



Opinion Police

This article is more than 13 years old

Undercover police aren't above the law

Ellie Mae O'Hagan

Why have no police officers ever been prosecuted for breaking the law while undercover? We need a truly independent inquiry

Wed 13 Jun 2012 16.30 BST



Director of public prosecutions Keir Starmer, who initiated an inquiry into the case of undercover officer Mark Kennedy. Photograph: Dominic Lipinski/PA Wire/Press Association Images

Indulge me for a moment as I take you through a hypothetical scenario. Imagine that I deliberately set fire to a big department store. The police know I've done it, but instead of arresting me, they protect me. In fact, they knew beforehand that I was going to do it and turned a blind eye.

Such a scenario is nonsense, of course. If the police found out I'd burned down Debenhams, I'd be in court faster than you could say Zippo lighter. Unless, perhaps, I was an undercover police officer. Then, my little act of arson might never be found out. And better than that, I'd get a promotion and later be awarded an MBE for "services to policing". Because what if this scenario isn't hypothetical? During a debate today, the MP Caroline Lucas used parliamentary privilege to raise these questions about the undercover police officer, Bob Lambert (MBE), who infiltrated the activist group Animal Liberation Front from 1984 to 1988. Lambert denies the allegation.

The strange world of undercover policing only pricks the public consciousness in the form of an occasional news story, but for political campaigners it is a daily hazard - one which has spiralled completely out of control. Lawyer Mike Schwarz of Bindmans suggests undercover policing reveals that the police have "wildly overstepped all recognised boundaries". Officers have been accused of lying in court, routinely breaking the law, and forming sexual relationships with the people they spy upon; and yet there is no public record of a single one being disciplined, let alone prosecuted.

At this point, those of you with an interest in civil society may be concerned about the lack of an inquiry. There have, in fact, been 12 inquiries - and I'd bet my bottom dollar Caroline Lucas has just prompted another. The pattern of these inquiries is always the same: each one has the narrowest possible remit and an author who is already embroiled in the undercover policing world. The golden rules are: leave stones unturned, concede that things were less than perfect in the particular incident you are investigating, and never widen the investigation beyond the isolated case.

Take, as an example, the Crown Prosecution Service's report on the Ratcliffe case involving undercover officer Mark Kennedy. Keir Starmer, the director of public prosecutions initiated an "independent" inquiry led by retired judge Sir Christopher Rose. Rose is the surveillance commissioner, which means his job includes scrutinising authorisations for intrusive surveillance. Rose found no "systemic" problem at the CPS. Yet perhaps this is not surprising, considering he apparently failed to question Nick Paul, the most senior CPS lawyer actively involved in the Kennedy case.

Instead, Rose focused only upon the failings of the local Nottingham CPS lawyer who had never dealt with a case involving an undercover police officer before. In fact, Nick Paul's role in the CPS was highlighted late last year when he returned to private practice and his chambers in Doughty Street revealed that his role at the CPS included, "advising the police in respect of covert investigations in respect of domestic extremism cases".

Why did the forensic minds of Keir Starmer and Sir Christopher Rose never think to question Nick Paul?

After that and 11 other inquiries, the current situation with undercover policing is as follows: there have been no convictions of officers, there has been no support for victims (not even the women with whom officers formed sexual relationships), there have been no rule changes, no apologies, and no admissions of wrongdoing beyond individual failings.

In fact, we don't even know who is responsible for the decision to infiltrate activist groups in the first place. Nor do we know how many past miscarriages of justice there have been. As things stand, there is no hope of justice. It's not even clear what the public actually gained from these expensive and invasive policing methods. One of the infiltrated campaigns was a group of cyclists who protested about climate change by holding cycling parties in the road. Was it really worth such sweeping and costly violations of rights to spare the public the inconvenience of a traffic jam?

The use of undercover police against political campaigners appears exempt from any sense of normality, whether forming sexual relationships or allegedly burning down buildings, right through to lying in court and withholding evidence from juries, leading to inevitable miscarriages of justice. And, it is vital to remember, at the heart of this is a group of people who have had the most intimate elements of their lives violated by an institution that is supposed to protect them.

The majority of these people - these victims - have not been charged with a single offence as a result of undercover policing. And yet, the need for a genuinely independent inquiry stretches beyond a group of activists surveying the wreckage left by the police officers who deceived them for so long.

This issue is about every person living in this country - about the sort of society we want to build. I want to live in a society where everyone is equal under the law, not where a certain job title makes the difference between receiving an MBE and being sent to jail.

● Follow Comment is free on Twitter [@commentisfree](#)

Most viewed