

THE BILLY WRIGHT INQUIRY

Chairman: Lord MacLean

DECISION BY THE PANEL

In the Application by

Witness 'O'

For

Anonymity 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 'O' submitted an application requesting anonymity. Witness 'O' also submitted with the application further confidential papers that were for the eyes of the Inquiry Panel only. Any information from those 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 'O' 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. 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. 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 reached its decision after due consideration of all of the above material and having also considered the Reports of the International Monitoring Commission (IMC), and 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 taken account of Article 8 issues where they arise.

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9. Witness ‘O’ seeks anonymity whilst giving evidence. His application is predicated on the fact that he is a serving Prison Officer in Northern Ireland.

Article 2

10. The Generic Risk Assessment places the existing threat to prison officers at 'moderate'. The confidential information from PSNI indicates there is no intelligence or information that would give rise to concerns in respect of the applicant's security. The individual Threat Risk Assessment provided for him by the Security Service assesses that, should he give evidence without anonymity, the level of threat would rise within the 'moderate' threat band, reflecting the increased potential of an attack from dissident republican 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' 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

11. The applicant has expressed subjective fears for his safety should he be required to give evidence without anonymity. Those fears are based on his position as a serving Prison Officer, the history of attacks against Prison Officers in Northern Ireland and the nature of the subject matter of this Inquiry. In common with many other Officers he has previously received threats. We have taken all of these factors into account along with all of the other points made in support of the application.

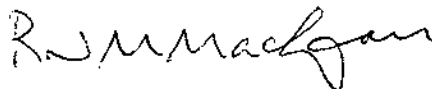
12. We have carefully considered the threats made to the applicant and to those of a more general nature directed towards the department where he worked. We have also taken into account the applicant's health and a letter from his general practitioner. There is nothing to suggest that there would be an adverse effect on his health and that if he were to give evidence, he could not do so without anonymity. We have taken into account that the additional Police information indicates there is no current intelligence or information that would give rise to concerns in respect of the applicant's security. The Generic Risk Assessment also places the existing threat to this applicant at 'moderate' although the nature of an individual's evidence to the Inquiry may have an

impact on his level of threat. The applicant will speak to the destruction of certain files. He was also the recipient of important information following the killing of Billy Wright. Although his evidence is important, there is no suggestion that his conduct had any bearing on the death of Billy Wright.

13. 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.

14. 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 relevance to the applicant's position.

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



14.5.2008

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