

Witness Name: S McKay

Statement No. 1

Exhibits: SM1 – SM3

Dated: .....

### **THE ROSEMARY NELSON INQUIRY**

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#### **Witness statement of Susan McKay**

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I, **Susan McKay**, will say as follows:-

1. I am a journalist. At the time of Rosemary Nelson's death, I worked for the Sunday Tribune newspaper in Dublin. During my time working as a journalist for the Sunday Tribune I came into contact with Rosemary Nelson on a number of occasions, both in person and on the telephone. I describe my recollections of these encounters below. In addition, I published a book entitled "Northern Protestants: An Unsettled People". This concerned the views held by Protestants including Loyalists in various parts of Ulster in 1998/99. One of the areas covered by the book was Portadown. I took a sabbatical from the Sunday Tribune to prepare this book. I therefore feel that I hold a considerable amount of knowledge of the views held by Loyalists in the Portadown/Drumcree area.

#### **Drumcree 1997**

2. Whilst working for the Sunday Tribune, I attended the Orange Order march in 1997. I recall that the march this year was particularly controversial. This was because it was not decided whether or not the Orangemen were going to be allowed to march down the Garvaghy Road until right at the very last minute. I was sent to cover the march together

with a photographer, [REDACTED] We stayed in a bed and breakfast which was near the route of the march. As we went to sleep on the night of 5 July 1997, no one was sure whether or not the parade was going to be allowed to proceed down the Garvaghy Road. Tensions were very high.

3. In the early hours of the morning, I was woken by a siren. The siren had been installed by the Garvaghy Road residents in the area as a method of wakening all the residents if something was happening. I got up and went down. There were a lot of people and police running about. I gathered that a decision had been made that the parade would be allowed to march down the Garvaghy Road. I recall that the police formed a line across the road and stopped anyone from passing it.
4. It was at this stage that I spoke to Rosemary Nelson. She was very agitated and seemed dishevelled which was unusual as Rosemary was generally very well groomed. Rosemary told me that the police had given her a bad time and had thrown her around "like a sack of potatoes". I remember that Rosemary showed me her arm although no bruising had developed at that stage. I told her she should go and see a doctor to get the assault recorded - she would have known to do this anyway being a solicitor. She then said that she was going to try to find someone who was in command to report this incident. She asked me to go with her and I agreed.
5. I then accompanied Rosemary Nelson for the next hour or so. During this period, Rosemary approached a number of police officers. I recall their attitude was generally sneery or dismissive. Either she was ignored or turned away. I recall that one officer said that he did not want to be involved in Rosemary's "desire for publicity". My sense was that Rosemary did not want publicity at all. The reason I was accompanying her was as a witness. I recorded all of the police officers' comments on a note pad. Some had no visible ID but I recorded one officer's number from his badge. This record formed the basis of a statement which I later gave to the RUC.

6. Subsequently the RUC approached me under cover of a letter from Chief Inspector Oliver dated 19 May 1999 as part of an investigation into complaints made at this time ( [REDACTED] **RNI 301.259** ). I have since learned that this was because I was named as a witness in a statement given by Rosemary regarding her assault and the events of that day (a copy of which appeared on a website) (**RNI 302.129.500-502** ). I provided as much information as I could by way of a letter dated 31 May 1999 [REDACTED] **RNI 302.142.500-502** I am satisfied that all the quotations used in this letter are entirely accurate as I recall using my original notes when preparing this letter. In paragraph 3 of this letter, I state that I had spoken to Rosemary “the day before”. This would have concerned what Rosemary thought might happen and the action she had taken in seeking a judicial review, although I do not remember the precise detail.
7. In my letter, I note that I commented that some of the police officers referred to Rosemary **RNI 302.142.501** Nelson by her first name. It struck me that the police had little respect for her and did not regard her as a solicitor engaged in representing her clients. They physically blocked her from getting through police lines on to the road where her clients were being batoned.
8. I do not remember seeing Rosemary further that weekend after the events detailed in my letter. In addition, I was unable to do any meaningful reporting as these events were taking place too late in the day for a Sunday paper to cover.
9. I have been asked whether I was aware of a second alleged assault on Rosemary when a policeman hit her on the back of her head with his riot shield. I do not remember an assault of this kind although it is possible that Rosemary may have told me about it at the time.

#### **Relationship with Rosemary Nelson**

10. I would have first met Rosemary Nelson in connection with the Drumcree marches in around 1995 or 1996. From this point onwards, I was not at Drumcree every year. This was work that came round every year for journalists involved in covering the events in Northern Ireland. Once May had arrived, everyone was aware that Drumcree was only a

matter of weeks away and tensions would build and build. Both parties would make moves to either stop the parade or to secure its passage and reporting these events would always be high profile.

