lack of victim assessments, poor rapport, no free narrative in interviews, failing to

plan and prepare for interview and failing to follow ABE guidance.

Before ABELS was created there was no training to explain 'How' to conduct any victim assessment, it feels unfair to criticise any professional who has not been furnished with the tools to carry out their role effectively.

Commended

Norfolk Constabulary have been so impressed with the work of Ruth Jackson – co-founder of ABELS and Registered Intermediary- that Ruth has been commended by Chief Constable Paul Sanford for the innovative work in the implementation of ABELS and supporting Norfolk Constabulary to deliver exceptional service to many victims in Norfolk.



ABELS follows Achieving Best Evidence Guidance (2022), reflects academic research and helps police comply with The Victims Code. ABELS highlights that it is important not to make assumptions about the communication abilities of children, vulnerable people and people with learning needs.

By following the simple steps of ABELS investigators can check if the individual is able to understand and is being understood. That the account is the best they can give, with questions asked appropriately and help sought when required. Quite simply without checking how can anyone tell if any individual has communication difficulties?

Further information

For more information and training options, please contact alison@abels.org.uk or Ruth@abels.org.uk
Website – www.abels.org.uk



RIPA under the Microscope

In the digital age, where people share personal information widely and privacy concerns are ever-growing, the use of surveillance powers by public authorities is becoming a focal point of legal and ethical debate. Covert trainer, investigator and subject matter expert Adrian Ramdat from The Signature Brand reports.

The Regulation of Investigatory Powers Act 2000 (RIPA) in England, Wales and Northern Ireland and the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) in Scotland were introduced to provide a legal framework for covert surveillance.

However, these laws have faced significant scrutiny and as a result have revealed a myriad of issues.

The Balancing Act: Proportionality and Necessity

One of the cornerstones of lawful surveillance under RIPA and RIPSA is the principle of necessity and particularly proportionality. The courts and tribunal have repeatedly questioned whether the surveillance measures taken were proportionate given the circumstances.

One case that seems to have caused a reluctance by local authorities to use RIPA or RIPSA was the case against Poole District Council going back to 2010, where the issue of proportionality was closely examined and there was some criticism

from the Investigatory Powers Tribunal (IPT) as the local authority hadn't adequately considered other methods before resorting to covert surveillance.

However, one of the areas examined in the case of *R v Sutherland* (2002), the court scrutinised whether the surveillance conducted was a proportionate response to the offence that was being investigated.

This case, was one in a series of three cases that resulted in some criticism of police actions but reassuringly despite other failings, the police were found to have acted in a proportionate manner in their use of covert tactics.

These cases highlight the delicate balance that authorities must strike between effectively detecting crime and overreaching their powers.

Required Knowledge – Ignorance is no excuse

The case of *Davies v British Transport Police* which was heard by the IPT in 2018 is a clear example of how an authorisation is required when the required threshold is met and the lack of knowledge by staff can cause significant issues.

The subsequent investigation into that case made it clear that the actions of the investigating officer met the threshold for an authorisation and the IPT

didn't hold their punches when they stated: 'A detective of any standing, let alone one with several years' experience, should have knowledge of the legal requirements relating to the investigation of crime, including RIPA, and ignorance is neither excuse nor mitigation.' It went on to state that "...a number of other BTP officers of various ranks were involved in this matter and not one of them had an adequate knowledge of the relevant requirements of RIPA.'

This case resulted in Mr Davies being awarded almost £50,000 in compensation and the British Transport police being heavily criticised in the media.

There is no excuse for not knowing the basic definitions involved in RIPA or RIPSAs activity. It certainly allows investigators to make defensible decisions as to when they believe an authorisation is or, arguably more importantly when they believe one, is not required.

Authorisation Needed

Proper authorisation is paramount to lawful surveillance, yet lapses in this area have surfaced in legal challenges.

The absence of an appropriate authorisation mechanism can lead to unauthorised surveillance operations, which in turn, could lead to challenging the evidence, the exclusion of crucial evidence in court or the IPT ordering that the material obtained via covert surveillance be destroyed.

Proper authorisation is paramount to lawful surveillance and not having one in place when it is required is an error that is reportable to the Investigatory Powers Commissioners Office (IPCO) and can lead to sanctions against the organisation.

A real area of vulnerability in this area is online research, where there are instances of staff undertaking such research which meets the required legal definition for an authorisation to be sought but this has not been the obtained. Defence lawyers are now starting to examine online research closely as it is one avenue for requesting that crucial evidence be excluded.

