

## **ROSEMARY NELSON INQUIRY**

**Day 60: 7th October 2008**

**Witness: Mr Simon Rogers (continued)**

Resuming consideration of the August 1998 threat assessment, looking at the letter to Command Secretariat of 6th August and the reply received on 3rd September, the reply did not consider the allegation that Rosemary Nelson was a former bomber nor the question of advice on personal security and raising the question of KPPS (Key Persons Protection Scheme) with Rosemary Nelson. Mr Rogers stated that the letter provided reassurance that the police did not know of a specific threat to Mrs Nelson and he felt that did not need to be clarified any further.

Mr Rogers was then shown the reply sent to Mr Mageean of Committee for the Administration of Justice (CAJ) concerning a threat to the life of Rosemary Nelson. This letter was sent 3 weeks after the reply from Command Secretariat. Mr Rogers acknowledged the late reply but commented that this was because of the fact that no threat was assumed. Mr Rogers explained that he had not contacted Mrs Nelson to inform her of the result of police enquiries but neither had she contacted him.

Questioning turned to Mr Rogers' concerns that the threatening note had never reached the Command Secretariat. He reached this conclusion after attending a meeting between Adam Ingram and CAJ and British Irish Rights Watch at which a report by British Irish Rights Watch was discussed which highlighted that the original copy of the note was never seized by the police. However, in his questioning by an RUC Superintendent on this matter his statement (which he never saw) was misinterpreted to give the impression that he knew the note had never reached the Command Secretariat which he stated was untrue, he only realised this later.

Mr Rogers described how the Secretary of State called him after hearing about the murder and asked him to find out what steps were being taken to ensure the police knew how serious the investigation was and that a straightforward police investigation would not suffice to ensure impartiality. He then described the constant interest the Secretary of State took in the investigation and how it was conducted. He pointed out that if Deputy Chief Constable Colin Port had not been appointed the government may have had to step in to appoint someone to make the investigation more impartial. Mr Rogers's impression was that there was a good flow of communication in the investigation.

Mr Rogers commented that the threats were being dealt with over a lengthy period and that he was never told there was a threat to Mrs Nelson, yet that he did seek to give information to CAJ about how she could apply for protection if she wished. Also, in respect of the Mulvihill Report that there was a statement of satisfaction with his investigation of the complaints, albeit with an annex discussing the previous investigation. He noted that Commander

Mulvihill did a superb job and had carried out a detailed investigation. It was put to Mr Rogers that the amount of communication from different quarters but with similar language used may have led him to think this was a campaign and therefore it was not necessary to take the threats as seriously. He agreed it was something approaching a campaign but that this did not lead them to take it any less seriously.

Mr Rogers felt that the action taken against the threats was reasonable and that there was no evidence of bias by the police in the handling of the alleged threats.

**Witness: Mrs Christine Collins**

Mrs Collins worked as the Head of Police Division at the Northern Ireland Office (NIO) until September 1998 and she reported directly to the Senior Director in 1997/98. Her position was immediately above the two previous witnesses (Simon Rogers and Anne Colville). The remit of her position was vast, covering policy and legislation on the licensing of firearms and explosives and the Key Persons Protection Scheme (KPPS), policing policy, resources and legislation. The KPPS division reported up to her and was part of the Police Division.

The witness stated that at the RUC Command Secretariat she was personally in contact with Officers P157, Superintendent Maxwell and towards the end, P136. She stated that she had continuous contact with these individuals and kept notes on these phone calls on the papers/letters to which the calls referred. Mrs Collins notes that many of her copies appear not to exist anymore and so it is difficult for her to make a precise reconstruction of what she did about the letters.

Mrs Collins stated that she rarely had contact with the Independent Commission on Police Complaints (ICPC) and that most complaints were dealt with further down the command chain. The witness noted that between the period 1995-1998 politics were particularly highly charged and tensions were running high. During the ceasefires communal tensions were finding other ways of discharging themselves, there was an increase in sectarianism and intra-communal violence. This tension was also apparent after the Good Friday Agreement.

