

Neutral Citation No: [2024] NICoroner 1

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*Judgment: approved by the court for handing down
(subject to editorial corrections)**

ICOS No:

Delivered: 09/01/2024

IN THE CORONER'S COURT IN NORTHERN IRELAND

BEFORE THE CORONER
MR JUSTICE HUDDLESTON

IN THE MATTER OF AN INQUEST INTO THE DEATHS OF
DANIEL DOHERTY AND WILLIAM FLEMING

RULING ON ANONYMITY AND SCREENING APPLICATION -
PW9

Context

[1] This Ruling deals with the application made by PW9 for anonymity and screening in relation to his provision of evidence to the Inquest into the deaths of Messrs Doherty & Fleming.

[2] The Ruling is a definitive ruling in respect of PW9 who is imminently scheduled to provide evidence to the Inquest. I have received a generic assessment of the risk that is perceived to be faced by those retired members of the security forces that have been invited to and will give evidence.

[3] I have already given a detailed Ruling in respect of A&S (see [2023] NI Coroner 5) and, where relevant, rely on the legal basis which I set out there for my approach to such applications. Broadly, consistent with my approach there, I consider that:

- (a) the security risk that prevails generally in Northern Ireland remains 'severe' - as determined by the NIO in March 2023;
- (b) the risk to *former* members of the security forces (including former police officers) remains both subjectively and objectively something that is real and not fanciful - adopting the terminology of Girvan LJ in *Re Officer C & Ors* [2012] NICA 47;

- (c) even taking into account the Threat Assessment now provided one could not discount the possibility that giving evidence without the benefit of special measures could increase the security risk to those who attend and give evidence. In many cases – including this one – the applications disclose that individuals often have spent their working life, and since it ended, their retirement, in making personal and family adjustments to protect both their identity and security.

Submissions by the Next of Kin

[4] The NoK have helpfully provided their comments on the present application. They did so on the basis that they did not have the benefit of a threat assessment. In broad terms, they have no issue with the redaction of PW9's personal information but on the basis that (a) the identity of PW9 (by name) has been part of the disclosed information since April 2013; (b) that his Police Statement of 6 December 1984 (in which he is named) is available as part of the papers available in this Inquest and (c) that he is referred to (by name) in Constable Andrew's Statement and his evidence to this Inquest that 'anonymity and screening would be pointless in [these] circumstances.' I agree with that – in part.

Ruling

[5] In my previous Rulings I have said that I intended to adopt a cautionary approach. That applies to this Ruling. I am also bound to take a proportionate approach to the issues that are raised and have been the subject of submissions made on behalf of the applicant and the NoK.

[6] The present application was made late in the day in so far as information in relation to PW9 – principally his name – was already known (see above). That being the case I see no strength whatsoever in his claim for anonymity. His application is based primarily on the grounds that he remains concerned for his own safety and that of his family. Even though PW9 has expressed concerns, and I accept that he may have a genuine basis for doing so, the question for me is what is appropriate in the present scenario. Firstly, as I have said his application was made late in the day. Secondly, it was made at a point in time when his name had already been known in connection with these proceedings for a significant period of time. Finally, his name has already been repeated (according to the NoK in excess of forty times) in public connection with these proceedings. In those circumstances I, in conducting the balancing test, have concluded that he is not entitled to anonymity. That is what distinguishes this case from my early rulings on the question of anonymity.

[7] Although his name is known, however, his identity (ie his appearance) is not and can be protected through screening. Taking all factors into account, including the precautionary approach that I have adopted to date, it is my considered view that it is proportionate in all the circumstances that PW9 is granted screening from all but me, as coroner, and the legal representatives who appear in this Inquest. I do

accept, therefore, that some security benefit can be derived from the provision of screening.

[8] All of this means that PW9 is to attend in person to give his evidence in person but that he is to be screened in such a way that he is to be visible only to the professional representatives of the Coroner and the PiPs but otherwise screened from the court. He will not benefit from anonymity for the reasons given.