

Witness Name: Oliver Kelly

Statement No. 1

Exhibits: OK1 – OK5

Dated:

THE ROSEMARY NELSON INQUIRY

Witness Statement of Oliver Kelly

I, **Oliver Kelly**, will say as follows:

Background

1. I was born in Belfast in [REDACTED]. I was educated at Christian Brothers School in Belfast and graduated from Queen's University, Belfast in 1968. After graduating I became an apprentice solicitor in June 1968. I served a greater part of my apprenticeship in the firm of [REDACTED]. I was enrolled as a solicitor in Northern Ireland in October 1971.
2. I come from a Republican background and would have been involved in Republican politics as a student at university.
3. My apprenticeship in [REDACTED]'s office largely involved criminal law as the firm was primarily a criminal defence law practice. Due to the circumstances of the times my apprenticeship largely involved offences which arose out of the Troubles which broke out in October 1968 in Northern Ireland. Post qualification therefore I was heavily involved in the defence of persons charged with public order and other related offences.

4. I should point out that in August 1971 on the introduction of internment without trial, I was arrested and interned without trial from the 9 August 1971 until late December 1971 when I was released. I was enrolled as a solicitor whilst interned. Upon release, I worked for [REDACTED] until October 1972 when I opened my own practice on Donegal Street, Belfast. I continued to do criminal defence work, again in large part public order and related offences arising out of the Troubles.
5. In February 1973, I was arrested and re-interned and was kept in internment without trial until 5 December 1975. Upon release, I recommenced my own business in Belfast. Due to the circumstances of the time, I again found myself involved, almost exclusively, in the defence of persons charged with offences arising out of the Troubles. It would be reasonable to say that I was involved in the defence of a large number of persons in that regard and in most of the high profile trials that arose thereafter.
6. I should point out that the Law Society of Northern Ireland did not have any recognised or established Criminal Bar Association or Human Rights Association formally attached to its structure. It fell therefore to practitioners in that field to publicly raise the issues in relation to detention, interrogation, ill treatment, collusion and all such matters similar to that. This activity increased the profile of those of us who became publicly identified with such protestations and brought us into conflict directly with the security and police services. It appeared that activity in the field of highlighting injustice and ill treatment was frowned upon by those bodies involved with security and the administration of justice in Northern Ireland. There was no support for our activity formally from the Law Society who elected to distance themselves from the injustices that were being perpetrated in the name of the law against citizens and persons for whom we appeared. It would be agreed now that there was a substantial credibility and justification attached to the protestations made by solicitors throughout this period.

7. As I have stated, this activity appeared not to meet with the approval of the security services and it is my belief that this attitude led to a campaign of vilification against selected solicitors whom the security services seemed to believe should not be doing their job efficiently and correctly but rather should be acting on the side of the security services in prosecution at all times. It is my opinion that the vilification of solicitors and targeting of solicitors by paramilitary groups flowed directly from this situation. Further, it is my belief that there was a deliberate policy of intimidation in order to seek to stop defence solicitors carrying out their obligations and duties to their clients in accordance with the law. It is my belief that the security services believed that we should have been at all times acting in support of their activity and not in defence of our clients' rights before the law.
8. This resulted in an extension of security forces' activities in an attempt to silence and negate those persons who were acting on behalf of their clients and upholding their rights. The security forces made life extremely difficult for such solicitors in going about their affairs and their ordinary business but more significantly it also led to the dissemination of information in relation to those solicitors either directly or indirectly to paramilitary groups who they were aware would target those solicitors. The statement made in the House of Commons by Douglas Hogg was a high profile demonstration of this pernicious activity. There was therefore a persistent and consistent vilification by the security services to persons whom they believed and knew could and would target those solicitors. This was done, I believe, in the course of interviews at various holding centres where names of solicitors would be given to suspected paramilitaries on the Loyalist side without concern either for the consequences or indeed hopeful for the consequences.
9. Many complaints were made by solicitors about this activity in the various holding centres to the Law Society. However, despite these complaints no action appears to have been taken on behalf of the Law Society in relation to the protection of its members. I personally did not make any written complaints, since I believed that it was a futile exercise

since I detected that there was no interest within the Law Society Governing Body in doing anything to alleviate the position. They seemed to take the view that they could stand back and walk away from the situation. I personally believe that this was a conscious decision taken by them because of the nature of the make up of the Governing Body at the time, as was evidenced by the conflict which arose openly when the issue of the support for the Inquiry into the Finucane murder was sought.

