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Inquiry ticks off police in Mark Kennedy case

Official report in Mark Kennedy case rejected a police view that a prosecutor was friendly to environmentalists

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Senior prosecutor Ian Cunningham bore the brunt of the blame in last week's report by Sir Christopher Rose into the Ratcliffe-on-Soar miscarriage of justice. As Rose says, Cunningham "as the prosecutor and reviewing lawyer must bear the primary responsibility for non-disclosure to the defence".

[Rose also](#) blamed the police and, in a more fleeting way, other prosecutors for the failure to disclose the [surveillance tapes recorded by](#) police spy, [Mark Kennedy](#). His report can be found [here](#)

However there's an intriguing paragraph in his report. At the outset of the prosecution, police seemed to have a particular view of the CPS lawyer. Notes of a meeting between the police and Crown Prosecution Service (CPS) in April 2009 indicate that the police viewed Cunningham as "danger - environmentally friendly". This seems to indicate that the police saw Cunningham as being in some way friendly to environmentalists and therefore they should be careful in their dealings with him.

Rose clearly concluded that he could not find any evidence for the police's view. He took a very dim view of all this and gave the police a mild ticking-off. "I do not know for how long or in the minds of which police officers that perception of Mr Cunningham persisted. But it was an unfortunate starting point to a relationship which required, if the interests of justice were to be served, complete mutual trust between the police and the CPS..."

Rose wrote that the police wanted to protect Kennedy as the [source of the intelligence for the arrests](#) of more than 100 protesters before they could occupy the power station.

It appears that Cunningham has been involved in [a previous prosecution of protesters](#).

Keir Starmer, the Director of Public Prosecutions, has taken [a fair amount of flak](#) for refusing to set up a wide-ranging inquiry to establish if there are more cases in which vital evidence has been withheld from trials of protesters. See [this for instance](#) for a trenchant view from one activist.

Cunningham is now facing a disciplinary inquiry. Starmer has decided that this disciplinary inquiry should only be limited to the [Ratcliffe case](#).

Back in the summer we reported that Cunningham was also accused of failing to disclose evidence in two other cases, one concerning fraud, the other drugs. The background to those two cases can be [found here](#). Starmer does not believe that extending the disciplinary inquiry to scrutinise Cunningham's conduct in those other two cases would be justified or necessary.

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