

## ROSEMARY NELSON INQUIRY

**DAY 46: 8th September 2008**

**Witness: Mr David Nairn**, Chief Inspector in Complaints and Discipline Department of the Royal Ulster Constabulary (RUC) from September 1998 to 2001, in Gough Barracks in Armagh. Before that, he had served in other parts of the RUC.

As a Chief Inspector in Complaints and Discipline, Mr Nairn explained that in a typical week he would receive from five to ten complaints. He gave an insight into the operation of the department. Pre-prepared statements by officers under investigation were permitted but were rather an exception according to his own experience and this practice would not preclude a full interview. Mr Nairn would test the statement in the interview that followed. Most officers would cooperate with the process.

About the type of procedure to be carried out – whether to go through a formal or informal resolution – Mr Nairn explained that the decision was taken at a higher level along defined criteria; accordingly matters that came to him had already been determined as formal. He was questioned about three specific complaints lodged by Rosemary Nelson. Concerning his management of a complaint lodged in September 1998, he said that on the complainant's behalf, two weeks after Rosemary Nelson had sent a letter asking "to bear with them" as they were trying to contact the complainant, Mr Nairn had produced a report concluding a lack of co-operation from Rosemary Nelson and that, "History shows that Rosemary Nelson rarely co-operates with the police investigation". Explaining this statement, Mr Nairn said that this came not from his own experience of dealing with Rosemary Nelson but from the impression he had gained through conversations with his colleagues about her general approach to complaints. His recollection was that there was never a follow up interview after complaints by her clients or herself.

In his statement, Mr Nairn had made a distinction between non-co-operation from one side and a general picture of co-operation from the unionist side; he stood by his statement saying he could not recollect instances of non-co-operation from the unionist side.

Mr Nairn confirmed that by mid November 1998, his view of Rosemary Nelson was that she was not co-operative but he said he did not think anything of her personally. He said there may have been some frustration because they could not fulfil the responsibility to investigate the complaints but Mr Nairn was not clear as to his own level of frustration. Mr Nairn stood by his statement that he did not find this behaviour was "in the least bit frustrating". He said he was frustrated but was not "hugely irritated".

Mr Nairn's comment about letters of that sort being "typical" from this solicitor was based on what he heard from his colleagues. Concerning his statement that the letters were a "waste of valuable resources", he explained that what

he meant by this was that they were a waste because they put the investigation into motion when in fact nothing would come out of it for lack of co-operation. He said he did not know why she lodged complaints in the way she did and had not discussed it with his colleagues. He said he was, however, not resentful or hostile to Rosemary Nelson and he did not think his view of Rosemary Nelson would have influenced his work. Mr Nairn followed the investigation process and did everything to get her to give evidence.

The period of two weeks between when Rosemary Nelson had asked to “bear with them” and when the report and conclusions were written did not seem unusually short to Mr Nairn, bearing in mind the complaint was first lodged in September and he said he could not recall any suggested or allowed length of time before bringing a case to a conclusion.

Turning to the second complaint, lodged by Rosemary Nelson on September 19th, 1998, regarding the uncivil behaviour of Officer Constable Crone, although this type of complaint was usually dealt with informally, Mr Nairn said he could not recall whether he was surprised by receiving it and he could not recall other examples of receiving similar minor complaints. He confirmed that she had not agreed to attend an interview but had said she would provide a statement; they were later informed that Rosemary Nelson did not wish to elaborate on the complaint. Mr Nairn did not understand why Rosemary Nelson had changed from saying she would provide a comprehensive statement to saying she did not wish to elaborate.

Mr Nairn had concluded there was no need to interview the officer accused. The witness said he “very possibly” had the previous report in mind when writing this other report, four days later.

Mr Nairn said he had no recollection of mentions of the Mulvihill investigation.

