

ROSEMARY NELSON INQUIRY

Day 28: 3rd June 2008

Witness: Ms Jane Winter (Director of British Irish Rights Watch)

Ms Jane Winter made her statement for the Inquiry on 9 January 2007 (RNI-824-016). In 1990 Ms Winter was one of the founding members of the London based British Irish Rights Watch (BIRW). This group arose out of a shared interest in the conflict in Northern Ireland and Ms Winter explained to the Inquiry that despite the situation being “in our own backyard”, media coverage had been poor and so it was difficult to understand what was occurring.

The group went to a talk on the human rights abuses during the conflict by Professor Kader Asmal, the then Chair of the Irish Council for Civil Liberties and a human rights professor at Trinity College. Ms Winter mentioned that although she was not a lawyer one or two members of the group were. The group felt there was a need for a non-governmental organisation (NGO) that could concentrate on the human rights dimension of the conflict, which is what BIRW went on to cover. After 1994, this was expanded to also cover the peace process.

Following his talk, they met with Professor Asmal who advised them to contact the Committee on the Administration of Justice (CAJ) in Belfast. In 1995, Ms Winter became the director of BIRW after funding was secured from the Rowntree Trust to employ one person for a year. The other founders chose to remain on the board; however, at this time they all believed that the impending peace process would mean the end of the NGO. BIRW is now made up of seven board members, a full-time administrator, a researcher and Ms Winter. At the start, BIRW had concentrated on giving seminars on the European Convention on Human Rights (ECHR) for lawyers and were guided through regular contact by CAJ. They tried to fill gaps and would take on old cases, such as the Bloody Sunday case, which CAJ was unable to focus on because they had their hands full with current cases. As time went by, BIRW became more involved with other organisations like Amnesty International (AI) and Human Rights First. Both Ms Winter and Halya Gowan from AI perceived the need for co-ordination between these groups and proposed meetings on matters of mutual interest that occurred up to four times a year.

During the mid to late 1990s, BIRW carried out a lot of work into the intimidation and harassment of lawyers as well as issues of detention, fair trials and the right to remain silent. They were basically concerned with any internationally or domestically defined human right and were often asked to observe hearings, particularly those in the Diplock courts. Ms Winter explained to the Inquiry that BIRW only ever helped those who asked for help.

Ms Winter had been communicating with Ms Nelson prior to their first face-to-face meeting, which occurred at the appeal of Colin Duffy in 1996. Ms Winter had been aware that Ms Nelson was a practitioner for a diverse high street practice in Lurgan; however, she was unsure whether Ms Nelson, who was

not a specialist in criminal law, had had any previous involvement in the Diplock Courts.

Contact with Ms Nelson was intermittent and she classified her in the mid-range of her contacts as she dealt with sixty solicitors in Northern Ireland at the time. A lot of contact had occurred during periods relating to the first Duffy appeal and the abuse she received. Ms Winter took the opportunity to describe the direct correlation that BIRW had found between the number of Diplock cases a solicitor had and the amount of abuse they received. Ms Nelson had only had a handful of cases and came into the process late on; however, BIRW became increasingly concerned about her, as she was one of only a few women operating in the courts.

Ms Winter believed that there was a real hatred for Ms Nelson within the RUC that stemmed from her successful appeal for Mr Duffy, despite it being her job. Lawyers were often identified with their client's crimes or beliefs and this had happened to an extreme degree with Ms Nelson. She was "a woman pretty much on her own... in a hotbed of dissident loyalism where there were many people who had not accepted the peace process at all". She agreed with Counsel to the Inquiry, Mr Phillips QC, that Ms Nelson's work and the fact that she lived locally contributed to her position and added that the disfigurement on her face also made her more recognisable. She was unable to alter her daily routine like other solicitors. The successful appeal for Mr Duffy in September/October 1996 alongside her high profile work with the Garvaghy Road Residents Coalition in July 1997 had been the start of Ms Nelson's problems.

Ms Winter believed the receipt of a threatening note in June 1997 had also been a key point but agreed that it was not until after Ms Nelson's murder that she realised that Ms Nelson had received a number of these. These threats alongside the assault on her on the Garvaghy Road set her apart from other solicitors. Ms Nelson normally initiated complaints with Ms Winter's encouragement. She explained that solicitors did not like admitting that they were afraid of their work and she had believed that Ms Nelson had been encouraged by a fellow solicitor to make contact with Ms Winter. Ms Nelson was "not a paper person" and so reporting of these incidents was intermittent and she would often have to be reminded through phone calls to get statements from her clients to corroborate her account.

Mr Phillips drew the Inquiry's attention to the intimidation of lawyers in Northern Ireland and, in particular, a 1996 BIRW report by Ms Winter for the Special Rapporteur, Mr Kumaraswamy (RNI-115-086). BIRW had been sending these reports annually to the UN since 1992 and this was the eighth such report. They were normally sent at end of the year to provide up-to-date information for the Rapporteur's own reporting to the Commission on Human Rights which met in April at the UN in Geneva. Reports were occasionally sent throughout the year if an issue required his attention.