Without a robust authorisation process, the legitimacy of surveillance activities remains legally

questionable and potentially undermines public trust.

Procedural Pitfalls: The Devil in the Details

Errors in following prescribed procedures for obtaining surveillance authorisations have also plagued investigations. Procedural missteps, whether due to oversight or negligence, have led courts to exclude evidence gathered through such means. These errors not only jeopardise individual cases but also cast doubt on the integrity of the surveillance system as a whole.

Overuse and Misuse: A Blunt Instrument?

The application of RIPA and RIPSAs has not been immune to criticism regarding overuse and misuse. Instances where surveillance powers were deployed for minor offences have sparked debates on the appropriate use of such intrusive measures.

In fact, the use of RIPA and RIPSAs activity for so called trivial offences resulted in the legislation being changed so that authorisations under RIPA or RIPSAs now require court approval for some activities prior to the activity taking place.

The question often arises: should surveillance tools, initially designed to combat serious crime and terrorism, be employed for trivial matters and is RIPA and RIPSAs being used as a blunt instrument?

Data Handling: Safeguards Under Scrutiny

The retention and handling of data obtained through surveillance are subject to strict data protection laws and also requirements under RIPA or RIPSAs, that are set out in the Codes of Practice.

Failures in safeguarding this data or processing it lawfully have led to significant legal challenges, for example into the prosecution of the two men who stood trial for the murder of Charlene Downes and were subsequently released as the surveillance material had not been stored or managed correctly mishandling of surveillance material not only violates data protection legislation but also risks eroding public confidence in surveillance practices.

This area has now also become a standing item by IPCO during their oversight inspections. A number of organisations are finding that not handling the product correctly can result in being issued with a

‘non-compliance’ finding and in some cases has resulted in being given a warning that their ability to use the powers may be revoked.

Fair Trial Rights: A Compromised Justice System?

The integrity of the judicial system hinges on the fair trial rights of defendants. Improperly conducted surveillance can severely compromise these rights, leading to the exclusion of vital evidence or even the dismissal of charges.

The courts are often left to navigate the stormy waters of ensuring justice while upholding the legal standards for surveillance and trying to ensure that compelling evidence is allowed to go before the jury whilst ensuring that defendant receives a fair trial.

Conclusion

The issues identified in court cases involving RIPA 2000 and RIPA 2000 highlight the complex interplay between surveillance needs and individual rights. Only through the professionalism of investigators, vigilant scrutiny and continuous development can we safeguard both our safety and our fundamental freedoms.

At The Signature Brand Training & Consultancy, we offer a whole range of RIPA and RIPA training courses that range from awareness or refresher training through to accredited training for applicants, gatekeepers and authorising officers which can lead to an externally awarded qualification, demonstrating occupational competence.

We also offer our highly popular bitesize RIPA and RIPA events that focus on a specific area such as Online Research and the requirements of RIPA/RIPA. These sessions are delivered via Ms Teams in about an hour and can accommodate up to 50 people.

Whatever your needs for RIPA or RIPA training, advice or consultancy don't hesitate to contact us and we will give you our honest advice as to which solution is best for you, without any obligation on your part.

Further information

Find out more at www.thesignaturebrand.co.uk or contact us now at info@thesignaturebrand.co.uk

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University Challenge

The University of Sunderland has been providing continuing professional development (CPD) opportunities for investigators for nearly 20 years by building on the existing training and experience of practitioners. Professor Gary Shaw, MBE reports.

Investigators from almost every police service, the tri-services and other investigative bodies from within the UK have attended the campuses in either Sunderland and London in order to access higher education courses.

The creation of the Centre for Crime Policing and Investigation within the Faculty of Education and Society has enabled the University to develop a lifelong learning CPD pathway for those wishing to achieve academic recognition for their hard work and effort within the community of practice in which they operate.

The delivery of the CPD programmes is a combination of experienced ex practitioners led by Prof. Gary Shaw MBE who have operated on a national basis within the field of investigation together with senior academic staff who are well researched and studied within the investigative arena.

About our courses

The workplace application of putting academic theory into practice allows students to enhance their learning of the subject matter in which they operate daily. The work-based approach of the programmes encourages students to focus on their area of interest, producing a research study while critically reflecting on investigative skills and strategies.

Very much designed for practitioners the courses are delivered through a combination of independent work and assignments, tutor contact, online and face to face delivery with flexibility available to suit individual need. BA (Hons) Applied Investigation degree.

The pathway starts initially for those who have been given PIP1 status or equivalent with the recognition of prior learning by the University allowing them to enter the 2nd Year of the three year BA (Hons) Applied Investigation degree.

