

Undercover officers: Limited rules on sexual encounters

Officers can participate in criminal activities in limited circumstances, but must not initiate crimes



PC Kennedy in his undercover role as Mark Stone, during which he is accused of having sexual relationships with members of the groups he infiltrated.

Vikram Dodd, *crime correspondent*

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It was unclear tonight what if any guidance exists for undercover operatives about how close they should get to those they are trying to gather intelligence or information from.

One senior member of the Metropolitan police authority, the body that oversees the Met, said the force had questions to answer and called for a review of the use of undercover officers.

Cindy Butts, a former deputy chair of the MPA, said: "I don't think 'by any means necessary' should be the *modus operandi* at all. There should be guidance so officers remain focused on what they are doing.

"There should be a review. I expect questions on all aspects of this case, including these allegations, and issues such as proportionality."

Butts said that if sex was used as a deliberate tactic by undercover officers, it could negate the duty of care they had towards the protesters they were targeting: "To an extent there is a need to fully engross yourself and adopt a particular character and personality. But where you have an officer with a family and wife, I don't think a public servant should be implicit in encouraging or endorsing him to have extramarital affairs ... The police have a duty of care even to the people being infiltrated."

She added: "It would be irresponsible for an organisation to be encouraging that kind of behaviour."

The Metropolitan police said they were not prepared to discuss the case.

The Association of Chief **Police** Officers was unable to say if there were any guidelines covering whether undercover officers are allowed sexual relations with those they are attempting to gain intelligence from.

The rules governing undercover officers and what they can do to gain intelligence appear to be limited.

What rules and case law there is governs the admissibility of any evidence they produce in a court case, and also whether they can participate in offences. Officers can participate in criminal activities in limited circumstances, but must not initiate crimes.

A paper produced by Andrew Choo and Manda Mellors at the University of Leicester points out that in two cases from the 1990s undercover officers

used the lure of love and sex to attempt to elicit not just intelligence, but confessions to crimes.

In both cases the police actions were sanctioned by the Crown Prosecution Service.

The most famous case was that of Colin Stagg, who police wrongly believed had killed Rachel Nickell on Wimbledon common. An undercover woman officer pretended to fall in love with him to gain a confession to the killing. The case was thrown out of court. Years later police finally caught and convicted the correct suspect.

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