

Undercover policing in the Netherlands, in law and practice

Summary

In the Netherlands, several years ago a large-scale political discussion evolved concerning the use and legitimacy of undercover policing. Though the authorities consider undercover policing a major investigation method, little was known about its effectiveness. This was the main reason for starting this research.

In this research two data sources were used. First, data were collected from the prosecution office, in fact from a special testing committee of the prosecution office. (In the Netherlands cases are subject to testing by a testing committee of the prosecution, advising the authorities whether or not to agree with the actual use of undercover policing). This source yielded data on 102 cases in which police and justice authorities considered and/or used undercover action.

Secondly, and this makes up the core of this research, nineteen undercover cases (all the cases of the year 1996) were studied intensively. Judicial records of those cases were studied and the involved police officials, prosecutors and judges were interviewed.

The research shows that the majority of undercover cases concern production, dealing or smuggling of drugs. In many cases, organized crime is involved. The main reason to use undercover policing is the fact that traditional investigative methods have failed.

To what extent undercover policing is effective is studied by the in-depth study of the nineteen cases. In seven of the nineteen cases, undercover action did not start at all, for several reasons. Consequently, only twelve cases remain on which conclusions regarding the effectiveness can be based. In seven cases undercover actions yielded no relevant information at all. In the residual five cases undercover policing provided relevant information. In four of these cases, the information was used in criminal investigation and prosecution and in three of those cases undercover based information was used somehow in court.

In terms of goals that were set in advance, in only one case the goals were reached fully. In four other cases the aims were achieved partially by means of undercover action.

In the report several comments are given which help to understand and interpret these findings, finally leading to the conclusion that undercover policing is a very complex method which can be fruitful where traditional investigation methods have failed. At the same time the nature of the cases involved, as well as the nature of the method make that success is not guaranteed at all; the risk of failure should not be overlooked.

Infiltratie in het recht in de praktijk

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