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FROM: S J LEACH

Associate Director Policing & Security
12 January 1998

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- cc PS/Mr Ingram (B&L) - O
- PS/Mr Murphy (B&L) - O
- PS/PUS (B&L) - O
- PS/Mr Semple - O
- Mr Steele - O
- Mr Thomas - O
- Mr Ray - O
- Mr Shannon - O
- Mr Stephens - O
- Mr Bell - O
- Mr Watkins - O
- Mr Woods - O
- Mr Beeton - O
- Mrs Collins - O
- Mr Hill - O
- Mr Brooker - O
- Mr Ferguson - O
- Mr Maccabe - O
- Mr Perry - O
- Mr Smyth - O
- Mr White - O
- Mr McIlroy - O
- Mr Myles - O
- Miss Meldrum - O

PS/Secretary of State (B&L) - O

BRIEFING FOR CBMs SUB-COMMITTEE: 13 JANUARY 1998

The Secretary of State is to participate in the fifth meeting of the Liaison Sub-Committee on Confidence Building Measures, scheduled for 15.00 hours on Tuesday 13 January. I, Mr Watkins, Mr White and Mr McIlroy of REL will be present in support. (Under the rules set for the Sub-Committee, the Government has two places at the table and three in support, with discretion to rotate between the two. The Secretary of State will of course be at the table throughout the

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meeting; I will accompany her to start with and will give way to colleagues as appropriate as the discussion progresses.)

2. The stated purpose of the meeting is to complete the Sub-Committee's discussion of the **prisons** issue (already covered at the previous two meetings) and of **economic and social matters** (discussed at the last one), both on the basis of papers provided by the Government. The **key documents** for the meeting are therefore **HMG's two papers** (which have been separately submitted for approval by Mr White and Mr Ferguson) and the **opening speaking notes** for use by the Secretary of State in introducing each paper - **Prisons at flag A** and **Economic and Social Issues at flag B**. (Supplementary briefing on other specific issues which may arise under these heads is also provided, although since the possible scope of questioning is very broad the Secretary of State may wish to refer detailed points to officials.)

3. As the Sub-Committee Chairman (Senator Mitchell) tends to indulge participants who raise CBMs not on the agenda, I also attach briefing provided by the relevant Divisions on **security** (flag C), **policing** (flag D), **parades** (flag E), **Brian Nelson** (an old issue on which Sinn Fein are currently trying to build a campaign - flag F) and **Bloody Sunday** (flag G).

4. The **key challenge** at this meeting is to build on the success of the Secretary of State's visit to the Maze. She said then (and the paper repeats) that the Government was ready in this Sub-Committee "to work on an account of what would happen in respect of prisoner releases in the context of a peaceful and lasting settlement". We therefore need to prompt the parties to offer constructive views on this subject to which we can respond. (The Prime Minister has decided that we should not surface proposals of our own at this stage, and in any case it would be tactically preferable to encourage others to make the running.) The theme to pursue in exchanges on our paper might therefore be that

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- the Government recognises that prisoner issues are important and need to be resolved to the satisfaction of participants in the process, alongside progress on all the other issues;
 - but there can be no satisfactory resolution which ignores the need to maintain community confidence in the criminal justice system, or ignores the feelings of victims and their relatives;
 - so the Government wants to know what arrangements participants would propose for releases, in the context of a peaceful and lasting settlement, which would support community confidence and recognise the interests of victims;
 - hope that participants could submit papers on this specific issue, which we could then discuss in a future meeting of the Sub-Committee after we have covered some of the other items on our agenda.
5. I and colleagues would be happy to discuss the issues with the Secretary of State before the meeting if she wishes.

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PRISONS

**OPENING STATEMENT ON PRISONS ISSUES TO THE LIAISON SUB GROUP ON
CONFIDENCE BUILDING MEASURES: 13 JANUARY 1998**

Thank you, Mr Chairman. I would first like to say how pleased I am to be here today, and to underline the importance which the Government attaches to confidence-building and the work of this Sub-Committee.

The paper that has been circulated responds to and builds on points made during previous meetings of the Sub-Committee.