In this year they are able to study the three modules of Investigation, Interviewing Witnesses and Interviewing Suspects.

The student will then progress to the final 18 months stage as outlined below. Additionally, these modules can be delivered separately in the form of accredited short course Diplomas upon request.

For those that have achieved PIP 2 status or equivalent, again due to the recognition of prior learning the individual can enter the degree programme in the final stage (18 months) having no requirement to complete the preceding two years.

This final stage focusses on extending the professional competence of the investigator and the conducting of primary research on a workplace investigative topic selected by the student themselves.

Specialist Advanced Diplomas

An optional specialist route has now also been introduced for those that have completed one of the Specialist Advanced Diplomas delivered at the University.

In essence if the investigator has completed one of the Advanced Diplomas which currently are available in the Management and Coordination of Investigative

Interviews (Interview Adviser), Interviewing Vulnerable Witnesses, Interview Suspects, the Management and Coordination of Family Liaison (Family Liaison Coordinator), Investigating Rape and Serious Sexual Offences and the Initial Triage of Firearms and Ammunition then they can access the degree via this route.

Again, the student enters the BA (Hons) Applied Investigation degree in the final stage but only has to conduct the primary research module around a work-based project focusing on their specialism.

MA in Investigative Management

The postgraduate two-year MA in Investigative Management affords those that have attained PIP 3 status or equivalent the opportunity to study at Masters level without the need to have completed an undergraduate degree.

This is due to the recognition of prior learning and experience of those who are operating at this level. The MA looks to develop an investigator's decision making and leadership understanding from a managerial viewpoint.

The programme also comprises a work-based primary research topic selected by the student which critically analyses the role of investigative management. PIP 2 Investigators who wish to focus on the management role within the investigative framework and who also have completed undergraduate studies are also eligible to apply.

All of the investigative programmes designed and delivered by the University of Sunderland have taken into account the needs of work-based learners in respect of the cost-effective pricing and limited abstractions from the workplace.

The reasons why people have undertaken these courses are varied but include:

- Those wishing personal achievement
- Those seeking to enhance their promotion prospects
- Those wishing to develop their investigative understanding
- Those specialists seeking continuous professional development
- Those who wish to attain academic credibility
- Those soon be retiring looking for academic recognition

Further information

For further information on the programmes outlined within this article together with other crime and police related courses please visit: www.sunderland.ac.uk

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Mobile Momentum

The fact that most investigations now have a digital element makes it vital that investigators have an effective strategy to review mobile forensics extractions. Elliot Wilding-Glendye, Course Manager at Control-F reports.

The College of Policing said earlier this year that over 90 per cent of reported crimes now have a digital component. Consequently, there is an increased need to review mobile forensic extractions across various crime types.

This highlights a significant area of risk to policing and victims, as investigators are expected to review mobile forensic extractions, often without formal or structured training. Without standardised competence, investigators return to familiar methods of reviewing data, like using Excel and PDFs.

However, these tools have limitations, and it's recommended to review mobile forensic extractions using purpose-built review tools. XAMN Viewer, Cellebrite Reader, and AXIOM Portable Case are derived from fully licensed products that are commonly used in digital forensics labs.

They provide a platform for investigators to effectively review mobile forensic data, providing they are appropriately trained to do so. This article aims to propose a pragmatic method for investigators to use to effectively review mobile forensic extractions.

Notetaking

Law enforcement professionals, whether in an investigative role or otherwise, understand the critical nature of notetaking – "if it isn't writtendown, it didn't happen". Pocket notebooks, investigation logs, and enquiry books are familiar tools for police officers and investigators alike. When reviewing digital evidence, the same attention to notetaking must be given, without compromise.

Before reviewing any mobile forensic extraction, the investigator must keep contemporaneous notes alongside their strategy. These notes become critical when reporting on digital evidence due to the large volume of data contained on mobile devices.

It is unlikely an investigator will be able to review every artefact within an extraction, so note-taking provides a chronological record of events that assists the investigator with justifying what they have or have not reviewed in line with their digital strategy.

Planning

All types of investigations, whether volume or serious and complex crime, require careful planning. This can involve routine enquiries by officers, detailed investigative checklists, or thorough strategies developed by Senior Investigating Officers.

When there is a digital component to the investigation, the digital strategy should be given the same level of attention as traditional investigative planning.

In the initial stages of a digital strategy, it is essential to account for the following artefact categories: Internet, Media, Places, Applications, Communications, and Timeline.

