

THE BILLY WRIGHT INQUIRY

Chairman: Lord MacLean

DECISION BY THE PANEL

In the Application by

Witness 'GA'

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 'GA' has submitted an application requesting anonymity and screening. Witness 'GA' 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 'GA' 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 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 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 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 considered, where they have been received.
7. 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.
8. 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).
9. 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 ‘GA’

10. Witness ‘GA’ seeks anonymity and screening whilst giving evidence. His application is predicated on the fact that he is a former Prison Officer.

Article 2

11. The Generic Threat Assessment places the existing threat to this officer at ‘moderate’. There is no current Police intelligence or information indicating a specific threat to the Applicant from terrorists. The Individual Threat Risk Assessment provided for him by the Security Service assesses 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 dissident republican terrorist groups. To require this applicant to give evidence in public without protection of identity would therefore materially 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 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 his position as a former Prison Officer, the nature of the subject matter of this Inquiry, and the fact that he has received numerous threats since 1981. We have noted all of these factors and have taken them into account.
13. Although the applicant has received various threats, we note that the last of these was four years ago. The applicant has a public profile. Accordingly, he will already be known to paramilitary groups. We note that the applicant is a former Prison Officer and, at present, no longer has regular contact with paramilitaries.

14. Both the Generic Threat Assessment and the confidential information from the PSNI indicate that the nature of the applicant's evidence to the Inquiry may have an impact on his level of threat. The applicant will speak to the actions and intentions of Christopher McWilliams. Although his evidence is important, there is no suggestion that his conduct had any bearing on the death of Billy Wright. We have taken account of the fact that there will be an increase 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. 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.

16. 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.

17. 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.

R. M. Maclean

6/05/08

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