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Winner of the Council of Europe Human Rights Prize

Testimony from Paul Mageean to the
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COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Statement of Paul Mageean

Committee on the Administration of Justice (CAJ)

14th March 2000

Thank you for the invitation to testify today. The Committee on the Administration of Justice (CAJ) is an independent human rights organisation which draws its membership from across the different communities in Northern Ireland. CAJ works on behalf of people from all sections of the community and takes no position on the constitutional status in Northern Ireland. In 1998, CAJ was awarded the prestigious Council of Europe human rights prize by the 41 member states of the Council of Europe in recognition of its efforts to place human rights at the heart of the peace process. One of the reasons for the success of our work on the peace process has been the continued involvement of the United States. In this context we would like to thank the honourable members of this Commission for this opportunity to raise these important issues and in particular the Co-Chairman Chris Smith for his work in this area.

On 29th September 1998 I testified before the International Operations and Human Rights Subcommittee of the House International Relations Committee Hearing on Human Rights in Northern Ireland. I was accompanied by Rosemary Nelson who also testified before the Subcommittee. She spoke of the harassment and abuse she had suffered at the hands of members of the Royal Ulster Constabulary (RUC). She also told the Subcommittee about the threats that she had received and the problems with the investigation of those threats. The members of this Commission will of course be aware that within six months of testifying before the Subcommittee Rosemary was murdered. The anniversary of her death is tomorrow.

My testimony will attempt to inform the Commission of what has happened in relation to the investigation into the death of Rosemary Nelson and into the threats issued against her. I will also try to indicate ways in which the United States government can assist in ensuring that the investigation into Rosemary's murder is carried out in an independent and effective fashion.

On 10th August 1998 we wrote to the Minister of Security at the Northern Ireland Office, Adam Ingram MP. We drew two documents to his attention which we enclosed with the letter. The first was a note which had been posted to Rosemary Nelson which read "[W]e have you in our 'sights' you republican bastard we will teach you a lesson R.I.P." The second was a one page pamphlet entitled "The Man Without a Future" which related to Brendan McKenna, leader of the Garvaghy Road Residents Coalition. However, it also referred, in very derogatory terms, to him having received advice from Rosemary Nelson and also gave her address and telephone details.

We said in our letter that we considered these documents to be very definite threats against Rosemary Nelson and told Mr Ingram that we considered it incumbent on the government to investigate these matters and also to provide the necessary protection for Rosemary.

On 24th September 1998, Mr Ingram's office replied to our letter. His response stated that "[O]bviously the documents enclosed must be of concern to Ms Nelson and the others mentioned. The Minister has asked me to say that he hopes that those who produced them can be brought to justice for their threatening behaviour." The letter continued that the threats had been passed immediately to the Chief Constable for investigation and that the police would assess the security risk against Ms Nelson. The letter also mentioned that Rosemary could apply for the Key Persons Protection Scheme for security to be fitted at her home at public expense. Rosemary did not do this as it would have entailed RUC officers carrying out security checks on her home. It was of course officers from this force who she believed were issuing threats against her.

Shortly after Rosemary's murder, we were contacted by RUC officers from the murder investigation team who were seeking originals of the documents we had sent to Mr Ingram seven months earlier. They said the originals could be important because the police might be able to obtain forensic or fingerprint evidence from them. We told the police that we did not have access to the originals of these documents. We were however very concerned that the police were only seeking access to the originals of these documents after Rosemary was murdered when they had been alerted to the threats in August 1998, some seven months before her death. Surely it would have been a basic investigative step to seek the originals of the documents when they received them rather than wait until after the target of the threats was murdered.

On 3rd June 1999 we wrote to the Chief Constable of the RUC, Ronnie Flanagan, asking him a series of questions in relation to these matters. CAJ requests that a copy of this letter be read into the record. The Chief Constable acknowledged our letter on 11th June and we wrote a reminder on 30th July. He did not respond. We met with the Chief Constable on 4th October when this issue was raised amongst others. He undertook at that meeting to respond to our concerns in writing. After having written several reminders, CAJ wrote again on 9th March 2000 telling him that we were to testify to this Commission and urging him to respond before today. In his response, of today's date, the Chief Constable said in relation to our inquiries about Rosemary Nelson:

"In connection with your letter of 3 June 1999 specifically relating to the murder of Mrs Nelson, I explained to you at our meeting that the RUC itself had no intelligence prior to Mrs Nelson's death to indicate a threat of the dreadful atrocity which was to be carried out. In relation to the documents to which you refer, as these remain a matter of ongoing investigation, neither I nor Mr Port believe that it is appropriate to discuss the details you raise while the investigation is current. You should be aware, however, that in relation to the threatening note received by Mrs Nelson, nothing of potential forensic value was lost in the period between the sending of the document and its subsequent forensic examination. At this stage, nothing has been disclosed in the examination which has assisted Mr Port's enquiry".

In CAJ's view this response does not address our key concern, namely the apparent inaction of the police between August 1998 (when they were informed of the death threats) and Ms Nelson's subsequent murder in March 1999. It was only after Ms

Nelson's death that the police showed evident signs of the threats being taken seriously.

