

Police spies unit 'crossed the line', says Lord Macdonald

Former director of public prosecutions accuses Metropolitan police of 'monumental misjudgment' in allowing undercover officers to give false evidence



Reclaim the Streets activists in London in 1996. The group was infiltrated by Jim Boyling, an undercover officer working for the Metropolitan police. Photograph: David Giles/PA Archive/Press Association Ima

Rob Evans and Paul Lewis

Thu 20 Oct 2011 09.42 BST

Police chiefs are facing pressure to explain the growing scandal in undercover policing of protest groups after the former director of public prosecutions said they had made a "monumental misjudgment" that could result in a host of miscarriages of justice.

A major inquiry into the use of police spies in the protest movement was thrown into chaos late on Wednesday after the Guardian revealed damaging allegations that police officers had authorised their undercover agents to give false evidence in court.

The government's official police inspectorate cancelled the planned publication of a report by Bernard Hogan-Howe, the new [Metropolitan police](#) commissioner, into the use of police spies. It had been due to be unveiled on Thursday morning.

The announcement came just hours after the Guardian revealed it had obtained documents showing an undercover officer had concealed his identity from a court when he was prosecuted alongside a group of protesters for occupying a government office.

Jim Boyling gave a false name and occupation when he was arrested and maintained the fiction even when giving evidence under oath.

Boyling and his police handlers never revealed to the activists on trial with him that he was an undercover officer.

"You don't send police officers into court to lie about who they are, about their identity, about what their role is in a series of offences," said Lord Macdonald, a former director of public prosecutions. "You don't send them into solicitors' offices pretending to be defendants and being party to confidential legal conferences. They have crossed the line and it is a serious, serious issue."

Speaking on BBC Newsnight, which also reported on the case, Macdonald said he was "quite sure" the court of appeal would quash convictions where it was found that undercover police officers had posed as defendants and lied to court.

Three court of appeal judges have already overturned the convictions of 20 environmental protesters, ruling that crucial evidence recorded by Mark

Kennedy, another undercover officer, was withheld from their original trial. Another trial, of protesters accused of plotting to break into a power station, also had to be abandoned.

Macdonald added: "We're not talking about terrorists here, we're talking about a cyclist campaign group. This is what is so difficult to understand - that police would have taken the risk of putting [undercover officers] into these sorts of situations, putting them into court, not because people are committing any serious crime, but because people are stopping the traffic. That seems to be, on the face of it, a monumental misjudgment."

Dee Doocey, a member of the Metropolitan Police Authority, said: "I am coming to terms with the fact that it has happened. It makes a complete mockery of judicial system."

She added: "Who in the Met authorised it - if anyone? If they authorised it, why did they authorise it? And is that person still working at the Met?"

Boyling's deception in court does not appear to have been an isolated incident - or the decision of one senior officer, according to one former officer from the same secretive unit.

Peter Black, another police officer who worked with Boyling, said the case was not unique. He said from time to time prosecutions were allowed to go ahead as this helped to build up their credibility. Being prosecuted was "part of their cover".

The Hogan-Howe report had been expected to rule out tough independent oversight of undercover police officers, despite widespread concern about the ethics of deploying the police spies.

A number of the police agents had been found to be having sexual relationships with activists - including Kennedy, whose seven-year deployment as an environmental activist prompted the review by her Majesty's Inspectorate of Constabulary.

Boyling used the name Jim Sutton between 1995 and 2000 in the campaign Reclaim the Streets, which organised nonviolent protests against cars, such as blocking roads and holding street parties.

Boyling and the protesters were represented by the same law firm, Bindmans, as they held sensitive discussions to decide how they were going to defend themselves in court.

The activists allege that Boyling and his superiors broke their fundamental right to hold legally protected consultations with their lawyers and illicitly obtained details of the private discussions.

Police have been accused of wasting huge sums of public money by spying on protesters pursuing legitimate campaigns. Boyling, a serving Metropolitan police officer, married and had children with an activist he met while undercover in the environmental protest movement.

It is alleged that he maintained the charade of being a committed activist when he was prosecuted in Horseferry Road magistrates court in [London](#) in 1997 for disorderly behaviour following Reclaim the Streets activists' occupation of the office of the chairman of London Transport, which ran the tube and rail system.

Official records show that when he was arrested and taken to Charing Cross police station he told police he was "Pete James Sutton", and that his occupation was "cleaner".

Under the fictitious identity, he instructed a solicitor from Bindmans to represent him, according to the law firm.

When Boyling went into the witness box, he swore under oath that he was Sutton, and gave evidence under questioning from the defence and prosecution barristers, according to a legal note of the hearing.

All but one of the activists were acquitted. John Jordan, who was convicted of assaulting a police officer and given a conditional discharge for a year, has launched an appeal to have his conviction quashed. His lawyer, Mike Schwarz from Bindmans, said: "This case raises the most fundamental constitutional issues about the limits of acceptable policing ... At first sight, it seems that the police have wildly overstepped all recognised boundaries."

The Met said it was "reviewing issues regarding the deployment of undercover officers and the policy and practices in place at the time of the

events described in the Guardian".

"The [Met] acknowledges that these are serious matters and is continuing to review the situation, and will take account of any additional information that becomes available. We are confident that the current legislative and regulatory framework governing the deployment of undercover officers ensures that all such deployments conducted now are lawful and appropriately managed."

More on this story



Second undercover officer accused of misleading court

21 Oct 2011



Police watchdog to investigate undercover officer claims

21 Oct 2011



Met facing mounting crisis as activist spying operation unravels

20 Oct 2011



Most viewed