By using different artefact types and compartmentalising them, investigators can refine their search and isolate an appropriate starting point for their enquiries. Investigators can document the current known aspects of their investigation in their notes, recognising that additional lines of enquiry may arise as the investigation unfolds.

Searching

With the increase in storage capacities in mobile devices, investigators may become overwhelmed by the volume of data – like finding a needle in a haystack.

Identifying relevant evidential material becomes increasingly more challenging, and effective searching techniques must be implemented to prevent investigators from spending valuable time looking through artefacts with no evidential value.

Depending on the review platform of choice, some allow a mixture of keyword searching, advanced keyword searching and lists. These are by far the most popular methods of locating evidence, however, one area that is overlooked is the use of filtering.

With basic knowledge of filtering, investigators can include or discard certain artefacts from the outset of their investigation, streamlining their review and preventing looking through every keyword hit.

Tagging

Across all the mobile forensic review platforms, features exist for the tagging or bookmarking of artefacts to refer to them at a later point. The review platforms will often provide several predetermined, generic tags that we propose are not the most effective way of tagging digital evidence. Instead, we propose that investigators should create their own set of initial tags during their digital strategy before review.

Tagging is an entirely individual process; however, we believe that using specific tags is far more effective than using the generic ones built into review platforms. As such, during the review of a mobile forensic extraction, investigators should strive to tag items, sometimes with more than one tag from the

customised set determined during the digital strategy. By doing so, it can assist the investigator in reporting the story the digital evidence shows.

Reporting

With the significant increase in the storage capacity of mobile devices, it has become impractical for digital forensic examiners to provide investigators with every artefact found on a device. Therefore, investigators are often expected to provide a targeted request for specific artefacts. This shift in approach acknowledges the challenges posed by the overwhelming amount of data that can be found on modern mobile devices.

Further refinement must then be applied at the investigator stage through the Planning, Searching and Tagging discussed. Critically, this ensures that at the point of producing any artefacts as evidence, it is reported in a method that is most impactful to a court. Assessing and implementing this impact is vital to achieving the best evidence.

Where possible, it is favourable for digital evidence to be presented in a way that best represents how a user may have interacted with it on the device itself. Whilst there is an acknowledgement that for interdepartmental working, sending messaging content to an analyst in a spreadsheet format may be more beneficial for them, it should not limit the investigator to also produce a report in a 'conversation view' for the court.

Conclusions

The pace and ever-changing nature of digital investigations pose a significant risk to law enforcement; investigators reviewing mobile forensic extractions without appropriate training in purpose-built review platforms, will result in ineffective and incomplete reviews of mobile forensic extractions.

Throughout this article, we proposed a methodology to assist investigators in developing an effective strategy for the review of mobile forensic extractions – Planning, Searching, Tagging and Reporting (PSTR).

Further information

To learn about putting this methodology into practice and getting the most out of your digital evidence, Control-F now offers dedicated training through our Investigator Pathway.

Visit <https://www.controlf.net/inv-courses> to find out more.



Paws for Support

A trauma support dog called Holly is providing Wellbeing and Trauma Support for police officers alongside former officer Paul Roe as part of his Blue Paw company.

Last November, Paul Roe retired as a Police Officer following 30 years of service. He worked with the British Transport Police in central London on the Underground and National Network from 1993-2005, before working with Cambridgeshire Police. In 2017, Paul was diagnosed with PTSD.

‘My own trauma goes back over 20 years, having been badly assaulted on duty and attending four major train crashes and other major incidents,’ he explained.

‘During my recovery and living with PTSD, I continued to work in my police role, but I was struggling and there were limited options available to me within the force.

I could see that others were also suffering, and I began to tell my story of my trauma and PTSD. I found it was essential to be able to talk and encourage others to talk

openly and seek help when it’s required.’

Paul’s experience with trauma and sharing his story, led him to founding Blue Paw Wellbeing and Trauma Support, a project which specialises in providing support with Holly – their wellbeing dog – trauma awareness, management of mental health, and support.

‘Dogs are champions in the battle with mental health stigma, they are there to challenge the ‘silent suffering’ and provide education, information, and support via their handlers, through presentations, meetings, discussions, and signposting,’ he said.

Even though I have retired from the police, my drive to help people and support those in need hasn’t left me.’ Currently, Blue Paw Wellbeing and Trauma Support works a lot with the Police Rehabilitation Centre at Flint House.

‘We find when we are there with Holly, officers feel that they can relax and talk openly, many find it a

welcoming chance to talk about their mental health whilst Holly provides a welcome buzz with cuddles and fun.'

