

HUMAN RIGHTS WATCH

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April 1999

NORTHERN IRELAND The Murder of Rosemary Nelson

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350 FIFTH AVENUE, 34TH FLOOR
NEW YORK, NY 10118-3299
TEL (212) 290-4700
FAX (212) 736-1300
E-MAIL: hrwnyc@hrw.org

1522 K STREET, NW, #910
WASHINGTON, DC 20005-1202
TEL (202) 371-6592
FAX (202) 371-0124
E-MAIL: hrwdc@hrw.org

33 ISLINGTON HIGH STREET
LONDON N1 9LH UK
TEL (44171) 713-1995
FAX (44171) 713-1800
E-MAIL: hrwatchuk@gn.apc.org

15 RUE VAN CAMPENHOUT
1000 BRUSSELS, BELGIUM
TEL (322) 732-2009
FAX (322) 732-0471
E-MAIL: hrwatcheu@gn.apc.org

WEB SITE: <http://www.hrw.org>

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When they [clients] requested me, immediately things were said about me, "she's a terrorist, that makes you a terrorist." RUC detectives were making these statements. Any time that I arrived down, any time the clients were told I was there, they would say, "she's an IRA woman, she's going to be shot" or "she's going to be taken out soon."

*Rosemary Nelson, Solicitor
Human Rights Watch Interview
March 7, 1997*

Concerning the harassment and intimidation of solicitors [t]he Special Rapporteur concludes that the RUC has engaged in activities which constitute intimidation, hindrance, harassment or improper interference.

*Report of the U.N. Special Rapporteur on
the Independence of Judges and Lawyers
February 1998*

SUMMARY

Human Rights Watch was shocked and profoundly saddened to learn that solicitor Rosemary Nelson was killed on March 15, 1999, in a car bomb attack near her home in Lurgan, County Armagh, Northern Ireland. That same day a loyalist paramilitary group called the Red Hand Defenders claimed responsibility for her murder.

Rosemary Nelson was one of Northern Ireland's most prominent human rights defenders. She represented clients detained under Northern Ireland's emergency laws and spoke out against those forces responsible for undermining the rule of law. Ms. Nelson represented residents of the nationalist Garvaghy Road community in Portadown who have been subjected to a continuous campaign of harassment and intimidation by local loyalists since an Orange Order march was re-routed away from the Garvaghy Road by a decision of the Parades Commission in July 1998. The residents allege that local police from the Royal Ulster Constabulary (RUC) have participated in the intimidation of Garvaghy Road residents. The family of Robert Hamill, a Catholic man beaten to death by a crowd of loyalists in April 1997, also retained Rosemary Nelson. Eyewitnesses to the assault on Robert Hamill maintain that an RUC land rover was parked near the scene of the beating but police inside did nothing to halt it.

Rosemary Nelson was a friend and colleague to staff at Human Rights Watch. She was a partner in our work and provided advice and able assistance to our researchers on human rights issues of import in Northern Ireland.

In November 1996, Rosemary Nelson told Human Rights Watch that she had received death threats via her clients from RUC detectives conducting interrogations of detainees she represented. In April 1997, she began forwarding to us client statements and other documents recounting RUC officers' threats to her clients and herself, including death threats. During research trips to Northern Ireland in 1997 and 1998, Human Rights Watch staff frequently met with Rosemary Nelson to discuss the on-going campaign of intimidation and harassment against her, including a physical assault by the police on the Garvaghy Road in July 1997. In July 1998, she gave us a copy of a letter she received by mail that stated, "We have you in our 'sights' you republican bastard. We will teach you a lesson. R.I.P." A Human Rights Watch researcher saw the original letter. In late February 1999, Rosemary Nelson showed a Human Rights Watch researcher a second letter she had received that contained a death threat.

In August 1997, the U.N. special rapporteur on the independence of judges and lawyers transmitted an urgent action to the government of the United Kingdom on behalf of Rosemary Nelson as a result of death threats she had

received. The rapporteur called on the government to investigate the threats and to ensure Rosemary Nelson's safety. In October 1997, the rapporteur conducted a fact-finding mission to the United Kingdom, including Northern Ireland. He met with Rosemary Nelson and other lawyers to discuss allegations of police harassment and intimidation. In his February 1998 report to the U.N. Commission on Human Rights, the rapporteur concluded that the RUC had engaged in activities constituting "intimidation, hindrance, harassment, and improper interference" with respect to their treatment of defense lawyers. He expressed particular concern that the RUC "has identified solicitors with their clients or their clients causes."

In 1998, Rosemary Nelson lodged formal complaints of RUC harassment and intimidation with the Independent Commission for Police Complaints for Northern Ireland (ICPC). The ICPC supervising member grew so concerned about RUC obstruction of the investigation of these complaints that she drew it to the attention of both the RUC Chief Constable and the Secretary of State for Northern Ireland. A decision was made to hand over the investigation for completion to police officers from an outside force. Subsequently, a British police officer from the Metropolitan Police Service was commissioned to finish the investigation. The ICPC issued a report on March 22, 1999, a week after Rosemary Nelson's death, stating that "the behaviour and attitudes displayed by police officers in the course of interviews. . . was such as to be seriously damaging to the credibility of the investigation itself." The report contained an appendix listing a series of incidents reflecting "behavioural and attitudinal predispositions which are both unacceptable and undermining of the rigorous professionalism and professional detachment which the Supervising Member is, by statute, required to be satisfied has pertained in any case." In light of the ICPC's findings of active RUC obstruction of the investigation into her complaints, Rosemary Nelson's family issued a public statement on March 23, 1999, calling on the government to exclude the RUC from participation in the investigation of her murder. Paul Nelson, Rosemary's husband, queried, "If the ICPC had no confidence in the ability of the RUC to investigate the death threats against Rosemary how can my family be expected to have confidence in their ability or indeed their willingness to effectively investigate her murder?"