10. I am aware that I was personally vilified in the course of interviews by Detectives in various holding centres. Comments such as "Kelly is an IRA man", that I was "only in it for the money" or "not interested in you" would routinely be made. They also said that I had been educated at Long Kesh. They did this to try to undermine your relationship with your client. The RUC perceived your values and those of your client to be one and the same. I am also aware that details of my movements and particulars were furnished to Loyalist paramilitaries and that I was targeted over a prolonged period by Loyalist paramilitaries. However, I was only advised by the security forces of such targeting of me on one occasion. This was after the statement in the House of Commons which was made by Douglas Hogg. The RUC officer advised me that I was on a Loyalist 'hit list'.
11. I was aware through my work with defendants that I had been targeted and was targeted by paramilitaries who had been told by the security forces that I was a member of the IRA. I was advised of this by some Loyalist paramilitaries who were personally known to me and who felt obliged to tell me. I was also told by some members of the press.

Personal Security

12. When the police approached me to advise me that I had been targeted, I told them that I could look after myself. They said that they wanted to give me advice about my safety, but I thought what – bolt your door? I knew how to do that. This was around the time that Pat Finucane was murdered, and me, Pat Finucane and [REDACTED] were said to be the ones whose lives were under threat. I said to the RUC that the least they knew about me

the better. If they wanted to keep an eye on me that was all very well but I was not going to be informing them of my movements.

13. The police then handed me a booklet on personal safety. They mentioned the possibility of a personal weapon, but I told them that I wouldn't know who to shoot at. The police had done me no favours. I never applied for a personal weapon or asked for one. If you're going to be shot anyway then what's the point of having a gun? Instead, I just moved house to a safer part of the city. This was to make it more difficult for people to target me. I was also mindful that if someone was intending to do it, they will. I was born in North Belfast where Pat Finucane lived, but I moved to West Belfast. Pat moved from West Belfast to North Belfast. It wasn't convenient for me to live in West Belfast and I enjoyed North Belfast, but you have to have some class of life without putting bars on the door.
14. It didn't occur to me to apply to the RUC for protection. I wouldn't have wanted them to know about the detail of my personal security. They were not to be trusted. If people knew that you had a firearm, they would come to take it off you. There was no point going around like Wyatt Earp. The police were getting some solicitors guns, but I was never interested. I just varied my routine of life. I also moved offices, because a lot of people had access to my former office. Every time someone came in we were scared. We needed to have control of who had access to the door.
15. Even if the police had said that they would look after the house for security purposes, like they do for judges, I wouldn't have done it. Because of the location it wouldn't have been possible anyway. The police would have said: "Put locks on your doors" but someone could have just as easily sledge hammered it in. You just had to do what you could do about it without being too paranoid.

Shorts

16. I recall that on one occasion particulars of my vehicle and myself were found in the possession of Loyalist paramilitaries who were in custody yet nothing was done about it. I

was told by the RUC that an explanation had been given to them for the possession of the information and particulars.

17. This followed the visit by the Controller of New York of a company called "Shorts", to Belfast to investigate that company. At the time, Shorts, an aircraft factory, was considered a bastion of Unionism and it didn't employ a significant number of Catholics. The police offered to transport the Controller around but he declined this request. Instead, he contacted my sister who in turn asked me to drive him about. I didn't want to do it myself so I arranged for [REDACTED], a trainee accountant, to drive him about. They went to Shorts in my car which was a light green Audi Avant which had a distinctive registration plate.
18. I later got a telephone call from the police in Castlereagh asking if I was the owner of this car. The police said that the registration number of the car and my name had been found in the locker of an employee of Shorts along with guns and ammunition. I asked what explanation had been given and the police explained that the employee at Shorts said that on the day of the Loyalist worker's strike I had driven through a picket line. I knew that wasn't true because the only time that my car had been at Shorts was when it had been used by the Controller. On the day of the strike, my car was parked up all day. The police didn't offer to take a statement from me although I offered to give one. No-one was charged about the incident. I just thought that this showed a cavalier attitude by the police. It seemed that they thought "If Kelly's shot, so what?"

