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Police spies court case suggests sexual relations with activists were routine

Lawsuit for undercover police deception indicates several officers struck up intimate relations with those they spied on



📷 Climate change activists in a 2008 protest near the Drax coal-fired power station. Photograph: John Giles/PA

Paul Lewis and Rob Evans

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Hundreds of political activists were bedding down in a field near the Drax power station in North Yorkshire. It was August 2006 and eco-activists had erected tents beside the UK's single biggest carbon emitter.

As night fell on the inaugural Climate Camp protest the campaigners near the coal-fired station had no idea that their camp had been infiltrated by three undercover police officers.

Mark Kennedy, now the most famous of police spies, and, it now seems, a woman constable known as Lynn Watson, were that night inside tents sleeping with activists.

The third, an officer using the alias Mark Jacobs, would soon be doing the same with two women in Cardiff, where he posed as a truck driver to

monitor small group of anarchists.

The controversy over the use of sex in covert policing is too easily caricatured as wayward constables "sleeping with the enemy". But the evidence that has surfaced so far suggests police have been routinely developing close relationships with activists, and not just fleeting sexual encounters but long-term and intimate relationships that have endured several years.

Of the nine undercover police identified by the Guardian over the past two years, eight are believed to have slept with the people they were spying on. In other words, it was the norm.

On Thursday, in the latest chapter of a long-running legal dispute, some of those cases were raised at the high court in London.

In a joint lawsuit, 10 women and one man say they suffered emotional trauma after forming "deeply personal" relationships with people who were later revealed to be spies.

Their claim for damages threatens a deeply embarrassing court battle for the **Metropolitan police**, which has been trying to keep controversial details of the covert operations secret.

The male activist who said he slept with Watson in a tent at the Climate Camp is not part of the legal action. He told the Guardian he did not want to sue the police because the one-night stand, instigated, he said, by the female officer, was "nothing meaningful".

However, those who are seeking compensation from the police say they are the victims of a highly manipulative and abusive policing operation.

"It is unacceptable that state agents can cultivate intimate and long-lasting relationships with political activists in order to gain so-called intelligence on political movements," said Harriet Wistrich, a lawyer for some of the women involved.

The cases reveal just how intimately police have become involved in the lives of people they have been sent to spy on as part of a surveillance programme that has been in place since 1968.

In two cases, women who were sleeping unknowingly with undercover police officers invited the men to the funerals of relatives. **Police** spies shared homes with the women they spied upon, met their families, told the activists they loved them and spent weeks and even months travelling with them on holidays abroad.

The male claimant in the lawsuit says that an undercover police officer became his best friend before sleeping with his girlfriend.

The cases go back to the 1980s, and one, which is being treated as a separate legal action, involves a woman who had a child with an undercover police officer.

In all cases, the spies were instructed to vanish from the lives of the activists once their deployments had ended. The women were left perplexed, wondering where their loved ones had gone.

All of the deployments, which cost tens of millions of pounds in taxpayers' money in total, were aimed at garnering intelligence on radical activist groups.

The events have made for an unprecedented civil case.

"No action against the police alleging sexual abuse of the kind in question in these actions has been brought before the courts in the past, so far as I have been made aware," said Mr Justice Tugendhat, the sitting judge.

Lawyers for the Metropolitan police wanted all of the cases in the lawsuit struck out of the high court, arguing that instead they should be heard by a secretive tribunal that usually deals with complaints about MI5.

In his ruling, Tugendhat rejected that request, saying claims for damages under common law, including torts of misfeasance in public office, deceit, assault and negligence, constituted allegations of "the gravest interference" with the fundamental rights and should be heard by the high court.

However, the ruling was a mixed bag. In a blow to the women's legal action, the judge said that additional claims made under the [Human Rights Act](#) should first be heard by the Investigatory Powers Tribunal.

The tribunal was set up in 2000 to deal with complaints from the public about unjustified state surveillance within "a necessary ring of secrecy".

Complainants do not see the evidence from the state and have no automatic right to an oral hearing. Neither can they appeal against its decision.

Wistrich described the decision to move parts of the case to the tribunal as an outrage.

It will mean proceedings are delayed, but lawyers said they still expected large parts of the lawsuit to continue in the high court.

"Even though the judge ruled that claims under the Human Rights Act should be heard by the tribunal, the common-law claims, which exist in all of the cases, can and will still be heard in the high court," said Jules Carey, another solicitor representing claimants.

Future proceedings could rest on one main question: are undercover police lawfully authorised to have intimate sexual relationships with the people they are spying on? If so, under what circumstances?

Part of the problem is that sexual activity is not specifically addressed in the Regulation of Investigatory Powers Act, the law introduced in 2000 to govern covert activities. The act states police are permitted to have "personal or other" relationships when undercover.

In court documents the Met says it interpreted this statement to mean that, in certain circumstances, its officers were authorised to have "intimate and sexual" relationships.

Lawyers for the women have vigorously disputed this point, saying MPs would never have thought they were condoning sexual activities when they legislated to allow covert police to form "personal or other" relationships undercover. On this, Tugendhat appears to have sided against the women. He admitted there was little clarity on the matter, but said he believed that, on balance, parliament would have envisaged "some possible sexual relationships" when introducing the legislation. Bizarrely, that conclusion appears to have rested, partly, on a reference to James Bond, dubbed by the judge "the most famous fictional example of a member of the intelligence services who used relationships with women to obtain information, or access to persons or property".

The judge conceded that Ian Fleming, author of the Bond series, did not dwell on "psychological harm he might have done to the women concerned". But he said Bond and similar fictional examples gave credence to the view that the intelligence and police services had for many years let spies form "personal relationships of an intimate sexual nature" for intelligence purposes.

In other words, he believes that when MPs authorised undercover police to get close to targets they had James Bond in mind.

Tugendhat said "everyone in public life would ... have assumed, whether rightly or wrongly, that the intelligence services and the police did from time to time deploy officers ... in this way".

If the law is seems confused or contradictory, so too are the responses from the authorities whose job it is to implement it.

When details of Kennedy's undercover exploits were first made public in 2011, Jon Murphy, who speaks on undercover policing for the Association of Chief Police Officers, said sexual relationships were not allowed under any circumstances.

He said: "It is never acceptable for an undercover officer to behave in that way."

By 2012 the position appeared to have shifted when Nick Herbert, then the policing minister, said there was no rule prohibiting police from sleeping with activists. He told parliament that any ban on sexual activities would provide a ready-made test for suspicious newcomers.

More recently the Met commissioner, Bernard Hogan-Howe, struck yet another note, saying that sexual relationships were "almost inevitable". But he added: "It certainly should not be part of the strategy to do that."

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