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Mark Kennedy miscarriage of justice inquiry blames prosecutors and police

Failure to give undercover policeman's secret recordings to defence lawyers led to wrongful prosecution of environmentalists



📷 Mark Kennedy posed for seven years as a committed environmental activist. Photograph: Philipp Ebeling

Rob Evans and Paul Lewis

Tue 6 Dec 2011 13.31 GMT

The first major inquiry into the [Mark Kennedy](#) controversy has ruled that both senior prosecutors and police officers were responsible for a miscarriage of justice in which environmental activists were wrongly prosecuted.

In his verdict, Sir Christopher Rose, a retired high court judge, said prosecutors and police had failed to ensure that crucial surveillance recordings made by the undercover policeman were given to lawyers representing the activists.

The contents of the tapes would have exonerated the activists, who had been planning to occupy one of Britain's largest power stations.

Rose outlined a series of failings by Ian Cunningham, the senior prosecutor in charge of the case, by colleagues at the Crown Prosecution Service and by

police, who arrested more than 100 activists before they could carry out their protest. Cunningham is now facing a disciplinary inquiry into his conduct.

In making the arrests, the police exploited intelligence supplied by Kennedy, who had infiltrated the environmental movement for seven years, posing as a committed campaigner under the alias of Mark Stone.

Using a £7,000, specially adapted Casio watch, he recorded private meetings of the activists as they drew up plans to invade the Ratcliffe-on-Soar power station in Nottinghamshire in 2009.

In the report, Rose said the recordings had not been disclosed to lawyers acting for the campaigners because of "failures, over many months and at more than one level, by the police and the CPS".

He wrote: "The general picture of what occurred is that, at several stages, there was a failure between police officers and between the police and CPS to pass on such information."

He added that there was no "dishonest withholding of information".

He said police with detailed knowledge of Kennedy's activities were to blame because they "were anxious to limit the dissemination of that knowledge in order to protect the source".

He said that although Cunningham was aware of Kennedy's role in the intelligence operation, the police had not fully explained what he had been authorised to do.

Kennedy "was authorised to participate in the exact conduct which was ultimately charged against those arrested ... There could be no clearer case of the need to disclose his role," said Rose.

The former judge said Cunningham must bear "primary responsibility" for the failure to disclose the recordings to the lawyers.

"He relied too heavily on what he was told by the police in relation to [Kennedy] and failed to probe what material there was in relation to [Kennedy's] activities," said Rose.

Cunningham endorsed statements prepared by the police that said none of Kennedy's evidence needed to be handed over.

Rose also found that other CPS lawyers had failed to scrutinise Cunningham's work properly.

He concluded: "In consequence, charges were laid which would not have been, and the defence were later prejudiced because potentially helpful material never reached them, as it should have done."

Twenty of the activists were convicted last December but had their convictions overturned in the summer by the court of appeal because

