

Watchdog criticises police over Mark Kennedy's undercover tapes

IPCC finds a collective responsibility for failure to disclose undercover officer's recordings to activists



📷 Mark Kennedy infiltrated the environmental movement for seven years using the alias Mark Stone.
Photograph: Philipp Ebeling

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Police have been criticised for their role in withholding crucial surveillance recordings made by undercover policeman [Mark Kennedy](#). The tapes were kept from activists who were being prosecuted for planning to occupy one of Britain's largest power stations. The contents contained vital evidence for the activists' defence.

In a report published on Wednesday, the Independent [Police](#) Complaints Commission said "there was a failing by the police officers and police staff members involved to disclose" the tapes appropriately.

The IPCC investigated after the prosecution of six activists collapsed in January last year because of the failure to disclose the tapes. The convictions of another 20 activists were overturned when appeal court judges ruled that the Kennedy tapes had been wrongly withheld.

The IPCC said there were "collective failings by a number of relevant parties" to ensure the tapes were properly disclosed to the activists' lawyers.

IPCC commissioner, Len Jackson, said: "Our investigation has shown that the sharing and recording of sensitive information, initially between the various officers involved and then with the Crown Prosecution Service, was not well handled ... While there were some weaknesses in the manner in which Nottinghamshire police officers and staff carried out their disclosure duties in this case, it is our view that none of their actions amount to misconduct."

Kennedy, who infiltrated environmental groups for seven years using the alias Mark Stone, covertly recorded a private meeting of activists on a specially adapted Casio watch. He had been sent to spy on the meeting as part of a secret operation known as Pegasus, which infiltrated political groups.

Nottinghamshire police used the intelligence to arrest more than 100 activists hours before some of them planned to invade the Ratcliffe-on-Soar power station in Nottinghamshire, in April 2009.

The exposure of Kennedy has led to the unmasking of other police spies in political groups and the launch of 12 official inquiries into their alleged misconduct.

Mike Schwarz, the activists' lawyer, said: "There is nothing in this, or the other dozen inquiries the police and CPS set up, to reassure the public that the catalogue of failings will not happen again. There needs to be a single public inquiry, not these piecemeal reports into microscopic aspects of cases."

He added: "We are still no closer to discovering if other failures to disclosure have led to other miscarriages of justice."

The IPCC report follows a similar inquiry by Sir Christopher Rose, a retired high court judge, who ruled in December that prosecutors, as well as police, had failed to ensure the Kennedy tapes were handed over to activists' lawyers.

There has been a dispute between the police and prosecutors over who was responsible for the failure to disclose the tapes.

The IPCC found "there were a number of conflicting accounts" given by police officers and prosecutors.

The IPCC concluded that "on the balance of probabilities", police had passed on information about the Kennedy tapes to Ian Cunningham, the senior prosecutor in charge of the case, before the prosecution collapsed. However the IPCC could not "prove what Mr Cunningham had sight of, nor what his understanding of the implications may have been".

Cunningham admitted making errors, such as signing off a document without having read it, according to the IPCC report.

The secretive police unit that employed Kennedy, the National Public Order Intelligence Unit, was also criticised by the IPCC for failing to fully explain the importance of the Kennedy tapes to their Nottinghamshire police colleagues.

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