

THE BILLY WRIGHT INQUIRY

Chairman: Lord MacLean

DECISION BY THE PANEL

In the Application by

Witness 'T'

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 'T' submitted an application requesting anonymity. Witness 'T' also submitted with the application further confidential 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.
3. The Panel received an individual Threat Risk Assessment for Witness 'T' 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 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. Comments were received from the family of Billy Wright through their solicitor John McAtamney and responses to those comments were received from 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 reached its decisions 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 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 taken account of Article 8 issues where they arise.

The Application – Witness ‘T’

9. Witness ‘T’ seeks anonymity whilst giving evidence. His application is predicated on the fact that he is a retired Prison Officer in Northern Ireland.

Article 2

10. The Generic Risk Assessment places the existing threat to retired Prison staff 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/loyalist 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 retired Prison Officer, the history of attacks against Prison Officers in Northern Ireland and the nature of the subject matter of this Inquiry.

12. The applicant has a 'cross community' business and he fears that the business will suffer if his connection with the death of Billy Wright becomes known. He has related concerns about his wife's safety. The applicant has recently recovered from serious illness. The diagnosis caused him great stress and anxiety. There is a supporting letter from his General Practitioner. We have taken all of these factors into account.

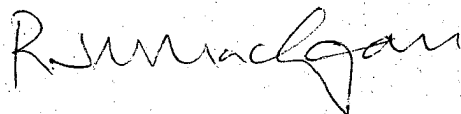
13. The Generic Risk Assessment and the supporting Police documentation indicate that the Applicant's actual evidence to the Inquiry may have an impact on his level of threat. He will be called principally to speak to the system in place for the deployment of staff at HMP Maze. His involvement on 27 December 1997 extends to his communication of a shortage of staff to the Duty Governor and the

subsequent relaying of instructions to H Block 6. He is unlikely to face criticism at the Inquiry Hearing. 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.

14. 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.

15. 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.

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



14.5.2008

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