

THE BILLY WRIGHT INQUIRY

Chairman: Lord MacLean

DECISION BY THE PANEL

In the Application by

Witness 'CJ'

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 'CJ' has submitted an application requesting anonymity and screening. Witness 'CJ' 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.
3. The Panel received an Individual Threat Risk Assessment for Witness 'CJ' from the Security Service along with confidential additional information from the Police Service of Northern Ireland (PSNI). The applicant was sent a restricted part of the Security Service 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. 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 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.
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 of 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 ‘CJ’

9. Witness ‘CJ’ seeks anonymity and screening whilst giving evidence. His application is predicated on the fact that he has received death threats; and warnings about his security/safety from the police in the past.
10. The generic Threat Assessment places the existing threat to civilian witnesses as ‘low’. ‘Low’ means that an attack is ‘unlikely’.

ARTICLE 2

11. The Individual Threat Risk Assessment provided for Witness CJ by the Security Service assesses the present threat to him from terrorists as 'moderate'. The Assessment says that, that in the event that he gives evidence without anonymity and screening, the level of threat would rise within the 'moderate' threat band, reflecting the increased potential of an attack by loyalist terrorist groups. To require this applicant to give evidence in public without protection of identity would therefore materially increase the risk to him. 'Moderate', in threat assessment terms, means that an attack is 'possible but not likely'. An increase in threat within the 'moderate' threat band does not therefore meet the high threshold of a 'real and immediate' risk to his life required by Article 2 of ECHR.


COMMON LAW

12. The applicant has expressed subjective fears for his safety should he be required to give evidence openly in public. Those fears are based on threats to his life and warnings from the police that he has received in the past. We have noted all of these matters and have taken them into account.
13. The applicant has received various threats in the past. The most recent was in 2007 but the origin of that is unspecified. The applicant has a public profile and lives in a Loyalist area. Accordingly, it is likely that he will already be known to paramilitary groups.
14. Both the Individual Threat Risk assessment and the generic Risk Assessment indicate the nature of the applicant's evidence to the Inquiry may have an adverse impact on his level of threat. The applicant will speak to the events of 27 December 1997 from the perspective of the LVF prisoners housed in H Block 6 at HMP Maze. Whilst this evidence is important it is not controversial. We note also that the applicant has had a public profile in the past and that according to the confidential police information he is '...well known and would be recognisable in his area of residence'. We have taken account of the fact that there will be a change within the moderate band in the level of threat to the applicant in the event that he is required to give evidence at the Inquiry

without the provision of anonymity and screening. However, there is no indication that the level of threat to him will rise above 'moderate'. The accompanying confidential information from PSNI discloses that there is no current Police information or intelligence that would give rise to concerns in respect of the Applicant's security.

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. There is no evidence that dissident loyalists amount to anything more than groupings of disgruntled people who do not have community support. The LVF has not been involved in any terrorist activity during the same period and is thought to have no political purpose. 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. 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.



9 July 2008

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