Irish News

19. On another occasion, I recall improper behaviour of the security forces when I represented a client named [REDACTED]. They tried to nail him to the cross and paint him as a high class buff for the IRA and an information gatherer. He was refused bail the first time around and I did the second application. I had obtained a testimonial on behalf of Mr [REDACTED] from his previous employer, the Irish News. This showed that Mr [REDACTED] had got

security clearance to work in Hillsborough. In light of this testimony, I accused the RUC of vindictiveness and attempts to perpetrate injustice by continuing to deny Mr [REDACTED] bail and I was ultimately successful. Outside Court, an RUC Detective Inspector said to me "You were very personal in there". I said "I wasn't". The detective tried to make out that I had personalised the case because I had been critical of the RUC. I said to him that he had personalised it when he had made the allegations against my client which were not true. I handed the detective the testimony from the Irish News and his response was just to say "We all know about the Irish News". I asked him what he meant. He said "You know what I mean". It was apparent that he believed that the Irish News were fellow travellers of the IRA. I told [REDACTED], a Director of the Irish News, of this incident. He told me that he would deal with it.

20. I took the view early on that you just had to live with this situation and try to be as careful as possible in relation to your own personal security and safety. I did not see any merit in complaining to the RUC or to the Law Society since I believed that neither party was interested in doing anything about the situation. The murders of Pat Finucane and Rosemary Nelson were incidents waiting to happen and it is a mercy to God that there were not a whole lot more murders as it seems now clearly to be the case that collusion between the security forces and paramilitaries was behind the activity. It appears to me that the security forces considered it necessary to silence those persons whom they believed were making their job difficult by defending and upholding the rights of suspects or citizens. It seems that if you did not support the great Gods of security you were a target.
21. It is impossible to itemise and detail blow by blow and verbatim this activity but suffice to say it was an everyday occurrence and was part of the strategy adopted by the security forces. I am more convinced in this belief by the fact that Sir John Hermon, the ex Head of the RUC, sought to go public in the Belfast Telegraph and accuse Patrick Finucane of being a member of the IRA. He never withdrew such allegations and it is my belief that it was

this attitude of persons like him which influenced the lack of activity on the part of the Law Society who never at any stage, as I have already stated, showed any support for the solicitors involved in the criminal law or sought to establish an independent body to protect the interests and the rights of the individuals concerned. Whilst I may be able to understand this attitude on their part due to the divisions within their own ranks it doesn't justify their lack of action.

Newspaper Article entitled "Group of Solicitors Complain over RUC"

22. I am now shown a copy of a newspaper article from the Irish Times dated 27 May 1987 entitled "Group of solicitors complaint over RUC" **RNI 401.002**. I am one of the solicitors named in the article. Pat Fahy was the man behind the article.

Newspaper Article entitled "Equal Protection under the Law"

23. I am now shown a copy of an article entitled "[redacted] [redacted] – statement issued by 33 lawyers from around the capital on 14.01.1998 – Equal Protection under the Law" **RNI 402.512-513**. Again, I am one of the solicitors named in the statement. I would have been a signatory to most statements of that nature. I didn't initiate that particular one. Statements of this kind would have been drafted by ad hoc groups of criminal defence practitioners. In the absence of any involvement from the Law Society, criminal lawyers had to form informal groups themselves. Someone in one of these groups would have taken it upon themselves to put a statement together and then the rest would all sign up to it. Some statements were very controversial and of a political nature.
24. I have been provided with a copy of a record of an interview I had with a RUC officer concerning the Irish Times article detailed above. This is attached at **RNI 402.569-570**. I have never seen a copy of this record before and it is littered with inaccuracies. The whole tenor does not seem right to me. For example, I do not recall being told by clients that police officers had referred to me as a homosexual. Remarks

about my private life, such as they were, would have related to allegations concerning my personal life and habits.

