

THE BILLY WRIGHT INQUIRY

Chairman: Lord MacLean

DECISION BY THE PANEL

In the Application by

Witness 'FF'

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 'FF' has submitted an application requesting anonymity and screening. Witness 'FF' 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 'FF' 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 and of any supporting documentation. 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.
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.

The Application – Witness FF

9. Witness 'FF' seeks anonymity and screening whilst giving evidence. His application is predicated on the fact that he is a retired Officer from the PSNI.

Article 2

10. The Generic Risk Assessment places the existing threat to retired police officers at 'moderate'. The individual Threat Risk Assessment provided for the applicant by the Security Service assesses that in the event that he gives evidence without anonymity and screening, the level of threat would rise to 'moderate', reflecting the increased potential of an attack by dissident republican terrorist groups. To require this applicant to give evidence in public without protection of identity would therefore increase the risk to him and his family. 'Moderate', in threat assessment terms, 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. There is no current Police intelligence or information which would give rise to concerns in respect of the applicant's security.

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 former Police Officer, the history of attacks against Police Officers in Northern Ireland, the nature of the subject matter of this Inquiry and his role in the investigation following the murder of Billy Wright. We have noted all of these factors and have taken them into account.

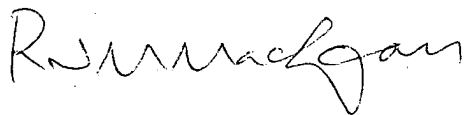
12. The applicant has been the subject of threats on a number of occasions in the past. These are detailed in the confidential statement attached to the application and in the individual Threat Risk Assessment. However, there has been no intelligence indicating a threat to the applicant in recent years. We have also taken into account the stress placed on his family over the years, and the applicant's particular concerns for his wife's health. He also has concerns regarding his own health. We have carefully considered the supporting medical information but are not persuaded that there is evidence to suggest that his health will deteriorate if he

gives evidence without anonymity and screening. He has presumably given evidence over the years. Furthermore, he will not be the subject of criticism in this Inquiry.

13. Both the Generic Risk Assessment and the supporting Police documentation, indicate that the applicant's actual evidence to the Inquiry may have an impact on his level of threat. The applicant will be called to speak to the investigation into the murder of Billy Wright. We consider his evidence to be factual and uncontroversial.

14. Reference is made in the application to the IMC Reports. We take account not only of the parts of the Report identified in the Application, but also the totality of information contained within all of the Reports. We have taken into particular account the terms of the 18th Report from May 2008. We note 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. 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.

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



14.5.2008

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