Going back to Mr Nairn’s decision not to interview the police officer against whom the complaint was lodged, Mr Nairn confirmed he had discretion to pursue an interview with the police officer. Had he had sufficient information the usual course of things would have been to serve the officer form 17/3 but it still would not have been unusual not to proceed with an interview. Asked whether his decision not to proceed was in any way influenced by his view of Rosemary Nelson, he answered that it was solely based “on the approach of the complainant in this case”. The ICPC had approved Mr Nairn’s decision.

During the course of responding to the third complaint raised, initiated by a letter on October 23rd 1998, a memorandum was passed on saying that there was no chance of resolving the matter informally given Rosemary Nelson’s general attitude to the security forces but Mr Nairn said he had no recollection of discussing her attitude to security forces with colleagues.

Questioned again about the second complaint mentioned, Mr Nairn explained that once the complaint had become a formal complaint, his duty was to get as much information as possible. He did not contemplate speaking to the constable’s line manager nor did he feel it his responsibility to speak to the

officer accused, he solely followed the process through which investigations were carried.

Mr Nairn did not know whether complaints were notified to the local commander as a matter of process.

**Witness: Mr Norman McKee** joined RUC in May 1984. He was working in the Criminal Investigation Department (CID) in Portadown for four years. In 1997 he was in charge of a mobile support unit (MSU).

Mr McKee explained that the role of the MSU was to keep the peace in public order situations. His unit had about four sergeants and around twenty officers. They would operate using Land Rovers and would mostly work in Portadown and surrounding areas. He was the officer in charge of a unit; usually he would be tasked from base by a chief inspector or superintendent in charge of all mobile units.

At CID, his role was to investigate crimes. Mr McKee confirmed that very rarely would he have had contact with Special Branch or have access to intelligence on local paramilitary groupings. His role at MSU was solely in public order situations and he was not tasked to look for anyone in particular. When he assumed his duties in July 1997, he knew of the Garvaghy Road Residents Coalition from the media and general popular knowledge of them. In charge of an MSU, he did not get a perception that protests were marshalled by GRRC nor had opinions of the coalition's political groupings. He said that they would not speak about it amongst colleagues and as they deployed they would have no idea of what they would face.

About the murder of two officers in June 1997, Mr McKee said the perception amongst colleagues was that they had been carried out by the IRA locally. He said he had no perception about who had committed the murders. He made no judgement on the timing or reasons, but he was aware of the name of the suspect as Colin Duffy. He said he did not know Rosemary Nelson was representing him but he knew there was an acquaintance between them, although he did not know the nature of it.

When he worked in CID, Rosemary Nelson only came up in general conversations. He did not know anything about her association with the GRRC.

Questioned about deployment in Dumcree on July 6th 1997, he said several hundreds of the security forces were deployed. He did expect some verbal abuse but he was unable to comment on expecting physical abuse nor did they know how many protesters to expect.

Mr McKee looked at maps of the streets to identify spots where his unit was deployed, forming a cordon line. He said it was impossible for him to keep an eye on everyone under his command although he was aware there had been some "scuffles" in relation to some protesters.

Rosemary Nelson approached him with a man he identified as American because of his accent, at around 6:00 am. She asked to speak to his superior, bronze commander but he did not recollect that she was with a female journalist. He cannot recollect how she would have got through to him behind the cordon line. He says she did not appear agitated. She did not disclose what she wanted to say to the bronze commander as he tried to track him down. He was aware only two years later that she had made a complaint about that day and that the Inquiry had received evidence that she was called a "Fenian bitch" by some police officers and told to fuck off. The witness said he did not say these words nor does he know if it came from Sergeant Millar or if Rosemary Nelson had talked to another officer.

Mr McKee was presented with a short video footage of that day, showing Mrs Nelson with a man and an officer, and identified where the video would have been taken.

He had no knowledge or recollection of her being in physical contact with an officer within his unit that day nor did he have knowledge of an officer spitting at her. He said he did not take note of their conversation and she did not mention wanting to make a complaint. He did not have to deal with her again prior to her death.

Mr McKee was asked to describe the riot gear; his number and rank would have been visible. The balaclavas came right up to the nose, so it was impossible to spit whilst wearing it. The officers carried full-length protective shields, firearms and long batons.