

ROSEMARY NELSON INQUIRY

Day 57: 2 October 2008

Witness: Mr Paul Donnelly, former Chair of the Independent Commission for Police Complaints (ICPC) (continued)

Questioning continued from the previous day to focus on the period in March 1999 when ICPC Commissioner Geralyn McNally was subject to a whispering campaign and negative media coverage. A note of a telephone conversation between Mr Donnelly and an Irish government official at this time noted Mr Donnelly's fear that the Chief Constable intended to use the Mulvihill review to disparage the ICPC and Miss McNally in particular in order to protect the RUC's reputation. Mr Donnelly's fears were based on a report from a journalist who had attended a briefing given by the Chief Constable which the journalist had said had 'sickened' him.

Soon after this, in late March, Mr Donnelly met the Secretary of State and high-level officials from the Northern Ireland Office (NIO) about his concerns for Miss McNally's safety. Mr Donnelly also felt that the ICPC may have been considered as appropriate to be 'sacrificed'. Miss McNally had asked Mr Donnelly for support but he had been advised by his public relations advisers not to engage in the rumours; it was also felt not to be useful to raise the concerns with the Chief Constable since it was from the police that the rumours were emanating. Mr Donnelly felt in a dilemma because he was torn between defending Miss McNally and defending the ICPC as an organisation.

A joint statement by Mr Donnelly and the Chief Constable was eventually released that was interpreted as less than supportive of Miss McNally; Mr Donnelly said he could see how this could be the case since it swept the investigation under the carpet. He later turned attention to the fundamentals of the investigation, leading to the Chief Constable's suggesting that he had shifted his position and launched a new critique of the investigation after the certificate of satisfaction had been issued.

The report that Mr Donnelly wrote criticising the Mulvihill report was triggered by a discrepancy between the interview notes and the tape recording made of the Mulvihill interviews, and was conducted based on documents rather than first hand interviews.

Regarding the allegation against Rosemary Nelson made by the RUC officer who investigated the complaints made on her behalf, Chief Inspector P146, that she was 'unreliable', Mr Donnelly felt that, while it was appropriate to acknowledge any lack of co-operation on her part, it was gratuitous to assume an orchestrated campaign. However, he had not met with P146 to form this opinion.

Mr Donnelly had felt that the Special Rapporteur, Mr Kumaraswamy, had not fully understood the complaints system operating in Northern Ireland and the constitutional status of the Commission, and had fixed preconceptions, and

hence had unfairly criticised them.

Mr Donnelly outlined his belief that the investigation could have been more satisfactory but that any mishandling had no relevance to what eventually happened to Rosemary Nelson. He said that while there were parallels between the situation of GERALYN McNALLY and that of Rosemary Nelson in terms of the attempts to attack their characters and the fears for their personal safety, Mr Donnelly thought that in the case of Miss McNALLY the whispering campaign was aimed more at defending institutional standing rather than through malice. He acknowledged the perceptions of external bodies that the ICPC's role was one of defending the police.

Witness: A683, an army intelligence officer

The witness was a major in the 3rd Infantry Brigade who was the regional military intelligence officer covering Down, Armagh and Tyrone, serving in Northern Ireland from 1997 to October 1999. He acted as the interface between RUC Special Branch, the Security Service and the military's own intelligence gathering, his main tasks being to counter the local paramilitary threat to soldiers and national security. He outlined the procedure by which security threats were evaluated, using the CAISTER database and hard copy files, and acted upon, and who was involved in sharing information and decision-making. His role also involved counter intelligence, which tended to address leaks of military information (such as about future military deployment) that came mainly from the local Royal Irish units which lived within the communities, although the filtering system meant that this should not have included classified information emanating from Special Branch.

He was never aware of troops allowing free movement of paramilitary groups to whom they were sympathetic, nor of training or active assistance given to paramilitaries. The witness was not involved in covert activities but would have been responsible for facilitating it through the redistribution of troops. In the case of more subtle operations, very few people down the command chain would have known the reason for the deployment. He had close liaison with a Security Service [MI5] officer covering loyalist paramilitaries, but republican paramilitaries were dealt with more through RUC Special Branch. Troops on patrol were briefed about particular suspects through intelligence briefings given by the company or battalion intelligence officer; in the Lurgan/Portadown area the particular groups concerned were the Loyalist Volunteer Force and the Provisional IRA as well as other offshoot organisations.