11. I think that I was doing a piece in relation to Portadown politics and one of the first things which Rosemary did was to set up a meeting for me with some local Republicans. I think that this took place in around 1996. It took place at the same time as another interview which I did in relation to [REDACTED]. I know these interviews took place at roughly the same time.
12. The interview which I did in relation to the Republicans concerned their views about mid Ulster politics and the issue of police harassment. I think that I would have approached Rosemary to set up the interviews rather than the other way around. I can remember who I spoke to but I do not wish to reveal their identity.
13. Following this interview, Rosemary and I would speak from time to time – every three months or so on the telephone. These conversations would always start off about work, perhaps with Rosemary wanting me to attend a forthcoming Court hearing or me wanting Rosemary's thoughts or information in relation to an article I was writing. However, once the business was finished, Rosemary and I also talked as friends. I think that, had our meeting been in different circumstances and had we been able to devote more time to our relationship, we may have become good friends rather than simply working women who liked to chat (which is how I would describe the way we were). We both had young children and were very busy.
14. We talked about our children and family as well as NI issues. Rosemary was hugely proud of her family and we would joke about the problems all parents face; getting our children to eat proper food, juggling career and family and so on. When I got married in 1997, she joked that I shouldn't bother and that she would be sorting my divorce papers for me in a few years time. This was typical of her sense of humour. I recall that Rosemary often said

that she and I should get together for dinner. She said she owed me a dinner as I'd been brave to accompany her that day at Drumcree. The dinner actually never took place although we always used to talk about setting it up.

15. Rosemary was very passionate about doing the right thing for her clients. In particular, I think that she believed in the justice of the Garvaghy Road residents' cause. She believed in the rights of all her clients regardless of their politics. We did talk about politics in general terms and we agreed that the Portadown/Lurgan area was a very volatile place and, at times, a very scary place.
16. I visited Rosemary's home in Lurgan on a couple of occasions. However, the only time that these visits lasted for any meaningful period of time was in relation to her defence of Colin Duffy in relation to the charges he faced for the murder of the two policemen. I recall that this case was very high profile because it had taken place when the IRA ceasefire had broken down.
17. I recall that Rosemary was working in her dining room on the case and she showed me a dossier of witness statements which stated that Colin Duffy was not in the vicinity of the murder scene when the murder happened. There were a large number of papers spread out. It was clear to me that Rosemary often brought work home with her.
18. My sense was that Rosemary had no security at home. I definitely felt a sense of her vulnerability and I felt quite uncomfortable being present there that day. There was an aura that she was at risk because she was easily accessible. The house was modern and had large windows and I recall thinking that anyone could have shot her through those windows as she worked.

#### **Threats made against Rosemary Nelson**

19. At some stage during our discussions, Rosemary began to disclose to me threats which were being made against her. I am not sure when this began but it was certainly before the end of 1998. At this time Rosemary would talk to me about threats every time that I spoke

to her. I also became aware that other people who knew Rosemary had similar conversations with her as well (for example, the Pat Finucane Centre in Derry). There was a sense that Rosemary Nelson was in a similar situation to Pat Finucane prior to his murder. Certainly, following Pat Finucane's death it was clear to everyone that solicitors were no longer immune from the Troubles. It was the same for journalists after Martin O'Hagan was killed. These people either couldn't or didn't want to recognise the professional barrier.

20. Rosemary told me that the threats took the form of notes which were put through her letterbox at her office which was in Lurgan and phone calls. I did not get the impression that she ever received threats at home. I cannot recall the precise content of any of the notes though she told me at the time. The notes were always abusive and I assumed they were coming from Loyalists.
21. Rosemary also told me that some of her clients reported comments about her which were made by the police. These comments took the form of things like "*Rosemary had better watch herself*" or "*Rosemary is next*". I do not remember the exact wording but the comments were very menacing and it was clear that they were designed to put Rosemary in fear for her life. Another comment I recall Rosemary mentioning was that a policeman said to one of her clients "*how's Rosemary*" in a nasty, jocular way, the inference being that the police would be happy if Rosemary was not well or that they were keeping an eye on her and not in a benign way.
22. I am not sure how often these comments or threats were made or which clients received them. I think they were all made in Gough Barracks.
23. I got the sense speaking to Rosemary about these threats that she was most concerned about being in danger from the police though I was much more concerned about the Loyalists due to my knowledge of them (detailed below). I had less sense of collusion at the time although information that has come to light since makes me think that Rosemary may well

have been right. That said, I was aware that there was definitely a sense amongst Loyalists in the area at the time that the police were on their side. I found it very unsettling to observe that elements of the police were quite comfortable in the company of Loyalists, even those who were very violent such as members of the LVF.

24. In total, I think that Rosemary Nelson probably told me about roughly three different notes and about three threats made by the police at Gough Barracks. I am not sure whether this was all of the threats she received or just a small fraction. However, if I had got just one of these threats, I would have been very scared indeed. The people who had been making these threats were killers who should have been taken very seriously.

