

# Challenges of policing modern slavery

Published on 9 May 2021    Written by Superintendent Mark Edgington, Avon and Somerset Police

How these investigations have complex factors that make investigation and prosecution inherently difficult

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I recall it vividly. In 2014, as a new detective inspector in Somerset, I received a phone call from the force incident manager. A lorry had been stopped by the Roads Policing Team. In the back were 15 African nationals, including children, who they suspected had been smuggled into the country. Thankfully, they were all alive and healthy.

Compare this with the tragic Essex lorry deaths in 2019 – involving 39 trafficked men, women and children – and the potential significance is clear. We treated the incident as a suspected human trafficking investigation. It was my first experience of how difficult and time-consuming such investigations could be and, I admit, it was intimidating.

Following that incident, I became interested in modern slavery. As a chief inspector, I took on the thematic lead role for the force. It was a privilege to lead our force response to slavery and, in doing so, to work with such inspirational police officers and staff, partners and non-governmental organisations (NGOs).

Although slavery has existed throughout history, the term 'modern slavery' is relatively new. It reflects the changing nature of exploitation, mainly because of advances in the internet, globalisation and more affordable world travel.

Today, slavery typically takes the form of a number of exploitation types, including forced labour, sexual exploitation, domestic servitude and criminal exploitation (Cooper and others, 2017). Although the level of sophistication varies, we know that modern slavery is intrinsically linked to organised crime groups.

In 2019, I was awarded a master's degree from Portsmouth University. My research dissertation was on the Modern Slavery Act 2015 (MSA). At the time, there was political pressure on forces to act. The narrative was that forces were not identifying victims, nor investigating crimes, effectively.

A 2017 HMICFRS report, 'Stolen Freedom', provided qualitative evidence for this, following the inspection of 10 forces on their effectiveness of tackling modern slavery within the UK. The findings included poor and inconsistent investigations, a lack of proactivity in identifying and responding to incidents, and victims being continually let down (HMICFRS, 2017).

Despite this, there appears to have been no evaluation of the practicalities of investigating cases under the MSA. I wanted to explore this further by conducting an exploratory study of forces within South West England. My aims were to:

- examine the current methodologies and variation in police effectiveness in investigating modern slavery
- critically explore the challenges and resource implications of investigating cases under the MSA
- identify implications for practice to improve the effectiveness of investigating cases under the MSA

## Background and political context

In 2016, Prime Minister Theresa May pledged that tough action would be taken against perpetrators of modern slavery, which she described as the 'great human rights crisis of our time' (May, 2016). Three years earlier, the Centre for Social Justice Slavery Working Group had produced an influential report, 'It Happens Here' (2013).

The report highlighted the growth of modern slavery within the UK, with a conservative estimation of 13,000 victims. It criticised Westminster leadership, the confused legislative framework and fragmented partnership approaches.

The report's recommendations led to new legislation, which placed a duty on law enforcement to investigate every case of modern slavery, and to not prosecute victims who are exploited and forced to commit offences. The role of Independent Anti-Slavery Commissioner (IASC) was created to lead and drive change across law enforcement, while also holding it accountable. The expectations of the IASC were clear and unambiguous:

*The new legislation that has been introduced across the UK has given law enforcement and prosecutors the tools they need; it is essential that they now use these tools to their full effect.*

**IASC, 2015**

This quotation suggests that the previous absence of such legislation was a significant prohibitive factor. Yet it does not recognise the practicalities of implementation, particularly given the complexity of this crime type and the financial impacts of austerity on law enforcement.

## Research methodology

I used a mixed methods approach for my research, conducting eight semi-structured interviews with police investigators who had experience of investigating modern slavery cases. Using a snowball sampling approach, I engaged with subject-matter experts within the relevant forces, who were able to direct me to other investigators with relevant experience.

My quantitative data analysis consisted mainly of examining prosecution and conviction data under the MSA, as well as the number of victims identified as part of the National Referral Mechanism (NRM), the government's support pathway for possible victims. The benefit of a mixed methods approach was that I could contrast the investigators' lived experiences with the quantitative data.

## Research findings

As the interviews and analysis were conducted in the spring and summer of 2019, the findings relate to this time period. Despite all four participating forces stating that modern slavery was a strategic priority, none had any dedicated resources for investigating cases.

Although this has been cited as best practice by HMICFRS, the impact of austerity and an increase in investigative demand continued to limit their ability to investigate cases effectively. All participants supported the strategic approach taken to modern slavery, a 'business as usual' methodology with most cases falling to mainstream investigative teams.

However, they felt that their workforce's lack of expertise and experience in investigating cases limited their ability to prosecute cases successfully. These issues were compounded by the ongoing national detective shortage. While all participants felt confident in their own ability to investigate modern slavery cases, this was because of their 'trial and error' experience, rather than any formal modern slavery training they received, which supports the 'The Modern Slavery Act review' by QC

Caroline Haughey (2016).

The research also found that many inexperienced investigators had an inherent fear of modern slavery investigations. There are benefits in ensuring that these investigators not only receive effective modern slavery training, but are then mentored by officers with direct experience of modern slavery investigations.