The witness described the fundamental review published in 1997 as looking at how a policing service could be delivered in a peaceful Northern Ireland. This was considered to be fundamentally different to the situation at the time of drafting. This was accompanied by the Patten Commission who were also considering the policing issue. Policing was difficult in this uneasy time, the police had to be aware of terrorism, deal with public order in a way that wouldn't disturb the political process and at the same time gear up for a more settled future. There was also non-co-operation or very limited co-operation from a section of the community; secondly, the fact that civilian witnesses were very hard to come by; thirdly, that practiced terrorists, went to great lengths to leave no forensic traces; and fourthly, that there was insufficient

time or resources available for the sort of police work which was possible. The witness stressed the importance of interviews, admission and confessions as there was usually a marked lack of any other evidence. Also, many terrorists were trained in anti-interrogation techniques. This was important as the maximum limit on the time a person could be held and questioned was 7 days.

The way of enabling the police to deal with these problems was the enactment of the Prevention of Terrorism Act; this led to problems for the police, resentment within the communities and attracted criticism by the international community.

Mrs Collins then highlighted problems with the complaints procedure; people would register a complaint with a completely different procedure in mind. Some would not co-operate with the investigation and give up the complaint when civil proceedings were successful. Complaints were also made for tactical reasons in criminal proceedings. Many complaints were made about over-holding (where someone is detained beyond what is permitted by law), many times this was for short periods of time (5 – 30 minutes) but the statistics were not presented to reflect this. Often there was no substantiation of the claims but money was paid out nevertheless.

The Hayes review made recommendations to change the complaint system. The biggest change to arise from the review was the setting up of the Police Ombudsman's office. Thus the complaints procedure was going through many changes at this point.

The witness said that anyone who was part of the 'security sector' could be regarded as a legitimate target during the troubles. After the murder of Pat Finucane, the question arose as to whether the definition of who was a legitimate target should be widened to include defence lawyers. This would have the effect of undermining the criminal justice system as lawyers would be dissuaded from taking certain cases. But until Rosemary Nelson no other defence lawyer was attacked or killed. This alleged culture of intimidation was not raised by professional bodies with the government.

The witness describes the relationship between the police and defence lawyers as 'abrasive'. However she condemned any action of police verbally abusing a lawyer to his client or threatening a lawyer to his client as being wrong.

Mrs Collins said that in broad terms the risk assessments were conducted by the Security Branch and the threat assessments by Special Branch. The witness herself never undertook a risk or threat assessment and as such did not have the necessary training or information to criticise the police decision. Special Branch threat assessments were passed to the Security Branch as a starting point for risk assessment and the threat/risk analysis would be passed to the KPPS branch of the NIO. However the letter which came from Command Secretariat in the Rosemary Nelson case did not contain any supporting documents because at this stage it wasn't a KPPS case.

The witness was shown a letter of May 1997 concerning advice to be given to the British Ambassador to the USA about the threats being made to Mrs Nelson becoming more ominous and causing her to fear for her life. The witness cannot remember if this is the first time she had heard of threats made to Mrs Nelson by police officers and could not confirm if she had received a similar letter from Mr Lynch of the Lawyers Alliance of 13 March, due to the volume of Rosemary Nelson related allegations. The correspondence on Mrs Nelson started to rise from spring 1997 and at this time a file would have been opened. This was the first time the witness had encountered threats against a defence solicitor.

The letter was discussed by the witness at a weekly meeting with the Deputy Under-Secretary, Mr Steele. The primary issue was the death threats which were referred to the police; then, the issues about the complaints being made during interrogations; then the KPPS issue, and the protection of Mrs Nelson. Finally, the political dimension and whether the RUC should investigate its own members was discussed. This was a regular concern as Northern Ireland is a separate jurisdiction and any outside officer must be sworn in as a member of the RUC so as such they may not be impartial.

The witness was shown two letters from her department going to Command Secretariat asking for updates on the investigation. Although the witness doesn't remember specifically she is sure some discussion would have happened between the two departments prior to the letters being sent.

Referring to the memo by Anne Colville sent three weeks later, the witness thought that it was because they had not received any further information from the police. The police have no record of the department asking for this information. The witness pointed out that the memo said 'further to my telephone call of last week...' she believed the memo would have been sent at the time of the final drafting of their letter when they realised they had not been given all the information they had asked for.