Section 2.1 of the report had asserted that, "the number of cases in which such abuse has been reported to us has decreased since the ceasefires...but

only because the number of arrests [for terrorist offences] has decreased". The majority of this information had been gathered by Ms Winter from holding centre (Diplock) cases. She pointed out that in such cases it was always the word of the detainee, whose interview was neither tape-recorded nor witnessed by a solicitor, against the two attending police officers. The report went on to say that "when people are arrested, their solicitors continue to be abused" and Mr Phillips asked Ms Winter about the evidence gathering process which led her to this conclusion. She explained that BIRW was given access to a busy solicitors' firm's records of every attendance a solicitor had with their client. From these records, Ms Winter looked at the number of incidents and types of abuse and was able to say that death threats had gone down by 1996. Ms Winter would also talk to other lawyers in the Diplock courts to try and understand the situation; however, she conceded that she had had limited success in getting them to record these incidents. Solicitors were very reluctant to talk even though the process was highly confidential. Like in the case of Ms Nelson, she would take a detailed statement from the solicitor either in person or on the telephone. She would then ask them for corroborating evidence from their client and ask if they knew of any other solicitors who she should talk to. She eventually canvassed all those who were doing most of their work in the Diplock courts as they suffered the most abuse.

Annex A of the report contained extracts from the information received from the law firm (RNI-115-100.500). Ms Winter's conclusions were based on what she was told and she would usually try to give plenty of qualitative and quantitative information in the body of the report. Ms Winter had attempted to demonstrate that this law firm's experiences were typical for others throughout Northern Ireland. The purpose of this report was therefore to garner the support of the Special Rapporteur and to get him to transmit the findings and proposed reforms to the UK government in order to demonstrate that the matter was of international concern. At the UN in 1997, the Special Rapporteur had sought permission from the UK government to carry out a mission to the UK. When questioned about the timing of the examples of comments made to detainees used in her report (RNI-824-018), Ms Winter could not recall specific dates and explained that she was trying to give a general flavour of what was being said to lawyers at the time rather than specific examples. Copies of these reports were also sent to professional bodies such as the Law Society, Bar Council and the Independent Commission for Police Complaints (ICPC_ alongside the Northern Ireland Office (NIO), police, and the RUC, in order to give them the opportunity to rebut the allegations. Ms Winter explained that whilst most reports came from solicitors she did receive some reports of abuse from barristers; however, she felt this was something the Bar Council found hard to accept.

Ms Winter's first discussion with Ms Nelson on the issue of the intimidation of lawyers occurred when she stayed at her home in October 1996 following frequent requests from Ms Nelson (RNI-824-023). Ms Winter could not remember the specific reason she was in Northern Ireland but she had felt that Ms Nelson wanted to talk to her. The notes Ms Winter had made following this discussion were displayed to the Inquiry (RNI-115-001). Ms

Nelson had spoken about how terrible the murder of Pat Finucane and had recalled that he had been murdered in front of his family. She had asked Ms Winter how Mr Finucane's firm had dealt with the threats, which had intensified following his murder. Ms Nelson had told her that she did not have many clients who were arrested under the emergency laws; however, when she did, she received threats and abuse without giving any specific examples. In her statement, Ms Winter recalled that, "Rosemary told me...a lot of different comments were made, but the one that frightened her most was when the police threatened to give her address to Billy Wright" (RNI-824-024). Ms Winter mentioned that following her murder some notes made by Billy Wright referring to Ms Nelson came to light. Although she could not recall the specific date, Ms Winter told the Inquiry that she had a "clear picture in my mind of Billy Wright opening the door for [Ms Nelson] in what was apparently a courteous way and then saying [something] to her, which on the surface was not a threatening comment but she perceived, I think rightly, as being a threat". Ms Nelson had been taken aback by these problems, as they were not something she was used to. She felt that she had a good relationship with the police and became increasingly annoyed about the situation. Ms Winter explained that she was not alone in feeling this way as most lawyers felt deeply insulted because they were professionals doing their job.

Following this discussion, Ms Winter wrote to Ms Nelson on 7 October 1996 enclosing a report by the Lawyers Committee for Human Rights along with her own report to the Special Rapporteur sending (RNI-115-002). This was intended to show Ms Nelson that she was not alone and to encourage her to record what was happening and send Ms Winter a copy. She had not thought it appropriate at the time of their emotional discussion to go into such technical issues and explained that information received from Ms Nelson would not have been used without both Ms Nelson and her clients' permissions. The letter also discussed her options, despite Ms Nelson feeling that she had no choice but to continue as a lot of lawyers in the area depended on her. In Ms Winter's experience, "solicitors did not make formal complaints as the ICPC complaints system was completely ineffective as it relied upon RUC officers to investigate complaints" and that the ICPC was "a paper tiger" who would not assist lawyers if complaints were made. Ms Winter's highlighted to the Inquiry that she felt these remarks in her statement did not make a seamless narrative and had been a response to questioning from a member of Eversheds.

