

THE BILLY WRIGHT INQUIRY

Chairman: Lord MacLean

DECISION BY THE PANEL

In the Application by

Witness 'BF'

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 'BF' has submitted an application requesting anonymity and screening. Witness 'BF' 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. The application was supported by correspondence from the Inquiries Co-ordination Unit of the Northern Ireland Office (NIO) and the Northern Ireland Prison Service (NIPS).
3. The Panel received an individual Threat Risk Assessment for the applicant from the Police Service of Northern Ireland (PSNI) that was sent to the applicant. Any information from that document which has been taken into account by the Panel in their deliberations is referred to in general terms where appropriate in this Decision.

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 the supporting letters from NIO and NIPS. 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 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 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 ‘BF’

9. Witness ‘BF’ seeks anonymity and screening whilst giving evidence. His application is predicated on the fact that he is a retired Prison Officer.

Article 2

10. The individual Threat Risk Assessment provided for witness 'BF' by PSNI assesses the present threat to him from terrorists as 'moderate'. The Generic Risk Assessment places the existing threat to retired Prison Officers at 'moderate'. 'Moderate', in threat assessment terms, means that an attack is 'possible but not likely'. There is no intelligence or information to indicate a specific threat to him from terrorists. There is no evidence or indication before us that by requiring him to give evidence before the Inquiry that the level of risk would increase, let alone meet the high threshold required by Article 2.

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, the nature of the subject matter of this Inquiry, and the fact that he has worked at HMP Maze. The applicant also adopts the general arguments put forward by NIO and NIPS on his behalf. We have noted all of these factors and have taken them into account.

12. The applicant also founds on his retirement which arose following the development of a medical condition after the murder of Billy Wright. We have carefully considered the medical evidence submitted in support of the application. It is the opinion of a Consultant that he is not medically fit to give evidence at the Inquiry but that he might be in a position to do so by video-link. We have taken this opinion into account.

13. We have taken into account the individual Threat Risk Assessment provided to us which indicates there is now less of a threat to the applicant, as he no longer has the same day-to-day contact with prisoners. The Generic Risk Assessment indicates that the applicant's actual evidence to the Inquiry may have an impact on his level of threat. The Appellant was the driver of the

second van which was parked in the yard of H Block 6 when the killing took place. An allegation has been made about his conduct that morning by the family of Billy Wright. There appears to be little of substance in this allegation. Furthermore there is no present indication that he will be criticised at the Inquiry. 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 witness to give evidence before the Inquiry without anonymity and screening. Accordingly, the application is refused.

R. MacLagan

20/05/08

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