

Lawyer Mike Schwarz's statement on Mark Kennedy and the Ratcliffe trial

A statement on **undercover policeman Mark Kennedy** by the lawyer for the **18 activists charged for planning to shut down the Ratcliffe coal power station**

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On Easter Monday 2009 over 400 police officers were involved in a raid at Iona school in Nottingham, which led to 114 arrests. I represented 113 of those arrested. The 114th we now know was PC Kennedy, an undercover police officer. Six of my clients were due to face a long trial starting today.

However, the prosecution told the defence on Friday 7th January 2011, just before the trial was due to begin, and almost 20 months after the investigation began, that 'Previously unavailable material that significantly undermines the prosecution's case came to light on Wednesday 5 January'. The discovery of this material came at the time when the prosecution were informed that we planned to pursue disclosure of the evidence relating to PC Kennedy with the judge. Unsurprisingly, they have declined to confirm whether the new material relates to PC Kennedy. In my opinion the two are obviously connected. The timing speaks for itself. These events also beg wider, serious questions.

Would this evidence have been uncovered had the defence not become aware of it through other avenues? And is it appropriate that access to, and decisions about, disclosure of key evidence should exclusively be in the hands of a prosecution whose primary function is to secure convictions?

Let me be clear about this. My clients were not guilty. They did not agree to join in any plan to occupy the power station. The evidence of PC Kennedy presumably confirmed this.

Yet that evidence, had it been kept secret, could have led to a miscarriage of justice. Serious questions must be asked relating to the policing of protest, from the use of undercover officers, to the use of expensive and legally questionable mass pre-emptive arrest of protesters, to extremely restrictive pre-charge bail condition, to the seemingly arbitrary nature by which the 114 initially arrested were reduced to the final 26 who were eventually charged.

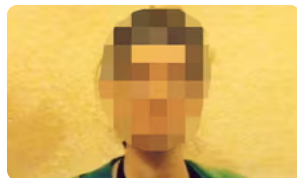
The police need to answer some serious questions about their conduct relating to protesters.

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