Winter's next contact with Ms Nelson came in the form of a vague letter at the beginning on 1997 which caused Ms Winter to telephone her as she had heard reports from CAJ that Ms Nelson had been receiving a lot of abuse. Ms Winter arranged to visit Ms Nelson on 26 February; however, following a telephone conversation on 18 February about Ms Nelson's clients at Gough Barracks, Ms Winter believed she could not wait (RNI-824-025). Ms Nelson had been upset over comments that had been made about her that were of a sexual nature. She felt these were professionally demeaning.

Twelve clients, including the six at Gough Barracks during a one week period, had reported incidents and Ms Winter tried to impress on her the need for Ms

Nelson to collect and record statements from her clients. Half a dozen of these statements were eventually seen by Ms Winter and she told the Inquiry that Paul Mageean from CAJ also took statements from clients regarding the assault on the Garvaghy Road. Again, Ms Winter's wrote to Ms Nelson offering advice and detailing a range of possible options (RNI-115-103). She wrote that, "on previous occasions [she] had attempted to assess the gravity of the actual risk that such threats pose[d] to lawyers" and explained to the Inquiry that it was important to objectively assess how real the risk was by talking to other lawyers and obtaining their views. The Finucane murder had been deeply shocking but she had believed that most lawyers were concerned more for their client's safety than their own. Although she asserted that threats could not be written off as "one could not legislate for a dissident, armed paramilitary, who might take in into their head to attack somebody" and for this reason, many lawyers adopted protective measures.

In her attempt to reassure Ms Nelson she had believed that as long as the ceasefire held lawyers would not be at a great risk and that Ms Nelson was more of an irritant to the RUC officers who were making these remarks to her clients, especially as her attendance had increased at the holding centres. As of February 1997, she pointed out that every lawyer who had worked prolifically at the Diplock Courts had had their lives threatened with those who worked there less receiving more general abuse. Ms Winter admitted to the Inquiry that she had been completely wrong about Ms Nelson's situation. In her report dated December 1996 to the Special Rapporteur, Ms Winter had remarked that death threats were a thing of the past.

Ms Winter told the Inquiry that at this point she had been unsure as to whether Ms Nelson's case was a glitch. Three possible options for Ms Nelson were detailed in Ms Winter's letter (RNI-115-104) and she explained that she had hoped that Ms Nelson would choose option one, which was stopping her high profile work. She had not known at the time it was a foregone conclusion that Ms Nelson intended to fight the abuse even though, as Mr Phillips pointed out, the option Ms Nelson chose was the most detailed in the letter. Regardless of the option chosen, BIRW would have continued supporting Ms Nelson, for example, by informing the Special Rapporteur of another lawyer giving up Diplock cases or helping her to log complaints. Option three again asked for Ms Nelson to record any incidents in order for the appropriate response/remedy to occur.

Ms Winter had recommended making a direct formal complaint to the RUC, as the complaint involved their officers. There was no point going through the ICPC's formal structure as Ms Nelson's client would have had to make a statement which in turn may have been used against him by the prosecution. An issue of confidentiality also arose as dates and places mentioned could have been used by the police to identify clients. Mr Phillips asked if Ms Winter had been surprised by the complaints that had been lodged with the ICPC regarding Ms Nelson and she responded that these had been initiated on behalf of Ms Nelson by the Lawyers Alliance for Justice in Northern Ireland. Ms Nelson did eventually make complaints to the ICPC herself; however, this was following criticism from Mr Kumaraswamy, the Special Rapporteur, who

had said that existing complaints mechanisms should be used. It was at this point that BIRW also changed their advice to lawyers to reflect this. It was around this time that Sir Louis Blom- Cooper, the independent commissioner for holding centres, proposed an in-house solicitor scheme; however, Ms Winter pointed out that this was criticised by the legal profession. Ms Winter also felt that at this time the Law Society had little interest in the abuse of lawyers. BIRW had been sending them reports since 1992 and had received little response. It was hoped that through Ms Nelson's complaints they would begin to take the situation more seriously.

Following this letter, Ms Winter met Ms Nelson for lunch to go over the options (RNI- 824-026). Ms Nelson was opposed to option one as she felt her clients depended on her as no other lawyer would take on cases such as that of Robert Hamill. She had been more open to option two, which involved ignoring what was going on, but Ms Winter did not believe Ms Nelson had had the opportunity to consult fellow lawyers on how they dealt with their experiences. Option three appealed to Ms Nelson the most as she had a strong sense of justice and felt what was happening to her was wrong. They discussed issues of safety and security both at her home and office including the Key Persons Protection Scheme, which Ms Winter felt she would have qualified for; however, this would have involved RUC officers visiting her home. She had to consider the balance between her home life and turning her house into a fortress and she tended to sway in favour of the former. Ms Nelson hated guns and was terrified of having a personal protection weapon at home with her children. It was not practical. They also discussed precautions Ms Nelson could take such as installing security lights but she felt this would cause undue distress to her family.