In the immediate aftermath of Rosemary Nelson's murder, RUC Chief Constable Ronnie Flanagan announced that Kent Chief Constable David Phillips and the FBI would be involved in the murder investigation. Subsequently, Flanagan named another officer, Deputy Chief Constable of Norfolk Constabulary Colin Port, to the investigation noting that Phillips' duties in his home jurisdiction would not permit him to carry out the day-to-day oversight of the investigation. Phillips is to retain a "monitoring role" in the investigation. In any event, RUC officers comprise the bulk of the investigative team and it appears that both Phillips and Port are to work closely with the RUC in the course of the investigation.

International and domestic nongovernmental human rights organizations, including Human Rights Watch, have called on the government of the United Kingdom to appoint a genuinely independent team of investigators to conduct the Nelson murder investigation. In two meetings with Northern Ireland Secretary of State, Marjorie Mowlam, the groups expressed grave doubts about the RUC's ability to carry out an effective investigation in light of the ICPC's concerns about the RUC's lack of impartiality and professionalism in dealing with Rosemary Nelson's complaints against them.

RECOMMENDATIONS

Human Rights Watch calls on the following bodies to implement the recommendations set out below in order to bring the perpetrators of Rosemary Nelson's murder to justice:

Government of the United Kingdom

- A genuinely independent investigation into the murder of Rosemary Nelson should be established immediately in conformity with the U.N. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. Due to allegations of police harassment, intimidation and assault of Rosemary Nelson, an independent team of investigators from outside the Royal Ulster Constabulary

(RUC) should be appointed to conduct the investigative work. The RUC should be instructed to cooperate fully with the investigative team but RUC authorities must not be responsible for developing or directing lines of inquiry and RUC officers must not be involved in any investigative work.

- An independent investigative team should be accountable only to the Secretary of State for Northern Ireland. RUC Chief Constable Ronnie Flanagan and/or other RUC management should have no supervisory authority over the investigation.
- A special oversight role in the investigation should be developed for the U.N. special rapporteur on the independence of judges and lawyers. The rapporteur's involvement will add an international dimension appropriate to Rosemary Nelson's status as an internationally recognized human rights defender and further enhances the authenticity of the investigation's independence from the RUC.
- The recommendations in the U.N. special rapporteur on the independence of judges and lawyers' 1998 report on the United Kingdom of Great Britain and Northern Ireland to the U.N. Human Rights Commission should be implemented by the government immediately. These recommendations call for, among other things:
 - * The establishment of an independent inquiry into the harassment and intimidation of defense lawyers in Northern Ireland.
 - * The establishment of an independent judicial inquiry into the 1989 murder of solicitor Patrick Finucane.
 - * The provision of necessary and sufficient protection to any lawyer under threat.
 - * The immediate, thorough investigation of any allegation of police intimidation of a lawyer. If the allegations of abuse are substantiated, the offending officer(s) must be held accountable.
- Those police officers responsible for obstructing the Independent Commission for Police Complaints' (ICPC) investigation into Rosemary Nelson's formal complaints of RUC harassment, intimidation and assault must be held accountable. A thorough investigation—not merely a review—of the ICPC's concerns about RUC obstruction in this investigation should be conducted. Those officers found liable should be subject to disciplinary action or criminal charge depending on the nature of the offense.

U.N. Commission on Human Rights

- The commission should support the call by the U.N. special rapporteur on the independence of judges and lawyers for a genuinely independent investigation into the murder of Rosemary Nelson.
- The commission should urgently call on the U.K. government to implement the special rapporteur's 1998 report recommendations as necessary precautions against the future harassment, intimidation and killing of Northern Ireland's defense lawyers. The U.K. government has failed, to date, to implement any of the rapporteur's recommendations.
- The commission should establish a mandate for a special rapporteur to monitor the implementation of the Declaration on Human Rights Defenders.

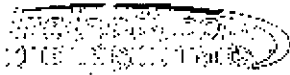
Independent Commission on Policing for Northern Ireland

- The policing commission should recommend that the U.K. government implement all of the recommendations in the U.N. special rapporteur on the independence of judges and lawyers' 1998 report on the United Kingdom of Great Britain and Northern Ireland.

- The policing commission should recommend that the government of the United Kingdom comply in all relevant cases with the U.N. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. With respect to the murders of defense lawyers Rosemary Nelson and Patrick Finucane, the commission should particularly emphasize that in Northern Ireland murdercases where the established investigative procedures are inadequate because of the lack of impartiality, the importance of the matter, the apparent existence of a pattern of abuse, or where the family of a victim complains about such inadequacies, the government of the United Kingdom shall pursue investigations through an independent commission of inquiry. Members of such a commission shall be selected for their proven impartiality, competence and independence; shall be independent of any institution, agency, or person that may be the subject of the inquiry; and shall have the authority to obtain all information necessary to the inquiry.
- The policing commission should call for the repeal of emergency and other laws in Northern Ireland that directly or indirectly contribute to the harassment and intimidation of lawyers. The repeal of such laws would include those legal provisions that effectively abrogate a suspect's right to silence and interfere with a suspect's access to counsel. These provisions degrade the practice of law and help to create the false impression that defense lawyers in particular are inappropriately associated with their clients' offenses and/or causes.
- The policing commission should recommend the closure of special holding centers such as Castlereagh Holding Centre and Gough Barracks. Voluminous credible evidence exists of physical and psychological abuse of detainees in the holding centers, including a February 1998 Belfast High Court decision holding that police officers who participated in a vicious physical assault upon a detainee lied to the court about their abusive conduct. The holding centers provide an environment in which human rights violations, including police threats against defense lawyers via their clients, are routine.
- All members of the policing commission should have access to classified government documents that address allegations of collusion between the RUC and loyalist paramilitary groups. These documents include the Stevens report and the Stalker/Sampson report.
- The policing commission should recommend that a vetting procedure be established to ensure that officers with a past history of human rights abuses are excluded from service on a peacetime police force in Northern Ireland.



