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17/94

Handwritten signature

FROM: S A MARSH
SECURITY POLICY AND OPERATIONS DIVISION 2
14 JANUARY 1994

ASST SEC 249/1
18 JAN 1994
CENT MOW SEC

- cc PS/Secretary of State (B&L) - B
 - PS/Sir John Wheeler (B&L) - B
 - ~~PS/Mr Fe...~~ - B
 - Mr Legge - B
 - Mr Bell - B
 - Mr Bentley, HOLAB
 - Mr Deverell - B
 - Mr Lyon - B
 - Mr Shannon - B
 - Mr Steele - B
 - Mr Williams - B
 - Mr Wood - B
 - Mrs Collins - B
 - Mr Leach - B
 - Mr Maccabe - B
- (all without enclosures)

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cc Mr [unclear]

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18.

PS/PUS (B&L)

MEETING WITH SIR LOUIS BLOM-COOPER: 18 JANUARY

Sir Louis Blom-Cooper has requested a meeting with PUS on 18 January to discuss the report which he is due to present to the Secretary of State at the end of this month. A copy of his terms of reference as Independent Commissioner for the Holding Centres is attached at Annex A. The precise reason for the meeting is unclear; Sir Louis met the Minister of State shortly before Christmas and had a further discussion with Mr Steele and officials from SPOB earlier this month. We also understand that he has been speaking to the Chief Constable and to the Police Authority. It is likely, therefore, that he simply wishes to go over the ground with PUS and highlight some of the main themes which will appear in his forthcoming report.

The report

- 2. We have arranged for Sir Louis to hand his report, which he is still in the process of drafting, personally to the Secretary of

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State on 31 January. He will then accept any factual corrections (we have already been helping him with some of the detail) following which a date will be arranged for its publication, probably by means of an arranged PQ. He will also hand the Secretary of State a covering letter, which he intends should remain confidential. Sir Louis has assured us that the report will contain no recommendations as such, but will describe the operation of the Police Offices and highlight certain areas where improvements might be made. Apart from saying that he will give a clean bill of health to what he calls the "gaoler" functions of the Police Offices, the main points he is likely to raise with PUS are set out below.

Adequacy of facilities

3. Sir Louis believes that the physical facilities at Castlereagh, Gough and Strand Road are inadequate and that all three should be closed and replaced by a new, purpose-built, Police Office. He may well propose that part of the Prisons estate - either at Hydebank or at Maze - could be utilised to this end. (Mr Shannon is taking him to see the Maze next week.) There is of course no objection to Sir Louis making such a recommendation, although PUS might point out that considerable costs would be involved and a new Police Office is not something which could be constructed quickly. He might also caution Sir Louis against any phraseology in his report which might lead to a "Castlereagh must go" headline.

Legal services

4. Sir Louis believes that the current arrangements for providing legal advice to detainees are unsatisfactory. He is minded to suggest that a rota of solicitors be established by the Law Society to provide a service similar to that currently available on the medical front. This would, he considers, by denying a detainee automatic access to his own solicitor, remove the need for that part of section 45 of the Emergency Provisions Act which allows the police to delay a legal consultation for up to 48 hours in certain circumstances. He claims that such a scheme would be self-financing,

in that it could be funded from savings in the Lord Chancellor's Department's Legal Aid budget (which would probably be of the order of £280,000 per year). He is likely to tell PUS that he has floated the idea with the Chief Constable, who said that he would have no objection to such a proposal appearing in his report (although whether he would allow it to be implemented is quite another matter). He is also likely to say that he has seen the Law Society who did not reject the idea entirely (although, again, whether they would do anything practical to bring it about is open to question).

5. PUS might say that this was an interesting idea, but one whose practical implications would need to be thought through very carefully. It might, for example, prove impossible to assemble a rota of solicitors; the recently-introduced Codes of Practice (which guarantee a detainee access to a solicitor of his own choosing) would have to be amended; and it might still prove necessary to retain the power to delay access to a solicitor in certain circumstances. Moreover, if such a scheme were to be implemented there would almost certainly be a campaign of allegations that detainees were being denied their own lawyers and fobbed off with a tame police solicitor; the issue of legal advice in the Police Offices is fairly quiet at present and such a proposal could backfire in confidence terms.

Medical services

6. Sir Louis is likely to describe certain detailed changes he will be suggesting to the way in which medical services are provided. He is likely to say that there should be at least one female doctor on the panel, and that there should be a proper organisational structure, as, apparently, there was in the past. PUS can say that this aspect of the report will be studied very carefully.

Video and audio-recording of interviews

7. Sir Louis favours the video and audio recording of all interviews, the tapes to be sealed and viewed in private by a High Court Judge only in the event that a detainee at his subsequent trial alleges that a confession had been extracted from him by improper means. The Judge would then be empowered to order full disclosure of the tape only in those very rare instances where it revealed that there was a prima facie case for a confession to the struck from the record. Under no other circumstances would a tape be seen by anyone. Sir Louis believes that this would get round the disclosure issue, of which he is well aware.

8. In fact, of course, such a proposal would not meet the central RUC concern that the very fact of a recording being made would fatally deter co-operation, nor is it inconceivable that in due course some legal device might be found to force wider disclosure. (We believe, incidentally, that the Chief Constable has said that he personally would have no objection to the idea being floated, but officially RUC opposition to recording in any form remains implacable.) PUS might therefore be sceptical about the merits; he might deploy as necessary some of the points in Annex B which was prepared for general use in co-operation with the RUC. He might also point out that such a scheme would have to be statutory, and therefore something best addressed in the context of the next Emergency Provisions Bill (due in the 1995/96 session).

Links with the Lay Visitors scheme

9. Sir Louis may mention to PUS that he considers that much of his job could be done by the Police Authority's Lay Visitors, perhaps working for this purpose under his direction. PUS is of course more than aware of the delicate state of relationships between the Chief Constable and the Police Authority, and also of the Chief Constable's implacable opposition to Lay Visitors being allowed in the Police Offices. He might tell Sir Louis that this is not a

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proposal which it would be helpful to surface while the future of the tripartite structure is under public discussion.

Conclusion

10. We believe that Sir Louis is anxious to do nothing which will cause gratuitous embarrassment either to the Government or to the RUC. This is to be welcomed, and it would be helpful for PUS to say so. But he is very much his own man, and has been consulting widely (including, for example, the Lord Chief Justice on video and audio recording). The meeting might therefore be regarded as a final opportunity to influence the tone of the report rather than to encourage the Independent Commissioner to change his mind.

11. PUS may wish to see Sir Louis tête-à-tête; but I should be happy to accompany him if he wishes. I should also be happy to discuss the issues in more detail beforehand.

(Signed)

S A MARSH
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