UN Special Rapporteur

25. Following my interview with the RUC officer detailed above, on 14 June 2000 I received a letter from the police asking me if I would meet Dato Param Cumaraswamy, the UN Special Rapporteur. This is attached at **RNI 402.593**. I replied on 21 June 2000 to confirm that I had no difficulty in providing Mr Cumaraswamy with any documentation. This is attached at **RNI 402.596**. I subsequently spoke to Mr Cumaraswamy at some length at my office on Castle Street and told him the same sort of things that I am saying here. Mr Cumaraswamy complained that no action was taken about a report he had published on the harassment of defence lawyers. It was a very detailed report.

RNI 110.101-134

Role of NGOs and International Human Rights Organisations

26. At one point I gave a statement to the Association for Legal Justice. They were a political grouping who I would have co-operated with. The nature of those groups was that you co-operated because you became involved and that promoted the notoriety of the case. I did not have any major dealings with the CAJ.

Rosemary Nelson

27. I knew Rosemary Nelson but didn't know her well. I wasn't particularly friendly with her. I recall that at one point I met her on the bus coming out of a prison. However, I didn't even know who she was. I didn't really have any dealings with her.
28. Rosemary was involved in very controversial practice in doing the work she did in the Lurgan area. She was also involved in the Garvaghy Road. She was heavily involved in it. If that was the community she was involved in, why shouldn't she be serving her community in that way? She seemed to have a very heavy work load. Her profile was pretty high. She was always popping up in stuff to do with the Parades Commission. It

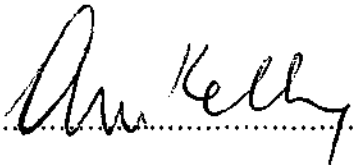
was very highly demanding work. Rosemary was thrust into the public eye. I don't think she sought it. She just dealt with the situation that she found herself in.

29. Throughout the 1990s, Rosemary Nelson seemed quite high profile. By then, I was not doing so much in the way of high profile cases. I got tired of it. There were lots of new people such as Rosemary Nelson who were attracted to it and were up and coming. I knew that she did a lot of political type work, including Diplock type work, to deal with the parades, etc. However, I know nothing really about the detail of her practice.
30. She obviously had a big client base and a lot of contentious work. You wouldn't be doing that sort of work unless you were motivated for the best possible reasons. She would have been attempting to achieve justice and fair play for people that she thought deserved it. A lot of that work wouldn't have been remunerative anyway. I don't see how people could say that she was a political figure, because I am not aware that she was associated with any political party. I knew that she was involved in disparate groups, such as women's centres. Pdraigin Drinan was one of her great friends. Pdraigin was also involved in all that difficult sort of work that was not very remunerative. It was the Bar who got the money, not the solicitors. Rosemary probably made a living out of it but it was a hard earned living. I think she was just motivated by the situation she found herself in. She was involved in a lot of general stuff including parades, women's group, immigrants and that sort of thing. I know that Pdraigin was a campaigner and seemed to be oblivious to compensatory reward.
31. At the time, defence solicitors were merely attempting to ensure the rights of their clients before the law. They were considered fellow travellers of their clients and Rosemary just fitted into that sort of pattern in people's eyes. She had a working class practice with people who were involved in strife and who required the protection of their rights in the face of oppression.

32. I understand that she was pilloried personally about her appearance. ^{by the police etc} and that there was a lot of joking about her. As stated above, that was systematic practice to anyone who wasn't "on side". If you weren't "on side", they made your life pretty bad. Ultimately, Rosemary Nelson paid for it with her life. I wouldn't have thought that Rosemary was doing anything other than identifying herself with her clients and protecting their interests. It was about justice with compassion and sympathy in an absolutely professional fashion. As was the case with all those other people, she was standing up for people's rights and not allowing the police to ride roughshod over them. It's a crying injustice that nobody in the security forces has been brought to justice over her death. It is an indication of the lengths to which people are prepared to go against anyone who wasn't lined up with them. It's an awful society that breeds people who can go down that road.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed: 

Oliver Kelly

Dated: ^{6/12/07}