Ms Winter pointed out that neither she nor Ms Nelson believed that there was a serious threat against her life. It was simply the "last thrashing of the dinosaur's tale" to discourage her from taking on high profile cases. They therefore had to combat the problem as she wanted to continue working professionally without interference. However, Ms Winter recalled an occasion when Ms Nelson had said, "they wouldn't, would they?", possibly realising the reality of the situation. Through her actions, Ms Winter believed Ms Nelson had chosen option three and got the impression that Ms Nelson felt that by raising her profile this would also offer her a form of protection. They had previously discussed the case of a well-known English defence lawyer who took on high profile cases. As long as nobody knew about what was happening to her and she didn't make complaints this lawyer felt that her high profile offered her some protection. Ms Winter agreed that Ms Nelson had taken one of her options and given it her own treatment. She would sporadically report to NGOs, a friend or Ms Winter and BIRW would often chase her for statements to back up her allegations.

Mr Phillips asked if Ms Winter has been aware that at this point the Special Rapporteur had been planning a visit to the UK and she responded that they did not have prior notice nor would they have expected it. She also mentioned that she did not think that he had given his report to the UN at this point. Neither Ms Winter nor Paul Mageean had thought that a visit was possible;

however, Mr Cumaraswamy was a new post holder who seemed pro-active and so they tried to plant the idea in his head when they visited the UN in April 1997. They were both very pleased when a visit was planned for the end of the year as they hoped it would be the beginning of the end of this problem.

The Inquiry's attention was then drawn to a letter written to the Special Rapporteur on 5th March in which Ms Winter anonymously highlighted Ms Nelson's case (RBI-101- 106). It focused on a threat made to shoot her and involved her clients at the Gough Barracks. She received a response the next day asking for more details (RNI- 115-108) and Ms Winter responded immediately stating that, "RUC detectives there have made death threats against her that have become increasingly more violent" (RNI-115-109). She explained to the Inquiry that she should have used two words "more specific" instead of "more violent" as there had been a specific threat to shoot her.

She went on to say that any abuse was threatening for a lawyer as it stripped them of their professional status and made them an ordinary person capable of being targeted. Mr Phillips asked if Ms Winter had received any further information following the 18 February conversation that had contributed to her description of the problem and she responded that she had certainly seen statements which Paul Mageean had taken from interviews with some of Ms Nelson's clients. She was in regular contact with CAJ and they frequently swapped notes. She had chosen not to directly quote these statements as she felt this would have been trespassing on CAJ's territory and was why she suggested to the Special Rapporteur that Mr Mageean was in a better position to give more details. The Special Rapporteur's delayed letter dated 2 February (RNI-114-106) may have provided the immediate impetus for drawing his attention to Ms Nelson's case; however, Ms Winter felt she would have done this regardless as she tried to keep him up-to-date. Even though he would have finished his report for the UN by this point he would still have had the opportunity to make a verbal statement to the Commission. Both Mr Mageean and Ms Winter were involved in arranging the Rapporteur's visit to the UK as his own assistant relied heavily on local people for local knowledge. She told the Inquiry the Rapporteur spent three days in London during which time she arranged meetings with the Northern Ireland Office and other lawyers who had been the subject of abuse. Mr Mageean organised the Belfast side of his visit although it was felt more appropriate for Ms Winter to speak to Ms Nelson and other lawyers based there as she had built up a confidential relationship with them. Ms Nelson had been the keenest to speak to him as it was a new development for her, who, unlike other lawyers, knew that BIRW regularly passed information to the UN.

Ms Winter explained that lawyers were busy people and the UN was perceived as a very remote body. They were therefore not reluctant to speak but needed to have the process explained to them to understand that it was a worthwhile cause. It had been BIRW's experience that talking to the British government was a waste of time as they did not take the allegations seriously, saying that they were unsubstantiated. International scrutiny would therefore provoke more of a reaction from them and so BIRW worked with American NGOs, the Irish government and the UN.

Following his visit, the Special Rapporteur made recommendations they had put forward to him such as the use of video and audio recording of police interviews and allowing solicitors to be present. Ms Winter explained that once these were implemented the problems were eradicated to a large extent although some changes had already begun to take place prior to his visit. During the 1990s solicitors had only been able to see their clients once every forty-eight hours; however, there had been a relaxation in later years. Silent videotaping was introduced first and audio followed after Mr Cumaraswamy's visit although the audio was not always in sync with the visual, but by this time solicitors were allowed into the interviews.

The arrest of Colin Duffy for the murders of two Lurgan police officers was brought to her attention through a phone call from Ms Nelson in June 1997 (RNI-824-030). She had been afraid that a miscarriage of justice was taking place and Ms Winter expanded on this point by stating that it was an unusual killing as it occurred in broad daylight. It looked as though it was designed to undermine the peace process. Mr Duffy was an IRA member and their ceasefire seemed solid. Ms Nelson also had many reasons as to why she believed he was innocent and Ms Winter asked to see this evidence which included statements and letters from Ms Nelson to the Custody Sergeant at Gough Barracks regarding Mr Duffy's detention, alibi and interview (RNI-115.110.513 & 514).