In dealing with prisoner issues the Government has been conscious of its duty to protect the public and to maintain public confidence in the criminal justice system. We are also very aware of the concerns of victims and their families.

Nevertheless I also understand the real concerns felt by many that there have been unique circumstances in Northern Ireland which have led to many people being in prison who might otherwise not have been. I believe that we have already taken major steps which recognise that point. These include the early release of over 250 scheduled offenders and the more liberal life sentence review arrangements which operate here.

I also understand that there have been concerns about the way that measures have impacted differently on different groups of prisoners. However I can assure you that the Government has been at pains to act fairly and consistently. We believe that it would be wrong to benefit one group at the expense of another.

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I want to make very clear that the Government is committed to building confidence throughout the community in Northern Ireland. I believe that the biggest boost to confidence will come through agreement in the talks process.

However, I have always recognised the importance of prisoner issues on both sides. They too need to be resolved.

We are therefore prepared in this sub-committee to discuss the parties' concerns on prisons issues and to work on an account of what would happen in respect of prisoner releases in the context of a peaceful and lasting settlement being agreed. I would welcome the views of parties on these issues, as well as their comments on the paper we have tabled for this meeting.

But I should also make it clear that there will be no significant changes to release arrangements in any other context. Nor will there be changes for prisoners associated with any paramilitary organization actively engaged in terrorist activity.

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GENERAL POINTS

Nothing Has Been Done

Accusation

The British Government has done nothing for prisoners. Alternatively the Government has done nothing willingly.

Lines to Take

- ◆ Changes so far made include:
- ◆ the early release of over 250 scheduled offenders (both loyalist and republican);
- ◆ more frequent life sentence reviews;
- ◆ extensive changes in home leave and compassionate leave arrangements; and
- ◆ changes in legislation that make transfer of prisoners within the United Kingdom much easier
- ◆ there are no areas in which the Government has unlimited discretion. Given the constitutional and legal framework in which the Government operates these changes are imaginative and extensive.

Criminalization/Political Motivation

Accusation

HMG considers that terrorists are criminals whereas they are politically motivated individuals responding to injustice and oppression. HMG is deliberately demonizing prisoners to avoid dealing with the prisoner issue. HMG is inconsistent in that prisoners are given scheduled status because they have committed political offences.

Background

This line is run by Sinn Féin, PUP and UDP. The Women's Coalition and the Labour Party would be sympathetic and aspects would strike a chord with the SDLP.

Line to Take

- ◆ no one is imprisoned in Northern Ireland for political beliefs. Those in gaol have been subject to due process of law. Those sentenced have been convicted of offences that would be recognised as such in any democratic society.

- ◆ The Government does recognise the unique circumstances of Northern Ireland, the background to the conflict and the fact that people have been embroiled in the conflict who, in less volatile circumstances, might not have been involved in offences. This has been recognised in the past, for example the comparatively short periods served by life sentence prisoners here.

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- ◆ Scheduling of offenders is not an admission that these prisoners are political prisoners but that they are terrorists. Terrorism is defined as violent offences for political ends.

Double Standards

Accusation

The British Government operates double standards. Soldiers are not convicted for killing civilians. When they are convicted they are released early.

Background

Sinn Féin quotes 350 civilians being killed by members of the security forces but claims only 4 soldiers have been convicted two of who were released after 2 years in prison.

Line to Take

- ◆ There is a single standard. Where there is evidence of wrong doing people will be prosecuted.
- ◆ Soldiers have been dealt with on the merits of their cases including. Clegg and Thain served longer than 2 years. Hathaway and Byrne (who are forgotten about) served 13 years and 12 years respectively.
- ◆ Other members of the security forces have been convicted of murder and have served lengthy periods in prison.

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Special Treatment for Particular Classes of Prisoner

Accusation

The Government could be more generous in relation to particular categories of prisoner.

Background

It has been argued that, as a first step, the Government could be more generous in respect of certain classes of prisoners, for example those in prison for crimes which have no victim (membership or possession offences) or where there are concerns about the safety of convictions.