However, Paul is also keen to expand his services to other sectors within the Blue Light community and all workplaces outside the emergency services. Why are wellbeing and trauma support dogs effective in the workplace?

When a dog is brought into the workplace, the atmosphere changes and people want to meet and play with the dog. During this time together, they share oxytocin, a hormone which is typically linked to warm, fuzzy feelings of positivity and shown to lower levels of stress and anxiety. Oxytocin has the power to regulate our emotional responses and pro-social behaviors, including trust, empathy, positive memories, and positive communication.

As well as attending conferences, training and functions with their adorable wellbeing dog Holly, Blue Paw is highly qualified in providing a variety of other services, including:

- One to one support
- Pause for paws – encouraging employees to take time away from their desks for some time with wellbeing dogs, allowing them time to talk, relax and destress before returning to a happier workplace with enhanced productivity.
- Walk and Talk sessions
- Peer support
- Presentations which showcase Paul's personal journey with PTSD and focuses on why nobody should ever feel embarrassed to ask for help

Further information

To find out more about Blue Paw Wellbeing and Trauma Support go to www.bluepaw.co.uk



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Upwardly Mobile



Detego Global has developed mobile deployment kits that effectively meet the needs of mobile crime units, intelligence agencies, border agents and police forces, providing fast digital forensics investigations from any location.

Digital data is undoubtedly crucial in the world of criminal investigations. To keep up with the demands of the job, law enforcement and intelligence agencies require reliable tools that can swiftly extract, analyse, and report on digital evidence.

Mobile units like police cars and forensic vans play a critical role in the investigation process, making it essential for investigators in these units to have access to portable digital forensics solutions that can deliver quick results.

Detego Global has developed mobile deployment kits that effectively meet the needs of mobile crime units, intelligence agencies, border agents and police forces, providing fast digital forensics investigations from any location.

These kits are lightweight and include both hardware and software, allowing for accurate data acquisition, analysis, and reporting from a wide range of devices and apps, including phones, computers, smart devices, drones, and more. The kits are ideal for mobile units and enable investigations to continue on the move.

With Detego Global's mobile deployment kits, investigators can gather insights from digital devices in seconds and transform raw information into actionable

insights. The user-friendly interface, intuitive automation features, and guided menus that come as standard in these tools mean that even non-technical team members can conduct forensically sound digital forensics investigations with minimal training.

These kits include:

- **Ballistic Imager:** Selected as a finalist for the coveted Best Computer Forensic Solution award by SC Magazine in 2022, this tool leverages patented technology to rapidly secure data from computers, laptops, and servers 4x faster than the industry average (Helping investigators secure 1 TB in under eight minutes).

- **Field Triage:** The winner of the UK's Security and Innovation award, this highly portable tool is perfect for investigating data on numerous devices, including computers, laptops and loose media. It uses a patented red-amber-green visual alert system to identify and alert users about investigation-critical data without running extensive data extractions and analytical processes.

- **Media Acquisition:** Selected as a finalist for the Best Computer Forensic Solution award by SC Magazine in 2023, Media Acquisition streamlines investigations by rapidly and simultaneously analysing, collecting and securing data from various removable devices.

- **Detego MD:** Users can quickly and easily extract data from tens of thousands of mobile phone models, as well as a variety of drones, wearables, IoT devices and mobile applications with Detego MD.



- **Detego Fusion:** This tool enables investigators to leverage AI-powered link-building capabilities to uncover connections between people, places, devices and cases.

- **Detego Analyse AI+:** This tool, selected as a finalist for the UK's Security and Policing Innovation awards in 2023, leverages the power of AI to automatically analyse digital information and data in a fraction of the time. Detego Analyse turns countless sources of distributed data into comprehensive, court-ready reports.

These tools also come with a dedicated covert mode to enable teams to conduct investigations without alerting suspects.

The portable kit is designed for fast-paced scenarios, allowing investigators to perform extractions and analysis on the spot without returning to a forensic lab for processing, effectively reducing digital forensic backlogs.

These kits enable highly scalable DFIR operations, where multiple kits can be allocated to a single mobile forensic lab or van to support multiple on-scene investigators.

Detego Global's technology also supports time-sensitive extractions and can recover parts of data in instances where investigators have to abort extractions halfway and leave devices behind.

With these capabilities, investigators can effectively combat terrorism, criminal activity, human trafficking, child abuse and digital data exploitation and stay ahead in the fight against digital crime.

Further information

Email marketing@detegoglobal.com to find out more about Detego Global's mobile deployment kits



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