## Victimless prosecutions

The participants were also asked why they felt there was such a disparity between the number of potential victims being identified and referred into the NRM, compared to the number of prosecutions and convictions under the MSA.

Modern slavery NRM, prosecutions and conviction data (Field and others, 2018)				
	2014	2015	2016	2017
NRM referrals	2,338	3,262	3,804	5,143
No. of prosecutions under MSA	–	12	51	130
No. of convictions under MSA	–	–	1	37

Most participants believed that there was still an overreliance on victims supporting prosecutions, and that this had a direct causal link with positive outcomes. Victims of modern slavery are vulnerable, with many having complex needs because of the physical and psychological abuse suffered (Martin and Sumner, 2011).

Some victims, particularly foreign nationals, may not trust the authorities. This research identified similar findings, with some participants describing how modern slavery investigations were

concluding when the victims decline to prosecute. This is exacerbated when those who are exploited do not identify themselves as victims.

*It's very, very difficult dealing with people that don't necessarily see themselves as being victims of slavery.*

One SIO who had secured a conviction under the MSA described significant challenges in keeping the victims engaged throughout the investigation. This not only jeopardised the investigation at multiple points, but also led to pressure from supervisors to conclude the investigation.

*I mean, it was a long investigation, two years, but I had three different DCIs in that time that all told me to get rid of that job and to, you know, bring it to an end, it wasn't going to end up as a prosecution, we weren't going to win the case and you have to be, you know, have the courage of your convictions.*

This demonstrates not only the time and complexity involved in some cases, but also the inherent risks in basing a modern slavery investigation solely within a victim-focused, rather than offender-focused, paradigm. Taking an offender-based approach, as with other types of organised crime, may be beneficial.

*So I know we're victim-based, but you save one victim, ignore the offender, that offender is still going to go out and find another victim, and so both victim and suspect need to be looked at, and I think we're focusing, not un-rightly, we should be focusing on the victim but I think we're missing the suspect.*

## MSA – unintended consequences

Most participants felt that the MSA was helpful in consolidating and simplifying older legislation, but the findings also revealed unintended consequences. Three participants provided anecdotal evidence that investigations into modern slavery and human trafficking are often linked with other forms of exploitation and criminality, such as drug supply.

On first appearance, this is not surprising when considering the links to organised crime. However, as a direct result, some suspects charged with offences under the MSA were pleading guilty to

other 'lesser' offences to avoid a slavery or trafficking conviction.

Some participants believed that the stigma of being labelled a 'human trafficker', along with the significant sentences that can be issued under the legislation, could be causal factors in defendants pleading to other offences. It can be argued, then, that the legislation is having a positive effect, but as a deterrent rather than a means of prosecution.

However, there is currently no retrievable data upon which to test this hypothesis, and further research is required. This issue is not for the police alone to wrestle with. The CPS and courts will hold relevant data and will need to have further insight on this issue, in order to understand its scale and whether the criminal justice system as a whole is taking the right approach to modern slavery cases.

Section 45 of the MSA was enacted to protect victims of modern slavery who are compelled to commit crimes as part of their exploitation. Many participants were concerned that perpetrators of modern slavery were using this inappropriately to avoid justice.

Despite this being recognised nationally (HM Government, 2019), supporting evidence is still anecdotal and lacking in substance. Careful consideration is required when investigators are differentiating between victims and offenders. Again, further research is needed.

## Conclusion

Modern slavery investigations consist of complex factors that make investigation and prosecution inherently difficult. Exploitation is often conducted by organised criminals against vulnerable people who may not even identify as victims.

As with domestic abuse, we know that victimless prosecutions are more difficult. They require us to challenge our thinking and possibly change our investigative approach, in order to secure additional evidence and overcome the hurdles required for successful outcomes.

Despite these challenges, my research has shown – alongside high-profile cases – that we have the skills and abilities to support victims and prosecute offenders under this legislation. Thinking differently about how we structure our investigation, with a greater focus on offenders, may present opportunities to secure more convictions and safeguard more victims.

As we enter another period of financial uncertainty and start to observe the impact of the COVID-19 pandemic on job markets, we will inevitably see more vulnerable people at risk of slavery. We need to ensure that we have the capacity and capability within our organisations to give these cases the focus they deserve, while balancing other demands.

We will continue to learn from each investigation and gather more insight into the issues described. When officers next encounter potentially exploited men, women and children, I hope they will have the confidence and skills to support these vulnerable people and bring more perpetrators to justice.

## Recommendations

1. Forces should consider not just the quality of modern slavery training for investigators, but also the importance of mentoring and support from investigators with modern slavery case experience.
2. Further data collection and research is required to understand the unintended consequences of the Modern Slavery Act 2015, specifically its deterrent effect, the increase in early pleas for other offences, and the inappropriate use of the section 45 defence by offenders.
3. As the police have a duty to bring offenders to justice and protect further victims, forces should consider adopting a proactive, offender-based approach to investigations – rather than an overreliance on victim support – while recognising the increase in complexity and timelines of such investigations.

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- This article was peer reviewed by Detective Chief Inspector Lewis Prescott-Mayling, Thames Valley Police

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