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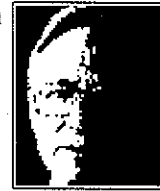
IRELAND

Wednesday, March 17, 1999

Role for UN in murder inquiry sought

By Joe Carroll, in Washington

Human rights activists have told the Northern Ireland Secretary of State, Dr Mo Mowlam, that they have no confidence in an RUC investigation into the murder of the Lurgan solicitor, Ms Rosemary Nelson, and are seeking UN intervention.



But Dr Mowlam after meeting the groups in Washington has expressed her confidence in the Chief Constable, Sir Ronnie Flanagan, and has pointed out that he has asked the FBI for assistance in the investigation. He has also asked for help from the Chief Constable of Kent in the investigation.

Dr Mowlam told a press conference the RUC Chief Constable was "one of the best" she has experienced and had shown himself to be a good leader of the RUC.

She said the speed with which Sir Ronnie had moved "to have got a chief constable from another force and to have talked to Director Louis Freeh at the FBI to get an international dimension to protect everyone against allegations and to make sure that the truth is reached is a plus".

Dr Mowlam was asked whether Ms Nelson had had any police protection and said she would have been entitled to low-grade protection but had not asked for it. "The

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difficulty is that protection for people who don't want the RUC is a difficult issue and we have done everything we can.

Politicians, judiciary condemn murder of solicitor

"The bottom line is that there was no specific indication in the case of Rosemary Nelson to demand it. It was low-grade at best."

Body of murdered solicitor brought home

Dr Mowlam said Human Rights Watch had written to her on behalf of Ms Nelson last October about threats to her life, and this had been passed on to the RUC. But it was "a question of low-grade estimates".

Mitchell in plea to politicians to implement agreement

Later yesterday a coalition of human rights groups which had just met Dr Mowlam expressed dissatisfaction with the RUC investigation. Ms Julia Hall of Human Rights Watch said the groups had no confidence at all that this would be a fully independent investigation even though an outside chief constable would also be involved.

North is now within a 'hair's breadth' of settlement

This was because Ms Nelson had lodged complaints alleging that the RUC had harassed and intimidated her and had even made death threats. It was completely inappropriate for the RUC to be involved in any respect in this investigation.

Inquiry supervisor an experienced officer

The human rights coalition which includes Human Rights Watch, Amnesty International, Lawyers Committee for Human Rights and the Belfast-based Committee on the Administration of Justice, has asked Dr Mowlam to add an international dimension by involving the United Nations.

Andrews to attend Nelson funeral for Government

This could be done specifically by the UN Special Rapporteur on the Independence of Judges and Lawyers who last year called on the British government to conduct a broad inquiry into allegations of RUC harassment of defence lawyers including police intimidation and death threats against Ms Nelson, the coalition said.

Dr Mowlam was receptive to these concerns and has agreed to take them up in a further meeting, Ms Hall said.

Mr Martin O'Brien of the Committee on the Administration of Justice said the groups viewed the murder as an attack on the rule of law and on the peace process. They were determined that this would be "the last lawyer to die in this way and also we hope the last person to die in the conflict".

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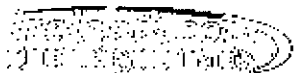


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*SPECIAL RAPPORTEUR PRESS RELEASE
IN RESPONSE TO MURDER*

The Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, was saddened to learn of the tragic murder of solicitor Rose Mary Nelson, who died from injuries suffered in a car bomb attack outside her home in Lurgan, County Armagh earlier this afternoon.

Ms. Nelson had been the recipient of numerous death threats during the past few years as a result of her defense work. In an urgent action transmitted to the Government in August 1997, the Special Rapporteur intervened on behalf of Ms. Nelson as a result of the death threats she had received for her representation of a client accused of murdering two RUC officers. It was also alleged, in relation to the representation of a residents group who oppose marching by the Orange Order through their nationalist housing estate, that she had been verbally and physically abused while attempting to intervene with an RUC officer who had cordoned off the area. She was also allegedly struck on the back of the head with a police riot shield while intervening on behalf of a boy who was allegedly being ill-treated by an RUC officer. At that time, the Special Rapporteur had called upon the Government to investigate these allegations and to ensure the security of Ms. Nelson.

During his mission to Northern Ireland in October 1997, the Special Rapporteur had the honour and pleasure of meeting with Ms. Nelson. At this time she had informed him of further threats and intimidation she had received. Based upon all the information received from solicitors he met while in Northern Ireland, the Special Rapporteur concluded that the "RUC has engaged in activities which constitute intimidation, hindrance, harassment and improper interference. The Special Rapporteur is particularly concerned by the fact that the RUC has identified solicitors with their clients or their clients causes as a result of discharging their functions." He recommended an independent and impartial investigation into the allegations and called upon the Government to take the necessary steps to ensure the physical security of those solicitors who had received threats. (E/CN.4/1998/39/Add.4)

The Special Rapporteur has subsequently learned that an independent investigation had been initiated by the Metropolitan Police to look into the threats received by Ms. Nelson. This investigation is still on-going.

The Special Rapporteur calls upon the Government to establish an independent and impartial commission of inquiry to investigate this brutal crime, to apprehend those responsible and to bring them to justice.

The Special Rapporteur would also like to express his heartfelt condolences to the family of Ms. Nelson, as well as her friends and colleagues.

**THIS STATEMENT IS MADE IN ACCORDANCE WITH ARTICLE 9, PARAGRAPH
(8) OF THE POLICE (NORTHERN IRELAND) ORDER 1987, RELATING TO
COMPLAINTS AGAINST OFFICERS OF THE ROYAL ULSTER CONSTABULARY
MADE BY LAWYERS ALLIANCE FOR JUSTICE IN IRELAND ON BEHALF OF
ROSEMARY NELSON, SOLICITOR AND MR COLIN DUFFY**

It is a statutory requirement that, on completion of an investigation into complaints against members of the Royal Ulster Constabulary, which has been supervised by a Member of the Independent Commission for Police Complaints for Northern Ireland, the Supervising Member provide a statement. This document should indicate that the investigation has been conducted satisfactorily, or, if there are grounds for withholding or qualifying this certification the legislation requires the Supervising Member to specify those aspects of the investigation which gave rise to concern.

