

THE BILLY WRIGHT INQUIRY

Chairman: Lord MacLean

DECISION BY THE PANEL

In the Application by

Witness 'BA'

For

Anonymity and screening at the Billy
Wright Inquiry

INTRODUCTION

1. Persons likely to be called as witnesses before the Billy Wright Inquiry ('The Inquiry') were invited to submit applications for anonymity and/or screening in accordance with the Inquiry's Anonymity Protocol of 30 June 2006. The Inquiry has received a number of such applications.
2. Witness 'BA' has submitted an application requesting anonymity and screening. Witness 'BA' also submitted with the application further personal papers that were for the eyes of the Inquiry Panel only. Any information from those documents which has been taken into account by the Panel in their deliberations is referred to in general terms where appropriate in this decision. The application was supported by correspondence from the Inquiries Co-ordination Unit of the Northern Ireland Office (NIO) and the Northern Ireland Prison Service (NIPS).
3. The Panel received an individual Threat Risk Assessment for Witness 'BA' from the Security Service along with information from the Police Service of Northern Ireland (PSNI). The Applicant was sent a restricted part of the Security Service risk assessment and a redacted version of the PSNI information as the Inquiry Panel was

refused permission by both agencies to disclose the material in full. The Panel has taken into account the Applicant's comments on this material. No conclusion adverse to the application has been based on any material undisclosed to the Applicant.

4. The Inquiry also received a generic Risk Assessment along with an explanation as to the various categories of risk. A copy of both documents was sent to the Applicant.
5. Parties who have been granted Representative status at the Inquiry have been given the opportunity to see a copy of the application and of the supporting letter from NIO and NIPS. Comments were received from the family of Billy Wright through their solicitor John McAtamney and a response to those comments was received by those representing the witness. More recently, the Inquiry received confidential information from Operations Directorate of Prison Service Headquarters. This has been considered by the Panel and a summary has been sent to the relevant parties. Comments from those parties have been received and considered.
6. The Panel met and considered this application. A decision was taken after due consideration of all of the above material and having also considered the Reports of the International Monitoring Commission (IMC), in particular the 17th Report from November 2007.
7. The Inquiry being conducted by the Panel is a Public Inquiry and there is a presumption that its proceedings should be conducted, in so far as is possible, openly and in public. However, the Panel also has a duty to act fairly and in a manner compatible with the European Convention on Human Rights (ECHR).
8. In approaching this and other applications we have had regard to the opinions of their Lordships in the case of *In re Officer L (Respondent) (Northern Ireland)* [2007] UKHL 36 at paragraph 29 and have considered the applications on a common law basis, having regard to Article 2 issues where that is necessary. We have also considered Article 8 issues where they arise.

THE APPLICATION – WITNESS ‘BA’

9. Witness ‘BA’ seeks anonymity and screening whilst giving evidence. His application is predicated on the fact that he is a serving Prison Officer.

Article 2

10. The Generic Threat Assessment places the existing threat to serving prison officers at ‘moderate’. The confidential information from PSNI indicates there is no intelligence or information which would give rise to concerns in respect of his security. The individual threat risk assessment provided for him by the Security Service assesses that, should he give evidence without anonymity and screening, the level of threat would rise to ‘moderate’ reflecting the increased potential of an attack from dissident terrorist groups. The Security Service has subsequently explained that dissident terrorist groups are Republican in nature. To require this Applicant to give evidence in public without protection of identity would therefore increase the risk to him and his family. ‘Moderate’ means that an attack is ‘possible but not likely’. An increase in threat to ‘moderate’ does not therefore meet the high threshold of a ‘real and immediate’ risk to his life required by Article 2 of ECHR.

Common Law

11. The Applicant has expressed subjective fears for his safety should he be required to give evidence openly in public. Those fears are based on his position as a serving Prison Officer, the history of attacks against Prison Officers in Northern Ireland, the nature of the subject matter of this Inquiry, and the fact that he has worked at HMP Maze. He also adopts the general arguments put forward by NIO and NIPS on his behalf. We have noted all of these factors and have taken them into account, along with all of the other points made in the application.
12. The Applicant founds on a medical condition which required a period of absence from work following the murder of Billy Wright. We have carefully considered the

medical report lodged on his behalf. The Report concludes that there will be a serious deterioration in his health if he is required to give evidence without anonymity. However, there is little in the way of medical explanation as to why this would be the consequence. We note that he has subsequently resumed employment. The Applicant is said to have an unusual name. He is also concerned that disclosure of his identity might have an adverse impact on his current employment as a prison officer. The Applicant avers that he does, or may continue to have, ongoing contact with paramilitary factions and that, *'anonymity is essential for him to preserve his effectiveness as an operational officer and so as not to impair his usefulness for future duty.'* However, there is little support for this proposition in the accompanying material from the Applicant's employer. We have taken into account the foregoing factors and all of the other points made in support of the application.

13. The generic threat assessment indicates that the Applicant's evidence to the Inquiry may have an impact on his level of threat. Equally, the PSNI information enclosed with the Threat Assessment indicates that, depending on the nature of his evidence, there is a possibility that his personal security position may be undermined. This witness will be called principally to speak to the events of the 27 December 1997. He was an eye witness to the murder. There is no present indication that the witness will be criticised for his actions on 27 December 1997. He will also be asked about a comment he may have heard while working within H block 6 on 18 December 1997. We note that he gave evidence at the corresponding trial and Coroner's Inquest without anonymity or screening.
14. We have taken into account the terms of the individual threat assessment. There will be an increase in the level of threat to the Applicant from dissident Republican groups in the event that he is required to give evidence at the Inquiry without the provision of anonymity and screening. There is no indication that the level of threat to him will rise above 'moderate'. We have also taken into account the terms of the confidential Police information.

15. We have given careful consideration to the terms of the IMC Reports, and have had particular regard to the 17th Report, dated November 2007. In particular, we have taken into account that dissident Republican terrorist groups continue to pose a significant threat. We note the belief of the IMC that dissident Republicans have sought to target the homes of police officers or others thought to possess weapons, with a view to stealing them, but we note there is no reference to any attacks on Prison Service Personnel between March and August 2007. The LVF has not been involved in any terrorist activity during the same period and is thought to have no coherent political purpose. Although there were three paramilitary murders, all by dissident Republicans, constituting the largest number in a six-month period for 2 years, the total number of casualties from both shootings and assaults has again fallen. We have also taken account of the supplementary confidential information received by the Inquiry from the Operations department of Prison Service Headquarters. We do not consider that the information contained therein has any direct relevance to the application.

16. In the whole circumstances, we do not consider that it would be unfair to require the witness to give evidence before the Inquiry without anonymity and screening. Accordingly, the application is refused.

R. M. MacLagan

28/03/08

SIGNED BY THE CHAIRMAN FOR AND ON BEHALF OF THE INQUIRY PANEL