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# Prosecutors criticised over withholding evidence

Prosecutors have been accused of withholding evidence in three cases. Are there other cases?

**[Read the transcript here](#)**

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The Crown Prosecution Service has come under pressure this summer over allegations of serious misconduct by its staff.

A [retired appeal court judge](#), Sir Christopher Rose, is examining claims that the CPS suppressed vital evidence recorded by police spy [Mark Kennedy](#) in the [Ratcliffe power station](#) case.

Last month, we [reported allegations](#) that the CPS withheld evidence in a further two cases involving the same prosecutor, Ian Cunningham.

Today we are posting up the transcript of a court hearing in one of those cases – the apparent vehemence of the judge's criticism of the CPS is striking.

The background to the case is [here](#) – it relates to an aborted fraud trial in which three defendants, Mark Taylor, Robert Sankey and Neil Lievesley, had been wrongly accused by a business partner. They worked for a company called Aussie Mole making pneumatic hammers for laying pipes and cables.

The prosecution of the trio was dropped but at the hearing on January 6, Judge Andrew Hamilton demanded to know what had happened.

It was a relatively short hearing, but one which was packed with embarrassment for the CPS.

In particular, the judge wanted to know why Cunningham had initially withheld the crucial evidence from lawyers representing the three men.

"It's indefensible", the judge declared.

The CPS said that the key document was disclosed late, but said it was given to lawyers for the defendants seven months before the case was dropped.

Last month the CPS also said : "There have been no findings against Ian Cunningham at this stage. We await the outcome of the independent inquiry into the Ratcliffe-on-Soar case."

**The failure to hand over documents to defendants** has been blamed for causing many of the notorious miscarriages of justice of the 1970s and 1980s. Reforms were enacted to put this right, but there are still grumbles from defence lawyers.

It is difficult to know how widespread non-disclosure is nowadays and whether or not it is serious – we are certainly interested to hear of any other allegations especially if they involve undercover police officers and/or prosecutions of protesters.

**Campbell Malone**, a veteran lawyer who has specialised in clearing the names of unjustly convicted, spells out why this is important for the reputation of the CPS and its head, **Keir Starmer QC**.

He said defendants and their lawyers rely on the "complete and utter goodwill" of prosecutors and police.

But he said: "If the public felt that the CPS, either due to lack of good faith or incompetence, were not disclosing material which was important to the defence, very quickly...confidence in the criminal system would break down, leading to miscarriages, misery and ultimately a great deal of public expense putting these things right."

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