The evidence was dated around the time of Mr Duffy's arrest but she believed she did not receive it until several weeks later. BIRW took the unprecedented step of writing to the Director of Public Prosecutions (DPP) to raise the issue of a potential miscarriage of justice as Mr Duffy was likely to spend many months on remand with the likelihood that the case would collapse. Mr Winter told the Inquiry that the DPP did eventually decide not to prosecute. Ms Winter also took the unusual step of writing to the Secretary of State on 3 July (RNI-115-110.500); however, she did not include witness statements in the letter as they formed the basis of the case. Instead she enclosed a submission to the UN (RNI-115-110.505) which set out the circumstances of the case and the strength of the evidence referring to a summary of the evidence of the defence witnesses.

Ms Winter mentioned to the Inquiry that this was a complaint made on Mr Duffy's behalf and was not related to Ms Nelson, and that a separate complaint regarding remarks made to her had been made to the Special Rapporteur. The letter concerning Mr Duffy went to the UN Working Group on Arbitrary Detention and not the Special Rapporteur, as it was within their remit and BIRW could not think of another body who would be interested. A response was never received which she pointed out was a common occurrence.

At this stage, BIRW only had information provided by Ms Nelson; however, this was usual for the type of cases they dealt with. Ms Winter did not check the validity of these claims as she felt it was not necessary adding that Ms Nelson was "as honest as the day is long and a very transparent person".

When asked about Ms Nelson's anger over Mr Duffy's arrest, Ms Winter asserted that she had been disturbed and concerned at the perceived fabrication of the case against him. She did not believe Ms Nelson had lost her professional objectivity. She had clearly stated the evidence which had convinced her he had not committed the murder and was doing her professional best to defend her client's interests.

Issues arose around the reliability of the main witness and another witness' statements which placed Mr Duffy near his home rather than the city centre where the murders had taken place. Eyewitness accounts also described two perpetrators wearing wigs and neither fitted the build of Colin Duffy. Ms Nelson told Ms Winter that the defence witnesses only knew Colin Duffy by sight and were therefore merely describing what they had seen. They had no axe to grind in the case; again however, Ms Winter did not meet them to confirm this.

Ms Nelson's appearances in the media by this time had not been discussed previously with Ms Winter. Mr Phillips highlighted a passage which said "as a result [of these appearances], telephone death threats against her have been delivered to her office" (RNI-115-110.512) and Ms Winter agreed that she had been drawing a connection between these actions which Ms Nelson had also picked up on. These actions would have been consistent with option three but Ms Winter did not believe that Ms Nelson had begun to doubt her decision. She was aware of the risks involved and pointed out that most lawyers would not give media interviews for this reason. Ms Winter's report was based on this conversation from 3 July although she could not recall more specific details about the death threats to aid the Inquiry. Nor could she remember whether they had been received at Ms Nelson's home or office but did recall an occasion where Ms Nelson had mentioned that when a secretary had received a death threat. She felt it was unfair that other people had to take on her burden. In her statement, Ms Winter had referred to another phone call that Ms Nelson received around the time of Mr Duffy's arrest (RNI-824-031) but she could not recall whether this had come to her home or office. Mr Phillips pointed out that the Inquiry had not seen a note from this occasion and Ms Winter replied that she had been very surprised at how few exhibits there were as a large amount of information had been gone over during a two day period when she gave her statement for the Inquiry. She assumed that Eversheds had taken the decision to only exhibit certain documents.

It was shortly after this that she heard from Ms Nelson in relation to the Garvaghy Road incident and Mr Phillips displayed the note she had made to the Inquiry (RNI- 115-111). "On Saturday, 5th July, just before midnight she telephoned the Secretary of State...at around 3.30am". Ms Winter agreed with Mr Phillips that she was in fact describing events from the early hours of 6 July and contributed that Ms Nelson had been very upset and shaken when she rang. Mr Phillips asserted that from other evidence presented to the Inquiry a complaint was made about this incident and an investigation was subsequently carried out. Ms Winter explained that she had not undertaken an investigation herself but Mr Mageean was going to/had interviewed Ms Nelson and seen bruising on her arm. She also mentioned that she had seen

a statement from an American observer who had witnessed the incident; however, their timings of the events conflicted with those she had noted from her conversation with Ms Nelson.

Ms Nelson was hit on the shoulder with a police riot shield. She had felt this was a deliberate act because she was sure the RUC knew who she was and why she was there especially because, as Ms Winter reiterated, she was immediately recognisable and well known. Ms Winter sent a letter to the Special Rapporteur on 10 July detailing the Garvaghy Road incident and abuse in relation to the Duffy case (RNI-115-113). She enclosed a report that stated, "Rosemary Nelson was struck on...the centre part of her back with a police riot shield". Ms Winter clarified to the Inquiry that this may have been written after she had seen a report by Mr Mageean which described this incident in more detail -"they let him go but as I was walking away, one of them hit me on the back of the head with a shield" (RNI-302-129.501). She conceded that Ms Nelson may have possibly been confused at the time she recalled the event as she was very upset. Until this time, Ms Winter had not heard of another example of a lawyer being assaulted although since Ms Nelson's death she had come across two other instances. It was therefore completely unprecedented. Following this incident, Ms Nelson had made a video for the Witness Programme, an American group run by Human Rights First, and had used words to the effect of, "I have never been so scared in my life." In her statement, Ms Winter had drawn a contrast between the Garvaghy Road Incident, which would have been known to everyone, and the Colin Duffy case, which would have only been known locally.

