

THE BILLY WRIGHT INQUIRY

Chairman: Lord MacLean

DECISION BY THE PANEL

In the Application by

Witness 'X'

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 'X' submitted an application requesting anonymity and screening. Witness 'X' also submitted with the application further confidential papers that were for the eyes of the Inquiry Panel only. Any information from these 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 the applicant 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. 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 was submitted. 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 have been received from the family of Billy Wright through their solicitor John McAtamney and responses to those comments were received by 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 decision after due consideration of all of the above material and having also considered the Reports of the International Monitoring Commission (IMC), in particular the 17th Report in November 2007.
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 ‘X’

9. Witness ‘X’ seeks anonymity and screening whilst giving evidence. His application is predicated on the fact that he is a serving manager for the Northern Ireland Prison Service (NIPS) and former Governor.

Article 2

10. The Generic Threat Assessment places the existing threat to serving Governors and NIPS management at ‘moderate’. The confidential information from PSNI indicates there is no intelligence or information, after 2003, which would give rise to concerns in respect of his security. The individual threat risk assessment provided for him by the Security Service assesses that, should he give evidence without anonymity and screening, the level of threat would rise within the ‘moderate’ threat band, reflecting the increased potential of an attack from dissident terrorist groups. The Security Service has subsequently explained that dissident terrorist groups are Republican in nature. 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 to ‘moderate’ 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 openly in public. Those fears are based on his position as a serving manager and former Governor with NIPS, the history of attacks against Prison Personnel in Northern Ireland and the nature of the subject matter of this Inquiry. The applicant founds on the fact that he was the subject of a specific death threat from a dissident Republican group at the end of 2002. He has concerns relating to his family

life. We have noted all of these factors and have taken them into account along with the other points made in support of the application.

12. We have taken full account of all information received with regard to that threat. We have had full regard to the Reports of the IMC, including the 17th Report from November 2007. In particular, we have taken into account that dissident republican terrorist groups continue to pose a significant threat. We note the belief of the IMC that dissident republicans have sought to target the homes of police officers or others thought to possess weapons, with a view to stealing them, but we note there is no reference to any attacks on Prison Service Personnel between March and August 2007. The LVF has not been involved in any terrorist activity during the same period. Although there were three paramilitary murders, all by dissident republicans, constituting the largest number in a six-month period for 2 years, the total number of casualties from both shootings and assaults has again fallen. We have also taken account of the supplementary confidential information received by the Inquiry from the Operations department of Prison Service Headquarters. We do not consider that the information contained therein has any direct relevance to the application.

13. We have taken account of the threat assessment which indicates that the level of threat will rise within the 'moderate' threat band. We have also taken account of the confidential Police information. Both the generic Threat Assessment and the confidential Police information indicate that the nature of the applicant's evidence to the Inquiry may have an impact on his level of threat. This witness will be called to speak to a variety of issues, but primarily to speak to his role as acting Deputy Governor at HMP Maze from May to October 1997. His evidence is likely to be significant. However, he is unlikely to face significant criticism for his actions during that time. As a former Governor of a Northern Irish prison he was, and remains, a well know figure. We note that in his present and former positions he has had a visible public profile.

14. 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 identity. Accordingly, the application is refused.

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