A Lurgan G2 [army intelligence] briefing of 4 June 1998 summarised the history and status of the Lurgan PIRA and mentioned Rosemary Nelson's client Colin Duffy. Despite Colin Duffy's release having been on remand charged with the murders of two policemen, the document assumes his unit was involved with the murders. A 'pen picture' was produced of Colin Duffy from September 1998 which would have had the same security level and purpose of briefing intelligence staff. The Lurgan G2 brief was from a very reliable source (given an A1 rating); the pen picture less so (a B2 rating). In

late 1998/early 1999 following the murder of Billy Wright in the Maze there was particular concern over the LVF and its associations with other organisations in the province.

Focus moved to a pen picture of Mark Fulton which mentioned that he was thought to have taken over from Billy Wright; but the witness thought that neither he nor anyone else in the area had the intellectual capacity to do so effectively. He confirmed that the loyalist groups were less competent than the republicans when it came to bomb making, and that their *modus operandi* was less methodical and considered. To the witness' knowledge none of the loyalist groupings had been involved with under-car booby trap operations in this period in mid-Ulster, although there had been an increase in technical capability close by in Belfast and North Down.

Questioning turned to Rosemary Nelson herself. The witness was aware of the Garvaghy Road Residents' Coalition: it was not seen as a threat in terms of individuals but the line they took in relation to the Drumcree march would have implications for civil disorder; there was no perception of a link with mainstream republican groupings although there was a Sinn Féin presence. The witness had no perception that any soldiers were supportive of the Orange Order's position, although if some local soldiers were sympathetic towards a particular section of the community that was the reality of mid-Ulster; where possible non-Royal Irish troops were used at flashpoints.

Questioning focused on a series of intelligence documents pertaining to Rosemary Nelson and Colin Duffy.

□ An intelligence summary, rated A1 for reliability, included a section entitled 'North Armagh PIRA' which stated that Colin Duffy was stopped in a car being driven from Lurgan by Rosemary Nelson; they stated that they were going from Portadown to his home address and that Rosemary Nelson had told the patrol commander he was interrupting a legal meeting. It was indicated that there was no interest in Rosemary Nelson as a suspect and no inferences drawn about them being in the car together, but the witness would have been concerned about Colin Duffy having been in Portadown.

□ An intelligence report of June 1997 and rated C3 (of 'slightly dubious' reliability) referred to the murders of Constables Graham and Johnson two weeks earlier, and the fact that two Lurgan PIRA members believed to be connected to the Colin Duffy case had visited Rosemary Nelson. The report was likely derived from off-duty members of the Royal Irish Regiment, but the witness could not remember its actual source.

□ An intelligence summary from October 1997 (rated A1) described an altercation with a soldier outside Rosemary Nelson's office after which some of those involved then entered the office; it noted that one of those was involved in verbal abuse against military patrols in Lurgan, and that their attendance pointed to complaints being recorded by Rosemary Nelson on behalf of Provisional Sinn Féin.

□ An A1 document of 11 October 1998 stated that Colin Duffy was stopped driving Rosemary Nelson's car and commented that he may have been attempting to return to Lurgan from East Tyrone without being detected; the witness said that to him this seemed like an unusually

close solicitor/client relationship, and that the suspicion of a relationship was of relevance since it is another element relating to the piecing together of information.

□ A Special Branch level report states that Rosemary Nelson took a statement discrediting the character of a witness to the murder of the two RUC officers in June 1997, persuading them to do so by threatening to put their father into the witness box during the trial; it also said that she intended to fax it around the world to politicians and press and intended to secure Colin Duffy's release through this statement.

All the information that the witness received concerning Rosemary Nelson's safety was open source.

The witness noted the animosity between Colin Duffy and Billy Wright, which would also have extended to other members of their respective organisations. The local paramilitaries would have been aware of the association between Rosemary Nelson and Colin Duffy and the witness said that this would have made her vulnerable.

In the time immediately following Rosemary Nelson's death the witness' initial concern was the backlash in mid-Ulster and what military capability would be needed. A junior officer was also asked to ascertain if anything had been missed in the analysis process that would have given advance indication that this would happen, but nothing was found.

A report at battalion level notes the 'sudden grasp of technical expertise by Red Hand Defenders' who had claimed responsibility, which suggested 'involvement by more experienced PPM [Provisional paramilitary?] groupings', a view shared by the witness. The *modus operandi* (capability and technology) meant that the witness did not assume that the attack was necessarily loyalist. The witness' only involvement with the murder inquiry was in his capacity as gatekeeper for helicopter surveillance footage, which Special Branch allowed to be released.

A document dated February 1999 states that loyalist paramilitaries were planning to carry out further attacks in the mid-Ulster area, intended to reinforce a general concern. A similar note on the general threat of dissident republicans notes concerns of a vehicle-borne improvised explosive device, but details were vague. In response to this there was a surge of troops in the area to interdict routes and protect estates. This was known as Operation Improvise, the nature of which dealt with both loyalist and republican threats.