The following statement will confirm that, by the conclusion of the investigation, it was satisfactory, but that there were aspects of the earlier stages that gave rise to serious concerns as to its proper conduct.

THE COMPLAINTS

On 10th April 1997, 18th July 1997 and 10th September 1997 the matters under investigation were variously referred to the Independent Commission for Police Complaints for Northern Ireland under Article 7 of the Police (Northern Ireland) Order 1987. The nature of the complaints fell within the category of discretionary supervision under the provisions of Article 9(3)(a) of the Order and in this context the Commission confirmed that it would supervise their investigation. The Member of the Commission supervising the investigation approved the appointment of an Investigating Officer of the rank of Superintendent, who had been nominated by the Royal Ulster Constabulary. In turn, a colleague, of the rank of Chief Inspector, who undertook the day to day conduct of the investigation, assisted the Investigating Officer.

The allegations made by the Lawyers Alliance for Justice in Ireland concerned death threats to Mrs Nelson.

In order to gain a more detailed understanding of the nature of these and the circumstances in which they were allegedly made, the Supervising Member directed that the Chief Inspector interview, in her presence, Mrs Nelson and Mr Duffy. These interviews took place on 15th September 1997 and 15th October 1997 and written



statements were provided. Additional witness statements were forwarded by Mrs Nelson and the Lawyers Alliance for Justice in Ireland and, at the direction of the Supervising Member further statements were sought from the Committee on the Administration of Justice, who provided statements from two clients of Mrs Nelson detailing references allegedly made about her by police officers during interviews at Gough Police Office. Efforts to secure interviews with these witnesses and others did not meet with success.

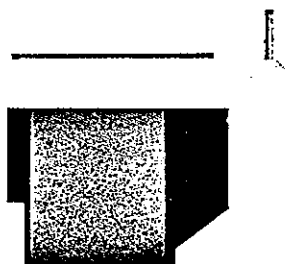
The Supervising Member and a Commission staff colleague spent half a day at the RUC Complaints and Discipline Department reviewing various associated crime file documentation. Subsequently the Supervising Member formally directed that extracts from these be copied and handed over to the Commission.

SUPERVISION OF THE INVESTIGATION

The supervision and direction by a Member of ICPC of an investigation into alleged police misconduct represents a pro-active engagement with the detailed process of the inquiry. There are meetings for information, review and the issuing of further directions held between the Supervising Member, Investigating Officer and their various assistants. The Investigating Officer is required to keep the Member informed of all developments in a case, provide all relevant documentation upon his receipt of it and follow the directions given by the Supervising Member. At interviews of witnesses and police officers who are the subject of complaints the Supervising Member has a right to be in attendance and to direct that certain questions be put or specified matters addressed.

It is the responsibility of the Investigating Officer to conduct his enquiries in an effective and ethical manner, to the satisfaction of the Supervising Member.

In the course of this investigation, in addition to the measures previously outlined in this statement, twenty-eight interviews took place with police officers. The Supervising Member attended twelve of these.

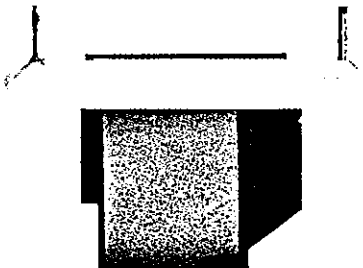


Throughout the investigation the Supervising Member consistently raised concerns about its conduct and the behaviour and attitudes displayed by police officers in the course of interviews. Ultimately she concluded that the accumulated effect of these shortcomings was such as to be seriously damaging to the credibility of the investigation itself. Equally, the confidence that the complainants and others should rightly expect to have in the investigation of serious allegations concerning threats to a solicitor in the conduct of her professional duties, was potentially severely undermined.

The appendix attached to this statement sets out a catalogue of concerning incidents that occurred in the course of this investigation. Each of these incidents, taken in isolation, would be unacceptable but not calculated to render the overall investigation severely flawed. However, considered accumulatively they do add up to behaviour and attitudinal predispositions which are both unacceptable and undermining of the rigorous professionalism and professional detachment which the Supervising Member is, by statute, required to be satisfied has pertained in any particular case.

In summary, the investigation of the alleged threats to Mrs Nelson by officers of the RUC was unacceptable to the Supervising Member of the ICPC because:

- The officer assisting the Investigating Officer appeared to have difficulty in co-operating productively with the power and authority relationships which are an inherent facet of supervised investigations
- The concerns raised by the Supervising Member were either not addressed or addressed unsatisfactorily
- The apparent prompting of the police officers to have ready prepared statements in advance of interview undermined the possibility of full and candid responses to important questions
- The ill disguised hostility to Mrs Nelson on the part of some police officers was indicative of a mind set which could be viewed as bordering on the obstructive.



THE METROPOLITAN POLICE TAKE OVER THE INVESTIGATION

The investigation appeared to be close to an outcome which would result in it being declared by the Supervising Member to be "Unsatisfactory". At the Supervising Member's request the Chairman of the Commission conveyed her concerns to the Chief Constable. Because there were issues of public interest and in the light of the United Kingdom's commitments to the United Nations, who had established an interest in the case, the Secretary of State was also communicated with.

The concerns surrounding the investigation were discussed in a meeting at the Commission's headquarters on 1st July 1998 between the Supervising Member, the Chief Constable and his Staff Officer, the Chairman of the Commission and the Commission's Chief Executive.

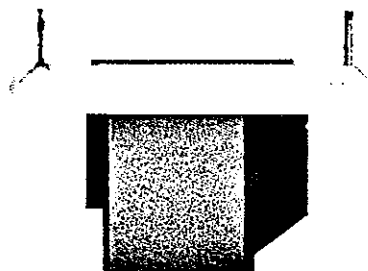
The Chief Constable proposed that the complaints investigation be taken over by officers from an outside force, subject to the usual vetting of, and approval by the Commission, of the nominated Investigating Officer.