The Inquiry was told that it was at this point then that Ms Nelson took on a higher profile and Ms Winter admitted that she had missed the links between Ms Nelson's professional life and what was happening to her at the time. Ms Winter had suggested that she make a complaint and try to sue the RUC officer for assault; however, this proved difficult as she was unable to identify the person responsible because the police did not wear identification numbers at the time. It was not until after her murder that Ms Winter found out Ms Nelson had launched a civil action alongside her complaint to the ICPC. Ms Winter said that she had asked if there had been any witnesses to the Garvaghy Road incident and Ms Nelson named two Irish politicians who she thought had seen the assault. By 10 July 1997 Ms Nelson's high profile was apparent and Ms Winter pointed out that it may have been during this period that she visited Downing Street with the Garvaghy Road Resident's Coalition. In Ms Winter's letter to the Secretary of State which detailed the Duffy case and the Garvaghy Road incident she hoped that she would "respond to this letter by ordering an urgent Inquiry into these allegations designed to discover and discipline those RUC officers responsible". Mo Mowlam was different from her predecessors as she was independent minded and had previously met Ms Nelson. A response was received; however Ms Winter told the Inquiry that she was unsure as to what steps were taken.

Following the Garvaghy incident, Mr Phillips highlighted a document sent to the Special Rapporteur by Ms Winter (RNI-115-114). She had talked to Amnesty International and Human Rights Watch to gather evidence and also

to journalist Susan McKay. Ms Winter recalled that Ms McKay's recollection of events was also not clear and that she had struggled to locate the German television crew who may have witnessed the incident. With Ms Nelson's consent, this was the first occasion that she was named in a report. It ended requesting "the Special Rapporteur to communicate this complaint to the United Kingdom government urgently and to seek from them assurance that Rosemary Nelson and any other lawyers representing residents groups over the summer marching season, which unfortunately promises to be a violent period, will be treated with all due and proper respect". Again, she was unsure whether this request was ever taken up as it would have been very unusual for a UN Special Rapporteur to disclose this information. She had not seen the letter dated 1 August from Mr Cumaraswamy to the Ambassador in Geneva, the UK Ambassador to the UN, displayed by Mr Phillips that appeared to show that the issue had been taken up by Mr Cumaraswamy.

Mr Phillips moved on to examine the issue of Colin Duffy's arrest in November 1997 and the subsequent letter Ms Winter sent to the DPP on 1 December (RNI-115- 137.500). She first read about the arrest in a newspaper and then telephoned Ms Nelson for information. All information on the arrest came from Ms Nelson and again, she did not conduct her own investigation into its validity. She told Mr Phillips that she found his line of questioning puzzling and said that although there may have been occasions where details from solicitors were wrong, they never fabricated a story. Ms Nelson was not a fantasist or a liar and she had no reason to disbelieve her. She would have asked her testing questions such as whether Mr Duffy provoked the police and when she wrote to the DPP she had pointed out that the circumstances of the incident were disputed.

Mr Phillips pointed out that by this time, Ms Winter had already written to Secretary of State about the new Duffy case and displayed a letter which referred to another letter dated 19 November. Ms Winter again raised the issue that documentation she had provided to the Inquiry was missing and agreed that it did look as though she had already written to the Secretary of State. Ms Winter had been concerned that the police were harassing Mr Duffy and seeking to trump up charges against him. This concern was based on her own knowledge from earlier cases and from Ms Nelson's information. It sounded like a trivial event blown up out of proportion and from the John Lyness murder case it was clear that it was not beyond the police to fabricate evidence. She chose to raise it with the DPP as they were people in authority who could take action. She had not taken this action to raise the case's profile and was not putting out press releases informing others of her actions, these were private letters and she did not expect them "to see the light of day". Mr Phillips pointed out that these letters were considered at a high political level, as demonstrated by a response which stated that "the Secretary of State herself says 'I also made sure the Director of Public Prosecutions and the Chief Constable were aware of the security concerns about Mr Duffy' " (RNI-115-139).

However, Ms Winter explained that the response was standard Northern Ireland Office language and that the Secretary of State would not be fulfilling

her duties if this was not drawn to their attention; whether it meant anything was open to question. Mr Phillips went on to describe how Mo Mowlam and the Minister, Mr Ingram, had spoken to the Chief Constable and others including Mr McGuinness, demonstrating that her letters were being acknowledged at a high level, and Ms Winter conceded that she was perhaps being cynical although she had never been under the impression the Chief Constable was listening.

Mr Phillips asked if Ms Winters had been surprised to learn that Ms Nelson had initiated and pursued complaints through the ICPC system. Ms Winter explained that the first set had been lodged by the Lawyers Alliance for Justice in Ireland, which she felt was a waste of time as the complaints system was ineffective. The Garvaghy complaint was no surprise to her as she had encouraged Ms Nelson to use every mechanism available to her.