Lines to Take

- ◆ No one is serving a lengthy period solely for membership.
- ◆ It is misleading to think of possession or conspiracy as crimes without victims. Many crimes in Northern Ireland have been the result meticulous planning and extensive preparations. The length of sentences for possession and conspiracy offences will reflect the seriousness of the crime in the course of being planned or perpetrated.
- ◆ The safety of convictions is the responsibility of the independent courts and the independent Criminal Cases Review Commission. It would be wrong for Government to arbitrarily overturn the decisions of the Courts.

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DETAILED POINTS

COMMENTARY ON DETAILED POINTS RAISED BY THE UDP

Life Sentence Prisoners

Recommendations - immediate release of all who have served 10 years; immediate review of prisoners who have served 5 years; review process to be more receptive to lobbying on behalf of individuals; LSRB to be directed to take account of cease-fires operated by lifers "parent organization".

Line to Take

- ◆ release arrangements are already generous and take into account the actual risk posed by individuals.
- ◆ The Secretary of State has directed that the quality and enduring nature of the cease-fires are taken into account.
- ◆ Reviews are being conducted more frequently.

Determinate Prisoners

Recommendation - 66% remission for political prisoners.

Line to Take

- ◆ 50% remission is very generous in circumstances in which there is no supervision following release.

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Other Recommendations

Recommendation	Comment
Working Out Scheme for lifers should be abolished	13 weeks is spent working out from prison with weekend home leave. Most of the rest of the scheme is spent in the community reporting fortnightly to prison. The Scheme is not onerous and it counts fully towards the life sentence "tariff"
Non ambulant home leave should have not time-served qualification and should extended to the extended family; compassionate parole should be extended to	Schemes are already generous. Inclusion of grandparents led to a 9 fold increase in release. Further extensions would leave the schemes unmanageable.
Weekend home leave in lieu of visits during last 6 months of sentence; the 10 days leave allowance should be made available to all prisoners in the pre-release phase	There are already generous home leave allowances in the final months of sentence, particularly for those serving long sentences.
Prisoners should be given unescorted medical leave	This is already being done where it is appropriate.
Family visits should be allowed in greater privacy	This would have security implications, particularly in current circumstances.

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DETAILED POINTS

COMMENTARY ON MEASURES CALLED FOR BY SINN FÉIN

Recommendation	Comment
5 Irish prisoners who have been held over 22 years in England should be released	The period to be served by prisoners sentenced in England is for the English authorities. In the case of life sentence prisoners there is a formal tariff setting process.
All Irish political prisoners in England should be transferred to Ireland	Terrorist prisoners are being transferred and repatriated. There are no such prisoners awaiting transfer to Northern Ireland
SSUs should be closed permanently	No Irish terrorist prisoners are held in SSUs currently. SSUs were introduced following the attempted escapes of republican prisoners.
Irish prisoners held in England should be granted compassionate and normal parole	The privileges given to all prisoners in England are based on their security classification.
Republicans transferred to Northern Ireland should be given unrestricted transfers ie they should be subject to NI release mechanisms	The primary purpose of the transfer arrangements is to allow prisoners to serve their sentences closer to their families. It is not a mechanism to allow reductions in the period to be served
Prisoners should have legal representation at the LSRB, should	The LSRB is not a court of law. Its decisions are reviewable. Secrecy has

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Recommendation	Comment
have access to secret reports and should have the right of appeal	been significantly relaxed but is still needed to protect those involved in the process and the quality of information being provided.
Working Out Scheme for lifers should be abolished	13 weeks is spent working out from prison with weekend home leave. Most of the rest of the scheme is spent in the community reporting fortnightly to prison. The Scheme is not onerous and it counts fully towards the life sentence "tariff"
Strip searching should cease	This is a necessary security precaution
Women prisoners in Maghaberry should have the same privileges as men in the Maze and in Maghaberry	The female regime is equivalent to the male regime at Maghaberry. It would be discriminatory to males to give females a combination of the Maze and Maghaberry regimes.
Roisin McAliskey should be released.	The Home Secretary is considering representations as to why Roisin McAliskey should not be returned to Germany. His decision will be governed by Section 12 of the Extradition Act 1989. (The Home Secretary has a general discretion to refuse extradition in any individual case and is obliged to refuse if extradition would be unjust or oppressive).