This suggestion was acceptable to the Supervising Member.

The Commission is a statutory body with supervising and disciplinary responsibilities in respect of alleged police misconduct. These responsibilities and the powers that accompany them constitute a position of privilege in respect of any concerns that might be identified by the Commission Members in the discharge of their duties. It is therefore inappropriate for the Supervising Member's concerns on the conduct of this investigation to be considered as constituting a complaint by the Commission.

In response to these concerns the Chief Constable indicated that he was of a mind to ask the external Investigating Officer to consider the conduct of officers in the investigation undertaken by RUC officers. This was not to be a full and formal investigation into the detailed of the specified conduct, but rather an over-arching review that would be reported to him. While clearly the Commission could not submit its stewardship in this case to the scrutiny or critique of an Investigating Officer, the Supervising Member indicated that she would however provide information on the conduct of the police officers concerned.

On 9th July 1998 the Supervising Member met with and approved as Investigating Officer Commander Niall Mulvihill of the Metropolitan Police Service.



THE INVESTIGATION BY THE METROPOLITAN POLICE

The Commander and his team met regularly with the Supervising Member, to discuss and agree the course of the reviewed investigation.

Numerous attempts were made to obtain interviews with Mrs Nelson, Mr Duffy and various witnesses. Mrs Nelson, Mr Duffy and one other witness attended for interview at the Commission's offices on 21st September 1998; a further witness attended on 22nd September 1998. Mr Lynch from the Lawyers Alliance for Justice in Ireland was present on both dates. One other witness attended the Commission's offices on 6th November 1998. Commission Representatives supervised all of these interviews. Four other potential witnesses failed to co-operate with the enquiry.

During the course of the Commander's investigation thorough interviews were conducted with 21 accused RUC police officers. The Supervising Member oversaw 13 of these interviews.

The copious documentation, assimilated during the course of the investigation, included copies of numerous sets of interview notes, custody records, Occurrences Book Entries, telephone and fax billing records. Contemporaneous notes recorded by Mrs Nelson were provided. These proved to be significant.

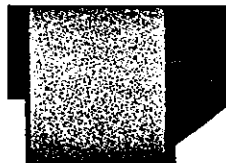
The Supervising Member can now confirm that the investigation of these complaints has been conducted to the satisfaction of the Independent Commission for Police Complaints for Northern Ireland.

Geralyn Mc Nally

Geralyn McNally

Supervising Member

22nd March 1998



APPENDIX

Aspects of this investigation that illustrate the unsatisfactory nature of the inquiry by the RUC are listed below.

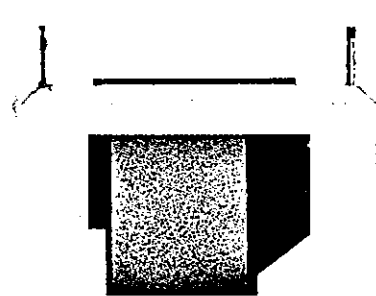
- Observable general hostility, evasiveness and disinterest on the part of the police officers involved in this investigation.
- One officer attended for interview 45 minutes late, without explanation. He smelled of alcohol and continually referred to one of the complainants as being the murderer of two police officers.
- An officer indicated, through the Chief Inspector, that on reflection he considered that he ought not to have answered any of the questions that had been put to him.
- An officer's uncooperative stance during an interview was explained by the Chief Inspector as indicative of his "very peppery" character.
- Having declined access to legal advice, an officer, when questioned about matters crucial to the enquiry asked if the interview was going to end. He indicated that if this were not to be the case he would avail of legal advice. This officer left, refusing to sign the last page of his statement, which made references to key allegations.
- Prior to three supervised interviews the officers concerned, without the prior knowledge of the Supervising Member, prepared and presented at interview, written statements.
- When questioned, after caution, about specific allegations one of these officers substantially answered by indicating that his written statement constituted his reply. By doing so did not adequately address the very serious matters that were being put to him.
- The Supervising Member inquired of this officer how it was that he had decided to prepare a statement in advance of the interview. He replied that he had done so at the request of the Chief Inspector who had conducted the interview.
- The Supervising Member directed that the Chief Inspector was not to repeat this request to any other police witness or suspect, as his doing so would prejudice any subsequent interview. At this point the Chief Inspector informed the Supervising Member that he understood that one such statement was currently in preparation by another accused officer.

- The concerns arising from the pre-interview prepared statements were conveyed in writing to the Investigating Officer. His reply contained a denial on behalf of the Chief Inspector that any such requests had been made by him. However, in response to a question from one officer he had indicated that written statements could be provided. The Investigating Officer confirmed that it was inappropriate for either confirmations of this nature to be provided or for statements to be requested.
- The degree to which the Chief Inspector's rebuttal stands at variance to the reply given to the Supervising Member's direct questioning of the police officer who arrived at the interview with a prepared statement, has not been satisfactorily explained.
- In the report of the investigation drafted by the Chief Inspector he makes a number of assertions which constitute judgements on the moral character of Mrs Nelson and others.
- Although early in the report the Chief Inspector stated that he had no reason to doubt Mrs Nelson's reliability as a witness he subsequently recorded that he in fact did harbour doubts on her reliability. This change of opinion appears to rest primarily on the difficulties that the Chief Inspector experienced in his efforts to arrange interviews with Mrs Nelson.
- In another part of his report the Chief Inspector questioned the circumstances in which Mrs Nelson's clients' evidence had been prepared and forwarded. This concern is not matched by any supporting substantial evidence.
- The Chief Inspector cited the volume and timing of correspondence received from various international groups on behalf of Mrs Nelson as giving rise to what he claimed was the reasonable suspicion that the complaints were more to do with generating propaganda against the RUC than establishing the truth.
- Another senior officer, reporting on the investigating, coupled the quality of the evidence given by Mrs Nelson, a solicitor and officer of the court in good professional standing, with that of her clients, whose reliability was deemed by him to be questionable. The evidence given by Mrs Nelson was seen as being "no better" than that given by her clients.

