



The Nelson Inquiry: time and money well spent?

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Peter Stockwell examines the cost of Public Inquiries.

The publication this week of the long awaited report of the Public Inquiry into the killing of Lurgan solicitor Rosemary Nelson highlights once again the time and cost of Public Inquiries. This latest Inquiry has taken more than 6 years to report and has cost £46.5m. After he presented the Nelson Inquiry report to the House of Commons on 23 May, Owen Paterson, Secretary of State for Northern Ireland, said that he would soon be making an announcement about another potentially major Northern Irish inquiry - into the murder of Belfast solicitor Pat Finucane. If there is one lesson to be learnt from the Nelson Inquiry that will inform and assist those charged with the conduct of future inquiries it is to craft the inquiry's terms of reference very carefully. In particular, it is of crucial importance that they are not too wide if disproportionate time and cost are to be avoided.

The Nelson Inquiry

Mrs Nelson was murdered in 1999 by Loyalist terrorists outside her home. Allegations were very quickly being made of security force collusion in her killing and it is of no surprise that an inquiry was subsequently set up to consider the question of collusion. It was appropriate for the Inquiry's terms of reference to extend also to the question whether any state agency obstructed the investigation into the murder. But why was the inquiry also required to consider "whether the investigation of her death was carried out with due diligence," when the quality of the investigation had never reasonably been in dispute? The result was that those who had investigated the murder were themselves subjected to a lengthy, expensive and needless investigation conducted on behalf of the Inquiry.

To address this question it is necessary to go back in time to 2001 and to the Western Park Agreement. At that time, as part of the Northern Ireland Peace Process, agreement was reached between the British and Irish Governments to appoint a judge of international standing - Justice Peter Cory - to investigate the allegations of collusion between the security forces and terrorists in six high profile murders, four of them in Northern Ireland - Pat Finucane, Rosemary Nelson, Billy Wright and Robert Hamill. The recommendations of Justice Cory were relied upon as being the justification for Public Inquiries in relation to each of them and of those four, only the Finucane Inquiry now remains to be held.

It is not at all easy to understand how those recommendations could sensibly have been read as meeting the requirements for a Public Inquiry into the conduct of the investigation into Mrs Nelson's murder. Justice Cory described that investigation as "very thorough and impressive" and "exemplary". He commented that it was "conducted with great tenacity, skill and imagination" and concluded "There

is certainly no evidence whatsoever of collusive action on the part of the Port Inquiry Team."

In presenting Justice Cory's reports to the House of Commons, the then Secretary of State, Paul Murphy, announced that the Nelson Inquiry would "examine the actions of the police and the Northern Ireland Office", that clearly being a reference to the conduct of the police prior to the murder. The real issue of concern in Mrs Nelson's case was collusion and the alleged failure to provide protection for her against a background of numerous alleged threats by RUC officers and others, not the subsequent murder investigation.

The Hamill Inquiry

In contrast, the actual murder investigation in the Hamill case was of huge significance. In the early hours of 27 April 1997 Robert Hamill, a Catholic, was assaulted in the centre of Portadown by Protestant attackers. An RUC Land Rover with four officers was stationed nearby. Nonetheless Mr Hamill suffered head injuries and died without regaining consciousness on 8 May. By 10 May the RUC had the identities of a number of Protestants who were said to have murdered Mr Hamill. Furthermore it had evidence that one of the reserve constables in the Land Rover had protected one of those by telling him to get rid of his clothing and by keeping him informed about the investigation. In his review of the Robert Hamill killing, Justice Cory concluded that a Public Inquiry should be held to "review the actions of the police during the period just prior to the disturbance, during the course of the disturbance itself and during the subsequent investigation into the murder of Robert Hamill."

However, the terms of reference for the Nelson and Hamill Inquiries that were subsequently announced by the Secretary of State were virtually identical and each included the requirement to determine "whether the investigation of his / her death was carried out with due diligence." In the Hamill case, quite rightly, the diligence or otherwise of the investigation was at the forefront of the inquiry. Could it be that those terms of reference were simply adopted by the Nelson Inquiry without sufficient thought being given to the circumstances?

Given what Justice Cory had said about the Nelson murder investigation, it is unsurprising that the Nelson Inquiry has found that the investigation was "very thorough", "exhaustive, energetic and enterprising". Most importantly it also concluded that the investigation was "carried out to a high standard in very difficult conditions and with due diligence." No-one reading the summary of the investigation in the Report can be in left in any doubt about the enormity of effort that was applied to the murder investigation. It was, uniquely, without budgetary restraint. Led by a senior officer from outside the RUC, Deputy Chief Constable Colin Port (now Chief Constable of Avon and Somerset Police), it involved 180 officers, more than half of whom were also non RUC, selected from forces across Britain for their blend of specialist expertise and experience. Some of them made extraordinary sacrifices. One senior officer was seconded within four weeks of Mrs Nelson's death and spent the next nine years in Northern Ireland.

Lessons to be learned

The inclusion of the due diligence issue in the Nelson Inquiry terms of reference led to a number of needlessly uncomfortable years for those principally responsible for the murder investigation, who found themselves having to justify decisions taken professionally and in good faith during one of the largest murder investigations ever to take place in Northern Ireland. It can reasonably be estimated that £15m of the total cost of the Inquiry is attributable to the due diligence issue.

Once its terms of reference have been laid down, no Public Inquiry can be blamed for working to them. But if they are too widely drawn and lacking in focus it is inevitable that the time taken by the Inquiry and the cost to the tax payer will increase without need or justification.

If the terms of reference of this latest inquiry had been more tightly and appropriately drawn could much of the £15 million have been saved? Would it have taken a lot less than six years to finally report? And would not Rosemary Nelson's family and those whose conduct has been unnecessarily called into question have been given the answers to which they were entitled earlier? These are all

questions those behind any future Finucane Inquiry will do well to consider.

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