The actual response to the memo, dated 6 June 1997 refers to the fact that Mrs Nelson has refused to come to an interview. There was no evidence to view the threats as being more ominous or consistent. It was suggested that Mrs Nelson should be advised by the Senator to contact her local investigating officer. It was put to Mrs Collins that the letter does not address whether there was an actual threat to Mrs Nelson. She thought that if there had been a threat the proper mechanisms would have swung into action and she would have been informed as the different departments would work together, especially in Mrs Nelson's case as she was high-profile there would have been co-operation at a high level. As Mrs Nelson refused to be interviewed they could not say if she feared for her life but agreed that the letter did not say that there was definitely no threat. The witness agreed that a feature of these complaints was that they came from third parties rather than Mrs Nelson herself.

Mrs Collins acknowledged that the police have their own terminology which it

takes a skilled reader to be able to understand. It was put to her that the letter did not answer the central question, which was: Had the police contacted Mrs Nelson to discuss her personal safety? Mrs Collins said it was implied that as Mrs Nelson had not come forward and as there was no evidence of a threat, the police had not contacted her.

Referring to the Special Rapporteur's visit to Northern Ireland, the witness was shown a memo which showed the line to take in questions about intimidation of defence lawyers. "The alleged systematic abuse of defence lawyers is a serious and grave allegation. Those who claim to have evidence should put it to the appropriate authorities in a form capable of investigation. Unsubstantiated allegations serve no useful purpose." The witness agreed that this was the standard response in these situations.

Questions then turn to the summer of 1997, after Colin Duffy had been arrested for the murder of two police officers. Colin Duffy and Rosemary Nelson both made complaints about his detention. The witness referred to this in memos as a 'good case' as she believed there had been a threat to Mrs Nelson's life and that there would be something substantial to investigate (she found out subsequently that this was not the basis of the complaints). The case was being investigated by the RUC with the ICPC. Special Policy and Operations Branch would have followed the investigation due to the holding centre aspect.

The witness was shown a memo by Anne Colville of 8 July 1997 to the police stating that the police had only provided partial input to the question of Mrs Nelson's safety. This letter is limited to the points from the 6 July letter. Second she was shown a letter from the British Ambassador to the USA to Senator Torricelli which similarly sets out that Mrs Nelson refused to be interviewed and to contact her investigating officer. The witness believed there is a missing document, going from the London office of the NIO to the foreign office.

The witness was then asked about the volume of correspondence from NGO's, especially CAJ and British Irish Rights Watch. She said that correspondence about Rosemary Nelson formed only a part of a large body of correspondence on various human rights issues. Despite this, each complaint was taken seriously and looked at thoroughly. Due to the serious nature of the complaints they were given a high amount of attention and many man-hours.

The witness was shown a memorandum from Lesley Foster to herself and others of March 4th 1998. The witness stated that at this time CAJ were taking more detailed statements from clients from similar cases and were being advised to pass these to the police and ICPC. By this stage Mrs Nelson and Colin Duffy had been interviewed. The witness was almost certain at this stage that she had asked CAJ to give a statement to the police. At this time there was concern about the Rosemary Nelson allegations and a concern about the lack of substance to them. The witness did not contact Mrs Nelson directly but wanted to go through established contacts.

The meeting with the Lawyers Alliance in February 2008 was raised; Mrs Collins said she had thought the question of Rosemary Nelson's safety would be raised but that it wouldn't be the main feature of the meeting. Mrs Collins felt it was an inappropriate venue to discuss a private individual's security. After this meeting Mrs Collins had a letter written to the Command Secretariat to inform them of the strength of feeling on the Rosemary Nelson issue. In this letter the issue was raised of how to initiate communication with Mrs Nelson. Mrs Collins believed that the police would have been keeping an eye on Mrs Nelson as she was a prominent public figure at the time.

The witness said she felt that the reason that the complaints were coming from NGOs rather than through official structures was that Mrs Nelson believed the system to be corrupt. She believed that Rosemary Nelson had a genuine fear but that there was no real risk to her from the police.