#### **Northern Protestants: An Unsettled People**

25. I began undertaking research for my book in May 1998 and was finishing it when Rosemary was killed in March 1999. It took the best part of a year from start to finish. The book is divided into chapters in relation to Protestants in different areas. One of the chapters concerned Portadown and I spent a lot of time in Portadown especially in the Summer of 1998. I recall this being a very nasty, violent and contentious place and it was certainly very scary to be there. During time I was there, I spoke to many different people. Some of the individuals were part of the Orange Order, others were part of the UDA or other paramilitary factions. Some were both. I spoke to Mark Fulton, other members of the Fulton family and its entourage. I had formerly carried out several interviews with his leader, Billy Wright. The time I spent talking to these individuals was very uncomfortable and I was afraid of them at all times but concerned not to show it. It should be remembered that, at that stage, I was something of an unknown quantity to these people because I had not written the book. After the book was published, I would have avoided some of them because I would have been concerned that they might not have liked what I had written about them.

26. A large number of the people I spoke to made very hurtful comments about Rosemary. She was described variously as a “*fucking whore*”, “*fenian bitch*”, “*sleeping with McKenna*” and “*sleeping with Colin Duffy*”. These comments were made by all types of people, even those who were seemingly respectable. I viewed the comments as a way of discrediting her. There was a real hatred towards her because of her representation of the Garvaghy Road residents and because she was clever and successful in that representation. I think they saw her as an “uppity” kind of person who was getting the better of them in their “own” Courts. The comments in relation to her sleeping with Brendan McKenna and Colin Duffy were designed to discredit her because she was a married woman.
27. I recall that they also made comments in relation to Rosemary’s face which was marked. The Loyalists said that this had come about from her planting a bomb as a teenage IRA member which had gone off prematurely. I did not believe this was true, and was told by others it was as a result of a childhood illness.
28. When this type of comment was made to me, I would say very little and just write down what was said. It was pointless and risky to get into arguments with these people. I did not agree with anything which was said. However, I was conscious that some of the Loyalists may well have had similarly sexist and dismissive attitudes to any woman, including myself.
29. I do not think I repeated any of these comments back to Rosemary. However, I would warn her that she should treat these people seriously. I was sometimes quite exasperated when Rosemary would tell me about the threats because I felt helpless. I did not think that there was anything useful I could say or do. I had the impression that Rosemary felt that she would be protected in some way by telling lots of people of the threats. I was not certain that this was the case as I knew that the Loyalist mind was not rational in that way. She was in a terrible position. She could hardly go to the police.



30. During these conversations, the Loyalists never said that Rosemary was going to be targeted specifically though they implied she deserved it. It was implied that certain people should or would be killed but I do not recall it specifically in relation to Rosemary. The individuals I met with were passionate about their right to march down the Garvaghy Road. I recall a DUP representative, Paul Berry, saying that they would have to force their way down the road if they weren't let. Everyone at every level seemed to believe in using force if necessary. In these conversations, it would often be said that the security forces were on the side of the Loyalists and that the soldiers had sashes on underneath their uniforms. The Loyalists were sectarian and would generally associate the Garvaghy Road residents with the IRA and have seen them as one and the same thing. To them, it was therefore perfectly legitimate to use violence against them and, unfortunately, as their legal representative, Rosemary was caught up in this.
31. I recall that on one occasion I was in the office of a local newspaper editor. He allowed me to see a letter which he had received which was very menacing. It described killing residents in some detail and setting up road blocks to kill Catholics. After I left the office, I spoke to Brendan McKenna to warn him about what was being said. I think he already understood that he was in grave danger.
32. I have been asked to comment about the Red Hand Defenders. I viewed the Red Hand Defenders as essentially being a flag of convenience for the Drumcree warrior types and Billy Wright supporters. I think it began with an amalgamation between [REDACTED]'s UDA C Company and the LVF and others associated with the Orange Order. These people had broken away from the UVF (Ulster Volunteer Force) and UDA who had, in their eyes, "sold out". They saw Billy Wright as being the champion of real "Loyalism". They believed the loyalist cause could be advanced by killing Catholics.
33. I do recall seeing a Red Hand Defender's drum at Drumcree in 1998 but was told that it was an old organisation. It was certainly not uncommon for a Loyalist to deny something

in a brazen fashion. For example, I recall that the Drumcree warrior types, including the [REDACTED], arrived at Drumcree one day in several white vans and started to move into the crowd. My sense was that these characters were organising the trouble but at the time Mark Fulton claimed to have been trying to calm things down. In my view, this simply was not the case. I asked an Orange steward about LVF material on sale at Drumcree church and about the presence of these men but he refused to answer.

Statement of Truth

I confirm that the contents of this witness statement are true.

Signed: ..... *Susan McKay* .....

**Susan McKay**

Dated: ..... *21 June 2007* .....