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Recommendation	Comment
Extradition requests should be withdrawn	It is the general policy of Government to seek to return to justice those who attempt to flee or escape.
Time served awaiting extradition should be deducted from sentences	Long standing Government policy is that time spent unlawfully at large should not count towards sentence
Review of visits to allow greater contact with families, opportunities for child-only visits and conjugal visits	Any such changes would have security implications, cf the Averill escape
Appropriate training and development should be available to prisoners before release	Extensive training and development is available. We would be happy to discuss improvements. But security considerations may be an issue in relation to certain types of facility.

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PRISONS BRIEF: KEY POINTS

Recent events at HMP Maze: Averill escape; Murder of Wright; Inquiries

- ◆ I am saddened by the death of prisoner Billy Wright as I would be by any murder victim.
- ◆ I very much regret the escape of prisoner Liam Averill. It is particularly disappointing that he abused a compassionate measure that had been widely welcomed by prisoners and their families.
- ◆ Both incidents will be thoroughly investigated.
- ◆ The RUC are undertaking a full police investigation into the death of prisoner Billy Wright. (In light of this investigation it would be inappropriate for me to comment further on the murder.)
- ◆ An independent inquiry into recent events in HMP Maze is underway. It is being led by Mr Martin Narey, Director of Regimes in the Prison Service of England and Wales.
- ◆ In addition there is a forthcoming inspection of HMP Maze by the Chief Inspector of Prisons for England and Wales, General Sir David Ramsbottom.
- ◆ The reports of both the inquiry and the inspection will be published.
- ◆ A series of measures to improve the security and safety of inmates and staff have already been introduced.

Permanent and temporary release arrangements

- ◆ Since the Remission of Sentences Act was introduced in November 1995 over 250 (253 to be precise) prisoners have been permanently released early under its provisions; in time a further 300 prisoners will benefit under this scheme.

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- ◆ all temporary release schemes in Northern Ireland have been extensively increased during the past three years;
- ◆ about 50 prisoners from the Maze receive compassionate temporary release every month;
- ◆ about a third of all sentenced prisoners received 10 days Christmas home leave;
- ◆ 160 paramilitary prisoners - both loyalist and republican - received Christmas home leave from HMP Maze. All returned to prison on time.
- ◆ to ensure that the reviews of life sentence cases continue to take account of the changed circumstances of the cease-fires the Secretary of State for Northern Ireland has directed that in future no case should be knocked back for more than 3 years;

Prisoner transfers

- ◆ Since new arrangements were introduced in 1992, 30 prisoners have been transferred from Great Britain to Northern Ireland;
- ◆ 16 terrorist prisoners have been granted temporary transfer to Northern Ireland (14 republican and 2 loyalist) and 14 terrorist prisoners have been granted unrestricted transfers.
- ◆ there are currently four applications from loyalist prisoners held in Great Britain for transfer to Northern Ireland.
- ◆ there are no applications from republican prisoners held in Great Britain for transfer to Northern Ireland outstanding;
- ◆ the most recent transfer was in respect of Patrick Martin; the Home Secretary agreed to grant him a restricted transfer to Northern Ireland which took place on 18 December 1997.

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Repatriation

- ◆ 19 prisoners have been repatriated from England to the Republic of Ireland, including 10 prisoners convicted of terrorist offences; the transfer of a further 7 is imminent;
- ◆ all republican prisoners held in English jails had their security classifications reviewed in August and those who were Category A Exceptional Escape Risk were downgraded; no republican prisoners are held in SSUs;
- ◆ further cases are under consideration by the two Governments.

Credit for time served in United States by prisoner Jimmy Smith

- ◆ The Secretary of State has decided to refuse Jimmy Smyth's application for credit for the time spent in custody in the United States while fighting extradition.
- ◆ It is long standing Government policy that time spent unlawfully at large should not count against sentences.

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