Geralyn McNally

Supervising Member

22nd March 1999



PRESS STATEMENT

23rd March, 1999

ROSEMARY NELSON'S FAMILY CALL FOR NON RUC INVESTIGATION

Paul Nelson, husband of murdered solicitor Rosemary Nelson, today called for the investigation of his wife's murder to be undertaken by officers from outside the RUC. Mr Nelson said that he was making his first public statement on his wife's case after reading a document provided to him by the Independent Commission for Police Complaints (ICPC). This document contained concerns which the ICPC had in relation to an investigation undertaken by the RUC into alleged death threats made against Mrs Nelson.

"I was very shocked when I read the catalogue of hostility, obstruction and dishonesty which the ICPC identified in the RUC investigation into the threats against Rosemary. The inadequacy of the investigation was such that for the first time ever the ICPC brought their attentions to the Secretary of State", Mr Nelson said.

"If the ICPC had no confidence in the ability of the RUC to investigate the death threats against Rosemary how can my family be expected to have confidence in their ability or indeed their willingness to effectively investigate her murder" Mr Nelson added.

Mr Nelson will not be responding to requests for interview or any further queries as a result of this statement.

APPENDIX E: NGO Letter to Marjorie Mowlam

AMNESTY INTERNATIONAL & HUMAN RIGHTS WATCH
COMMITTEE ON THE ADMINISTRATION OF JUSTICE
BRITISH IRISH RIGHTS WATCH

1 April 1999

Marjorie Mowlam
Secretary of State for Northern Ireland
Stormont Castle
Stormont Estate
Belfast BT4 3ST
Northern Ireland

By fax and by post: 011.44.1232.528.201

Dear Secretary of State:

We are writing to follow-up on meetings our organizations have held with you over the past two weeks.

As a coalition of domestic and international human rights groups—including Amnesty International, Human Rights Watch, Committee on the Administration of Justice, and British Irish Rights Watch—we renew our calls for a genuinely independent investigation into the murder of Rosemary Nelson.

It is our understanding that Mr. Colin Port, Deputy Chief Constable of Norfolk Constabulary, has been appointed to assume day-to-day “control, direction and command” of the Nelson murder investigation. While we note Mr. Port’s appointment, it is essential that an independent team of investigators from outside the Royal Ulster Constabulary (RUC) be appointed to conduct the investigative work.

We would be surprised if you did not agree that recent revelations from the Independent Commission for Police Complaints (ICPC), indicating that RUC officers actively obstructed the Commission’s investigation into Rosemary Nelson’s complaints of harassment and intimidation by RUC officers, presumptively disqualifies the RUC from active participation in the murder case. As Paul Nelson, Rosemary’s husband, queried in the only public statement made to date by the Nelson family, “If the ICPC has no confidence in the ability of the RUC to investigate the death threats against Rosemary how can my family be expected to have confidence in their ability or indeed their willingness to effectively investigate her murder?” We share Mr. Nelson’s lack of confidence in the RUC’s ability to effectively investigate Rosemary Nelson’s murder.

During the second meeting with representatives of our organizations, held on March 23 in Belfast, you mentioned questions raised by others about the practical difficulties of a genuinely independent team of investigators being able to conduct a thorough investigation. At that time, we stated that, due to the particular circumstances of the case, only a truly independent team could sustain the necessary level of public confidence. Colin Port’s work as Investigations Coordinator with both the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Rwanda tribunal (ICTR) should make him suited to establish just such an independent investigative team. At both tribunals, investigators came from forces all over the world and successfully investigated complex humanitarian law violations in jurisdictions completely foreign to them, under strenuous and often dangerous circumstances, with little or no assistance from the local police. Often these investigations were carried out with a small number of highly skilled investigators. Thus, it appears that any practical difficulties in assembling an independent investigative team

could be overcome.

We have also noted that during a March 28 radio interview, RUC Chief Constable Ronnie Flanagan stated that Mr. David Phillips' duties in Kent prohibited him from being involved in the investigation on a day-to-day basis. Our initial reaction to the appointment of Mr. Phillips—that it was inadequate to ensure sufficient independence in the investigation—appears to be confirmed by the Chief Constable's comments. The fact that Mr. Phillips' duties would never have permitted him to be involved in the investigation in a manner essential to ensuring independence further intensifies our concerns about the RUC's stated commitment to add an independent dimension "unprecedented in any previous inquiry" to the Nelson murder investigation. We are also concerned that this may feed the general perception that the RUC's speedy move to add an independent dimension to the investigation was merely a public relations exercise.

We call once again on you to ensure the independence of the investigation by appointing a team of investigators from outside the RUC. As we have stated previously, we also call on you to ensure that the RUC is ordered to and provides its full cooperation with this investigation—but that members of the RUC do not carry out the investigative work itself. Moreover, we ask you to enhance the international dimension of the investigation by providing an oversight role for the United Nations Special Rapporteur on the Independence of Judges and Lawyers Param Cumaraswamy. This is the best way for an impartial and professional investigation to occur and for our groups, the Nelson family, and many members of the community to have confidence in the process and outcome of Rosemary Nelson's murder investigation.

Finally, we look forward to your reply to our continuing call for an independent judicial inquiry into the murder of Patrick Finucane and for a judicial inquiry into RUC harassment and intimidation of defense lawyers in Northern Ireland, a practice that U.N. Special Rapporteur Param Cumaraswamy concluded was systematic and crossed all divides of the community. We seek guarantees that the government of the United Kingdom will take immediate action to develop and implement truly effective measures to protect lawyers who have been harassed and/or fear for their lives. Such measures will send a clear signal that defense lawyers play a critical role in the administration of justice and the rule of law in Northern Ireland.

We look forward to a prompt response.

Sincerely,

Derek Evans
Deputy Secretary General
Amnesty International
Martin O'Brien, Executive Director
Committee on the Administration of Justice

Holly Cartner, Executive Director
Europe and Central Asia Division
Human Rights Watch
Jane Winter, Executive Director
British Irish Rights Watch

Organizational contact information:

Amnesty International, International Secretariat, 1 Easton Street, London WC1X 8DJ.

