

THE BILLY WRIGHT INQUIRY

Chairman: Lord MacLean

DECISION BY THE PANEL

In the Application by

Witness 'BH'

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 'BH' has submitted an application requesting anonymity and screening. Witness 'BH' also submitted with the application further confidential papers that were for the eyes of the Inquiry Panel only. Any information from these documents that 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 the applicant from the Police Service of Northern Ireland (PSNI), along with a redacted version that was sent to the applicant. No conclusion adverse to the application has been based on any material undisclosed to the applicant. Any such information from that document which has been taken into account by the

Panel in their deliberations is referred to in general terms where appropriate in this Decision.

4. The Inquiry also received a Generic Risk Assessment along with an explanation as to the various categories of risk. A copy of this 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 letters 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 from those representing the witness. More recently, the Inquiry received confidential information from the 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 all of the above material together with the Reports of the International Monitoring Commission (IMC), in particular the 18th Report from May 2008.
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.

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9. Witness ‘BH’ 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 individual Threat Risk Assessment provided for witness ‘BH’ by PSNI assesses the present threat to him from terrorists as ‘moderate’. The Generic Risk Assessment places the existing threat to serving Prison Officers at ‘moderate’. ‘Moderate’, in threat assessment terms, means that an attack is ‘possible but not likely’. There is no intelligence or information to indicate a specific threat to him from terrorists. There is no evidence or indication before us that by requiring him to give evidence before the Inquiry that level of risk would increase, let alone meet the high threshold required by Article 2.

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. The applicant 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.
12. The applicant founds on a medical condition which required a period of absence from work. We note that he subsequently resumed employment and has made a full recovery. He fears that he will be required to move home in the event that he is denied anonymity and screening. He states that he has a distinctive name. We take into account these factors and all of the other points made in support of the application.

13. 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 note that there is in existence a policy of rotation of Prison Officers to counter the problems associated with paramilitary prisoners in the prison where he now works.
14. Both the Generic Risk Assessment and the individual Threat Risk Assessment indicate that the applicant's actual evidence to the Inquiry may have an impact on his level of threat. This witness will be called to speak to the events of the 27 December 1997. He was on duty at LVF visits and relayed information relating to Billy Wright's visit. His evidence is entirely uncontroversial. There is no indication that the witness will be criticised for his actions on 27 December 1997. There is no indication that the 'moderate' threat to him will increase in the event that he is required to give evidence at the Inquiry without the provision of anonymity and screening.
15. We have given careful consideration to the terms of the IMC Reports and in particular, the 18th Report from May 2008. In particular, we have taken into account that dissident republican terrorist groups continue to pose a significant threat. The LVF has not been involved in any terrorist activity during the same period and is thought to have no political purpose. We note there is no reference to any attacks on Prison Service personnel in the latest Report. There was only one paramilitary murder in the period. The total number of casualties from shootings and assaults has risen. However, the figure for shootings is the second lowest since 2003 and is said to confirm the trend for less casualties from shootings.
16. We have also taken account of the supplementary confidential information received by the Inquiry from the Operations Directorate of Prison Service Headquarters. We do not consider that the information contained therein has any direct relevance to the application.

17. 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. Maclean

14.5.2008

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