Ms Winter was asked about a letter she wrote to the Secretary of State on 27 November 1997 about one of these complaints involving Ms Nelson's clients, C220. "We enclose in strictest confidence a letter recently received from Rosemary Nelson about remarks made to one of her clients last March" (RNI-115-136). Ms Winter also enclosed BIRW's latest report. She could not recall when information on this client was received and so Mr Phillips highlighted a letter she had written to Ms Nelson which included C220's statement signed November 6 and referred to events in March of that year (RNI-115-132). Ms Winter told the Inquiry that this had not been shown to her until late in the day. The letter read "in view of their content, it is hardly surprising that it has taken her some time to steel herself to obtain a statement from him". Like all clients he was naturally reluctant to pass on these comments and so it must also have been hard for Ms Nelson to ask for them. Reiterating earlier comments, Ms Winter said that Ms Nelson was not a paper person and even though it was her intention to write things down she was often slow in implementing her intentions. In her letter to the Secretary of State, Ms Winter explained to the Inquiry that she had not been asking the Secretary of State to do anything with the enclosures. She had been unsatisfied with an earlier response she had received and was attempting to give her a wakeup call as to how shocking the abuse was by highlighting the case of someone Mo Mowlam had met. She copied her letter and the response to the Special Rapporteur as he was always interested in official responses.

The response came from the Minister, Mr Ingram, although she felt the letter had been written by his civil servants. "While allegations of misconduct and abusive remarks are made to NGOs such as you, they tend not to be made to the proper authorities who could investigate them. If there were made to the Police Complaints Authority they could be investigated. If they are made only to the press and NGOs, there is very little the government or investigating authorities can do" (RN1-115-140). Ms Winter did not feel this was a reasonable response as the government had been sent every report on the issue as well as correspondence on individual matters.

Ms Nelson had also complained to the ICPC and Ms Winter clarified this with her in a 5 January letter (RNI-115-141) when Ms Nelson said the comment

was made to a superintendent and that she would fax Ms Winter a copy. Mr Ingram was therefore incorrect in saying that Ms Nelson had not used the proper channels. Ms Winter also pointed out that he had got the name of the ICPC wrong and conflated them with the police showing a lack of attention or interest. Encouraging them to use a system that was eventually dismantled and replaced by the Police Ombudsman was not satisfactory. She responded with these details to Mr Ingram on 22 January (RNI-115-142) telling him that Ms Nelson had not received a response to her complaint. Despite the Inquiry not having a copy of the complaint, Ms Winter was sure she received the promised fax from Ms Nelson. A response eventually arrived saying that correspondence had taken place between Ms Nelson and the police and they were awaiting a response from her on 5 March (RNI-115-147). She was not surprised but believed if Ms Nelson had received a response she would have sent her a copy as she had sent Ms Winter copies of letters to the RUC in the past. The letter also contained an acknowledgement from both the Minister and the Chair of the ICPC that the current system was not perfect "for the time being, however, we must make the most of the system we have. We can only do that if the complainants use the system in place" (RNI-115-148). This was repeating the Special Rapporteur's comments which Ms Nelson followed more seriously than most lawyers as he was an independent advisor and she followed his advice, however haphazardly, and used the system more regularly than others.

Ms Winter believed Ms Nelson saw the police force in Northern Ireland as a necessity for the administration of justice and up until the point the abuse began felt that she had a good working relationship with them. She was very shaken by the abuse but did not assume all RUC officers were the same. Ms Winter never heard her abuse the RUC but pointed out that she understood that police reform was a necessary, in particular to make them more representative. In relation to her political views, Ms Nelson was a nationalist but they never engaged in a serious discussion on the topic. She did not strike Ms Winter as a political animal as she was a very busy lawyer.

Ms Winter's statement described an incident in which Ms Nelson put her name to a newspaper article in the Irish News which Ms Winter believed was inspired by a Sinn Féin led organisation that supported the peace process (RNI-824-055). She had advised against this and did not believe Ms Nelson herself wrote the article. Ms Winter could not remember the date of this article but offered to find it for the Inquiry. Ms Nelson had also been involved with a number of other lawyers in the release of an "Equal Under the Law" statement in January 1998. She was believed to be the author of the first draft, which had then been passed around for signatures and amendments. Ms Winter felt this was an appropriate action albeit very brave as a similar statement had been issued shortly before Pat Finucane's murder. She could not remember whether this document came before or after the news article but told the Inquiry that she saw them as completely separate. It had certainly been released between the Special Rapporteur's visit and the publication of his report. Ms Winter's clarified that Ms Nelson had been grateful for the Rapporteur's visit and sensed that he felt solicitors could do more to stand up for themselves.