Tel. 0171.413.5675/5909; Fax 0171.413.956.1157

Human Rights Watch, Empire State Building - 34th Floor, 350 Fifth Avenue New York, New York 10118.

Tel. 212.216.1267; Fax 212.736-1300

Committee on the Administration of Justice, 45/47 Donegall Street, Belfast BT1 2FG.

Tel. 01232.232394; Fax 01232.246706

British Irish Rights Watch, 20-21 Took's Court, Cursitor Street, London EC4A 1LB.

Tel. 0171.405.6415; Fax 0171.405.6417

Statement of Rosemary Nelson

Committee on the Administration of Justice, Belfast

Before the International Operations and Human Rights Subcommittee of the House International Relations Committee Hearing on Human Rights in Northern Ireland

29th September 1998

I have been a solicitor in private practice in Northern Ireland for the past twelve years. My practice includes a mixture of several areas of law including crime, matrimonial and personal injury cases. My clients are drawn from both sides of the community. For the last ten years I have been representing suspects detained for questioning about politically motivated offences. All of these clients have been arrested under emergency laws and held in specially designed holding centres. There are three such centres across Northern Ireland. Since I began to represent such clients and especially since I became involved in a high profile murder case, I have begun to experience difficulties with the RUC.

These difficulties have involved RUC officers questioning my professional integrity, making allegations that I am a member of a paramilitary group and, at their most serious, making threats against my personal safety including death threats. All of these remarks have been made to my clients in my absence because lawyers in Northern Ireland are routinely excluded from interviews with clients detained in the holding centres.

This behaviour on the part of RUC officers has worsened during the last two years and particularly since I began to represent the residents of the Garvaghy Road, who have objected to an Orange Order march passing through their area from Drumcree Church. Last year I was present on the Garvaghy Road when the parade was forced through. I had been present on the road for a number of days because I had instructions from my clients to apply for an emergency judicial review of any decision allowing the parade to pass through the area. When the police began to move into the area in force in the early hours of 5th July. I went to the police lines and identified myself as a lawyer representing the residents. I asked to speak to the officer in charge. At that point I was physically assaulted by a number of RUC officers and subjected to sectarian

verbal abuse. I sustained bruising to my arm and shoulder. The officers responsible were not wearing any identification numbers and when I asked for their names I was told to "fuck off".

I complained about the assault and abuse but to date have obtained no satisfactory response from the RUC.

Since then my clients have reported an increasing number of incidents when I have been abused by RUC officers, including several death threats against myself and members of my family. I have also received threatening telephone calls and letters. Although I have tried to ignore these threats inevitably I have had to take account of the possible consequences for my family and for my staff. No lawyer in Northern Ireland can forget what happened to Patrick Finucane nor dismiss it from their minds. The allegations of official collusion in his murder are particularly disturbing and can only be resolved by an independent inquiry into his murder, as has been recommended by the UN Special Rapporteur. I would be grateful if the Subcommittee could do all in its power to bring about such an inquiry, by communicating to the United Kingdom government its belief that an inquiry in this case would in fact be a boost to the peace process, as it has been in the Bloody Sunday case.

I have also complained about these threats, again without any satisfactory response. Although complaints against the RUC are supervised by the Independent Commission for Police Complaints, the complaints themselves are investigated by RUC officers. Recently, a senior police officer from England has been called in to investigate my complaints in view of the RUC's apparent inability to handle my complaints impartially. This English police officer is interviewing witnesses himself and has decided not to rely on any assistance from the RUC.

I believe that one of the reasons that RUC officers have been able to indulge in such systematic abuse against me is that the conditions under which they interview clients detained under emergency laws allow them to operate without sufficient scrutiny. My access to my clients can be deferred for periods of up to 48 hours. I am never allowed to be present while my clients are interviewed. Interviews are now subject to silent video recording but are not yet being audio-recorded, although that is due to be introduced. The UN Special Rapporteur has made a number of recommendations that would remedy this situation, which to date have not been implemented. I should be grateful if this Subcommittee would lend their support to what he proposes.

Another reason why RUC officers abuse me in this way is because they are unable to distinguish me as a professional lawyer from the alleged crimes and causes of my clients. This tendency to identify me with my clients has led to accusations by RUC officers that I have personally been involved in paramilitary activity, which I deeply and bitterly resent. The Special Rapporteur has recommended that RUC officers be sensitised to the important role played by defence lawyers in the criminal justice system. To date this recommendation had not been implemented. I should be grateful if this Subcommittee would ask the UK government what steps they intend to take to act on this recommendation.

I, like many others, was pleased to see the human rights provisions included in the recently signed Agreement. In particular I was pleased that the Agreement looked to the early removal of the emergency provisions legislation which has been in place in some shape or form since the inception of the state. The existence of this legislation has seriously undermined public confidence in the rule of law and led to numerous miscarriages of justice, some of which have involved my clients. I was therefore very disappointed when, in the wake of the horrific Omagh bombing, new and draconian legislation was introduced which further erodes suspects' due process rights. For example, the legislation provides for the opinion of a senior RUC officer that someone is a member of a proscribed organisation to be accepted as evidence by the courts. I and many of my colleagues fear that if these laws are used they will lead to further miscarriages of justice. Although this legislation has already been passed I hope that the Subcommittee will express its concern to the British government that it will not be used.

I believe that my role as a lawyer in defending the rights of my clients is vital. The test of a new society in Northern Ireland will be the extent to which it can recognise and respect that role, and enable me to discharge it without improper interference. I look forward to that day.

I thank Chairman Smith and this honourable Subcommittee for its continuing interest in these important matters for the future of my country.

Rosemary Nelson LL.B. *Solicitor*



ROSEMARY NELSON LL.B.
PATRICK VERNON B.A. (Hons.) P.G.C.L.