Answers to the concerns about police inaction in the face of the threats against Rosemary have also been sought by way of parliamentary questions in Westminster. I would request that copies of the question and answer be placed on the record.

We would be grateful if this Commission could write to the United Kingdom government asking why the RUC did not act in relation to seeking originals of these threats until after Rosemary Nelson was killed.

We believe that the police and the government have not answered our questions in this regard because they are unable to provide an adequate answer. We believe the police failed to carry out an adequate assessment of the risk against Rosemary Nelson. We believe their failures in relation to that assessment are emblematic of their failure to investigate the ongoing threats against Rosemary by their own members.

In an interview in today's Irish News newspaper the UN Special Rapporteur on the Independence of Judges and Lawyers states that he asked the government to provide protection for Mrs. Nelson. He challenges the government to provide information on what it did. He says "You tell us. You knew about it. What did you do?" I would request that the full text of this article be read into the record.

The Commission will of course be aware that the government appointed Independent Commission for Police Complaints in Northern Ireland (ICPC) stated that they were not satisfied with the RUC investigation of complaints that Rosemary herself made in relation to threats and abuse. Amongst the issues of concern the ICPC identified were "observable general hostility, evasiveness and disinterest on the part of the police officers involved in this investigation," assertions made by the investigating officer which constituted "judgements on the moral character of Mrs Nelson" and a view that the volume of correspondence received from international groups on behalf of Mrs Nelson as having more to do with propaganda against the RUC than establishing the truth. I would be grateful if the Statement issued by the ICPC be placed on the record.

Subsequent to indications that the ICPC were unhappy with the RUC investigation a senior English police officer, Commander Niall Mulvihill was tasked with reviewing the initial investigation. He expressed satisfaction with the conduct of the investigation. However, in a leaked commentary on the Mulvihill review, the Chairperson of the ICPC, Paul Donnelly, described the Mulvihill report as containing “assertions, conclusions and recommendations that rely heavily on impression and belief, as opposed to systematically testable evidence.” I would be grateful if a copy of the commentary prepared by Mr Donnelly be placed on the record.

After the publication of the ICPC statement the supervising member of the ICPC, herself a female lawyer, was threatened necessitating her to move house. In addition she became the subject of a whispering campaign by police officers and members of the policing establishment which questioned her impartiality and ability. This campaign was described in an article which appeared in the Irish Times written by Gerry Moriarty, a copy of which I would ask be placed on the record.

The honourable members of the Commission will be aware that the criminal investigation into Rosemary Nelson’s murder is now being headed by Mr Colin Port, the Deputy Chief Constable of Norfolk Constabulary. Up until 9th March no arrests have been made in the investigation and no-one has been charged. On 9th March it was reported that two people were arrested in connection with the murder. One of those individuals has now been released. It has been reported that the other individual who is still being detained was a serving soldier at the time of Rosemary’s murder. Mr Port however remains confident that he can catch those responsible. He has indicated that he is looking carefully at possible collusion in the murder. He has also indicated that to date the collusion inquiries have not yielded any results. We remain concerned that Mr Port continues to conduct his investigation from Lurgan RUC station where some of those officers involved in threatening Rosemary were based. In addition there have been a series of leaks, reportedly from the Port investigation team, which appear to have damaged the investigation. We are concerned that the continuing involvement of RUC officers in the investigation team is undermining confidence in the independence of the investigation. This is particularly relevant

when, according to press reports, crucial witnesses are refusing to co-operate with the Port investigation.

In addition however it is apparent that the criminal investigation, even if successfully concluded, will not result in a full examination of the circumstances surrounding the murder of Rosemary Nelson. For instance, it will not examine the alleged inaction of the RUC following receipt of the threats issued against Rosemary. Unless hard evidence is obtained to link members of the army or police to the murder, we will not have an opportunity to hear the reasons given for the heavy security force presence in the area prior to the murder. For these reasons, we are committed to a full public inquiry into the murder along with a number of other domestic and international NGOs including Amnesty International, Human Rights Watch and the Lawyers Committee for Human Rights. If in another democratic state, a lawyer had been subject to regular threats from police officers, if the United Nations had drawn its concerns about the safety of the lawyer to the attention of the government, and if subsequently the lawyer in question had been killed, we are convinced that a full inquiry would be established. We can see no reason for the United Kingdom government not taking this step now.

We believe the failure to establish such an inquiry is a violation of the United Kingdom's international obligation to make available effective remedies for the violation of human rights. This right is guaranteed by the European Convention on Human Rights in addition to the 1990 Copenhagen Document. We would respectfully request that this Commission, requests the United States administration to raise these issues through the human dimension mechanisms of the OSCE, and to expresses its view that the United Kingdom should establish a full public inquiry. In addition we believe it would be helpful if the OSCE were to send a fact-finding mission to Northern Ireland to examine the general situation of defence lawyers and in particular to examine the circumstances surrounding the murder of Pat Finucane and Rosemary Nelson.

Rosemary Nelson was a member of the Executive Committee of CAJ. She dedicated her professional life to obtaining justice for others. We will do all we can to obtain justice for her.

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