Ms Winter first heard of the controversy surrounding the Rapporteur's draft report through a phone call from Ms Nelson. She had previously spoken to Alan Parra, Mr Cumaraswamy's assistant at the UN, and was upset, as she believed the Chief Constable, Sir Ronnie Flanagan, had threatened her life. Ms Winter did not enquire at this point as to why Mr Parra had contacted her. By this point, Ms Winter had received the Special Rapporteur's draft in confidence from Alan Parra, for checking for any factual inaccuracies. Mr Phillips presented a letter to the Special Rapporteur from Ms Winter about Ms Nelson and Mr Flanagan's controversial remarks on 2 March (RNI-115-145). She told the Inquiry that it was clear Mr Flanagan wanted to censor the Special Rapporteur's report and deny remarks linking solicitors to paramilitary groups. He had also said that he was not answerable for the safety of the named lawyers singling out Ms Nelson, which was of great concern to Ms Winter. By this stage, she had spoken to both Mr Parra and Ms Nelson. However, in writing to Mr Cumaraswamy, Ms Winter was not seeking to influence his report but was setting out considerations for his decision.

Mr Phillips questioned Ms Winter about a remark in her statement that said, "I think that this was in March 1998, as both Paul Mageean and I were over in Geneva for a couple of days at this time" (RNI-824-026) and went on to describe a conversation that had occurred in a corridor. Ms Winter conceded this must have occurred after the phone conversations and report. During her conversations with Mr Parra and Ms Nelson she had made notes; however, she had only typed up Ms Nelson's remarks as Mr Parra's comments had been reflected in the letter she had written to Mr Cumaraswamy. Using his detailed notes, Mr Parra had told Ms Winter that during the meeting attended by the Chief Constable and two other senior RUC officers, he was told that all remarks should be attributed to the Chief Constable. Ms Winter assumed that it was the Chief Constable who had made this request (RNI-824-036).

In her statement, she has stated that Mr Parra "was pretty sure it was the Chief Constable that [made the remark]" although he could not be 100 per cent certain of this. Her statement went on to say "I was telephoned by the Rapporteur himself to canvass my opinion as to whether or not he should amend his report and remove references to specific names" (RNI-824-037). She was uncertain at the time whether he was asking for her opinion but on reflection felt he was asking her if he had done the right thing in not naming the solicitors in his report. Ms Winter's own opinion on the issue of naming solicitors was that if they were prepared for their details to be passed on then that was sufficient authority for Mr Cumaraswamy to publish them; however, she understood the Rapporteur's reasoning for not including them as he had to be very cautious (RNI-824-038).

Questioning then moved on to a letter Ms Winter had sent to the Secretary of State on 10 March in which she had written "by those means, we had become aware that when the Special Rapporteur met the Chief Constable, a senior police officer, possibly Assistant Chief Constable..." (RNI-115-155). Again, this information had come from Mr Parra who was 99 per cent certain that it was the Chief Constable and if not, then the Assistant Chief Constable, who

had made the remark. Mr Phillips argued that this letter put a different slant on what Ms Winter had said earlier by specifically pointing out the Assistant Chief Constable and she explained that she had been drawing attention to the fact that the Chief Constable had denied the remark but that it must have been one of the three. It did not matter who it came from, it was that it had been made and she was trying to accurately report this to the Secretary of the State. During this period her telephone had been red-hot and she had several conversations with both Mr Parra and John Ware from the BBC. Ms Winter mentioned that both were put through stringent internal processes to make sure they could stand by their comments. The conversation took place after Ms Nelson's murder when John Ware made his television programme, "Careless Talk" in which he interviewed Sir Ronnie Flanagan. Ms Winter conceded that they were all relying on Mr Parra's notes and although the Special Rapporteur could remember the remark being made he did not know who had said it.

Mr Phillips brought a letter to the Inquiry's attention from Ms Winter to the Chief Constable on 5 November 1998 in which she sent the BIRW's most recent report to the Special Rapporteur (RNI-115-195). This was six or seven months after the Special Rapporteur's report had been published. The BIRW report was entitled "Mistaken Identity: Attempted Intimidation of Defence Lawyers in Northern Ireland, the Murder of Pat Finucane and Other Issues" (RNI-115-196). Mr Flanagan replied on 11 November stating, "I have received the documents forwarded with your letter of 5th November. I suppose by now I should really have learnt to expect and not be surprised by the total absence of balance in reports produced by your organisation. This latest report continues your now well-established practice in that regard" (RNI-115-228). This was the only letter she ever received from him as he had been unresponsive to previous letters and reports and this letter had led her to believe that he regarded BIRW with contempt. BIRW would only receive an acknowledgement of receipt from his staff. She did not reply to his letter as she felt the tone of the letter was dismissive which was in marked contrast to other professional organisations like the Law Society and Bar Council.

The report had also said that "all in all, the picture painted by these instructions continues to be one of police officers who are extremely unprofessional in their attitude towards lawyers" and that "it does not appear that any instructions have been issued to RUC officers following the Special Rapporteur's report to modify their language or refrain from abusing solicitors, or that if such an instruction has been issued, it is being ignored wholesale" (RNI-115-222). This was Ms Winter's view as of October 1998. She explained that the RUC was a top down organisation and the Chief Constable had a great deal of influence, he could therefore have easily communicated to every officer that this behaviour was not acceptable and he would not tolerate it; however, although she did raise this suggestion with the Secretary of State she never approached the RUC.