8 WILLIAM STREET
LURGAN
CRAIGAVON
BT66 6JA

Our Ref: RN/BR

Your Ref:

TEL:(01762) 321885
FAX:(01762) 321487
DX 2106 N.R. LURGAN

Date: July 30, 1998

Human Rights Watch
350 5th Floor Avenue
34th Floor
NEW YORK
101183299

Dear Sir/Madam

Please find enclosed copy of a threat recently received at this office.

Yours faithfully



ROSEMARY NELSON LL B

Enc

VAT No: 517 602 069



WE HATE YOU IN
OUR SIGHTS
YOU REPUBLICAN BASTARD
WE WILL TEACH YOU A LESSON
R.I.P

MR R. NELSON
8A WILLIAM ST
LURGAN

NEED A POSTCODE
0343



The Case of Rosemary Nelson

Rosemary Nelson's representation of Colin Duffy resulted in a pattern of intimidation against both her and her clients in the aftermath of Duffy's acquittal. The intimidation of defense lawyers by the RUC has been well-documented,¹ but the nature of the threats recently leveled against Rosemary Nelson, especially in light of Colin Duffy's acquittal, have made her fear that some sort of reprisal is imminent. Rosemary Nelson reported that over a three to four week period in early 1997, twelve of her clients who had been arrested came out of detention at Gough Barracks in Armagh saying that RUC officers had threatened that she was going to be killed:

When they [clients] requested me, immediately things were said about me, "she's a terrorist, that makes you a terrorist." RUC detectives were making these statements. Any time that I arrived down, any time the clients were told I was there, they would say, "she's an IRA woman, she's going to be shot" or "she's going to be taken out soon." They also said that I was down there supplying sex to my clients or I must be good in bed and that is why they were requesting me. It's so demeaning, it's incredible. It's difficult to face a client when they're making comments like that. You can usually tolerate it, but it got too heavy. There's one particular RUC officer there who was involved with the Duffy case in relation to the prosecution and he detests me. He's one of the officers making these threats.²

Two of Rosemary Nelson's clients offered written accounts of the threats leveled against them, Colin Duffy, and Rosemary Nelson:³

Client #1: They asked, "What's Rosemary telling you?" . . . They said I got the wrong advice—look at how many people she put away. They said she was the one who touted and I'm going to be shot. They put my family under threat, they said, "we'll shoot all of you." They went out of the room and came back in and said, "he's hiding something, we need to get it out of him, the fine bastard. You're dead. Tell Rosemary she's going to die, too." They threatened to pass my photo and details to loyalists.

Client #2: They said, "You're a target, your family's a target. The last person I said that to is in a wooden box." . . . They said, "You're number five down in the estate. Colin Duffy's number one." They . . . said they would get Colin Duffy. They said they would do whatever it took to get rid of "you Provo bastards." They said they would give details to loyalists. They said [Rosemary] was a friend of the Provos and of Colin Duffy's. They said, "she's not that good, she won't get you off."

Rosemary Nelson has lodged a complaint with the RUC concerning the death threats and the inappropriate sexual innuendos made against her.

¹British-Irish Rights Watch, *Report to the United Nations Special Rapporteur on the Independence of Judges and Lawyers* (London: BIRW, December 1996); Lawyers Committee for Human Rights, *Human Rights and Legal Defense in Northern Ireland*, 1993 and *At the Crossroads*, 1996.

²Human Rights Watch/Helsinki telephone interview, March 7, 1997.

³Copies of these statements are on file with Human Rights Watch/Helsinki.

Despite well-documented claims of threats and harassment of defense lawyers, neither the Law Society of Northern Ireland nor the Bar Council of Northern Ireland have publicly campaigned against lawyer intimidation. Michael Davey, secretary of the Law Society, the professional association of solicitors, stated that the society is against lawyer intimidation, "but there has been no request for the Law Society to take any action with respect to it."⁴ Davey added that intimidation is used as an interrogation tool by police forces all over the world. Richard Montieth, chairperson of the Law Society's Human Rights Committee, told Human Rights Watch/Helsinki that "intimidation happens to Protestant solicitors as well as Catholic solicitors. Any defense lawyer is liable to opprobrious comments."⁵ Eugene Grant, chairman of the Bar Council of Northern Ireland, which represents barristers, told us that while "solicitors are under attack, . . . they withstand the vilification. Solicitors are extremely strong in dealing with intimidation. They get on with it. The intimidation of solicitors has no great effect on the justice system; clients don't lose any confidence."⁶

While it is true that criminal defense lawyers worldwide are subject to contemptuous responses from law enforcement officials, death threats against lawyers in Northern Ireland—particularly since the murder of Patrick Finucane in 1989—raise the stakes significantly for those lawyers under threat. By casting the intimidation of defense lawyers merely as an occupational hazard, the Law Society and Bar Council fail in their responsibility to assist members of the legal profession to counsel their clients without undue interference from state authorities.⁷

Human Rights Watch/Helsinki calls on the RUC to investigate adequately Rosemary Nelson's claims of lawyer intimidation. We also urge the government of the United Kingdom to take measures to ensure the independence of lawyers so that they can carry out their duties without undue interference from law enforcement officials. Furthermore, we encourage the Bar Council and Law Society of Northern Ireland to advocate on behalf of and support efforts to change the current ethos of threat and degradation that characterizes the practice of criminal defense work in Northern Ireland.

⁴Human Rights watch/Helsinki interview, Belfast, November 14, 1996. This claim is astonishing in light of the murder of Patrick Finucane. The Law Society itself never publicly condemned Finucane's murder. The day after the murder, the president of the Law Society—in his personal capacity—issued a statement condemning the murder. Even if no individual member of the Law Society requested specific action by the society in the aftermath of the murder, it is surely within the power of the society's executive to condemn the paramilitary assassination of one of its members.

⁵Ibid.

⁶Human Rights Watch/Helsinki interview, Belfast, November 6, 1996.

⁷United Nations Basic Principles on the Role of Lawyers, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana Cuba, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 118 (1990). Principle 25 requires professional associations to ensure that "lawyers are able, without improper interference to counsel and assist their clients in accordance with the law and recognized professional standards and ethics."

