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PART A

Part . A.

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Working Group on Disruption In
The Prison Service.

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[advice?]

QUEEN ANNE'S GATE LONDON SW1H 9AT



CH/EXCHEQUER	
REC.	26 APR 1989
ADVICE	MR CHIVERS
COPIES TO	CST
	SIR P MIDDLETON
	MR MOUNCH
	MR MORTIMER
	MR KELLY

✓ 26/4

25 April 1989

Ch/ To note that introduction of a no-disruption scheme in prisons will entail new pay negotiating procedures and presumably higher pay.

Dear George,

WORKING GROUP ON DISRUPTION IN THE PRISON SERVICE

I attach a copy of the first report from the working group of officials which, with your agreement and that of colleagues, was set up last year under Sir Clive Whitmore's chairmanship to examine in detail the possibility of no disruption arrangements and contingency planning for major disruption in the Prison Service.

The first part of the report summarises the Group's main conclusions. Its annexes contain the detailed conclusions on contingency planning for what is seen as a realistic worst case scenario, and on a possible no-disruption scheme. The operational lessons learned from the recent dispute at Wandsworth Prison have been taken into account in drawing up this report.

On the basis of the work done, the Working Group concludes that a realistic worst case scenario would be a walk out by 85% of the prison officers. I should emphasise that this is the most extreme case we can envisage, but it is nevertheless right that our contingency plans can meet it. After consulting the police at a very senior level, the Group believes that this would be manageable but that the consequences would be far-reaching. A particularly heavy burden would be placed on the police, and we should have to watch carefully their morale and their perception of the situation. The report suggests that it would be essential to ensure that the situation was not seen as having been provoked by management, and I accept that this points to keeping the no-disruption scheme in reserve to be brought out in response to provocation from the Prison Officers' Association (POA), rather than introducing it in isolation as a premeditated act. This means that we would have to be ready to recall Parliament if a major crisis broke out during a recess.

/The Working

The Rt Hon George Younger, TD, MP
Secretary of State
Ministry of Defence

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WORKING GROUP ON DISRUPTION IN THE PRISON SERVICE

FIRST REPORT TO MINISTERS

1. Following the Home Secretary's letter of 16 June to the Secretary of State for Defence (copy attached at Appendix A) a Working Group of officials was set up under the chairmanship of Sir Clive Whitmore. At Appendix B is a list of members. The Group has met three times (26 July, 23 September and 17 February). This note reports progress with the consideration by the Group of the prospects for a no-disruption scheme and a national contingency plan. (All references in this report to "national" plans should be read as applying to England and Wales only).

2. The detailed conclusions of the Working Group on contingency planning for an all-out prison service strike and on a possible no-disruption scheme, are set out in Annexes A and B respectively of this report. The main conclusions, and comments on the handling implications, are set out below.

Contingency Planning

3. It is extremely unlikely that all prison officers would respond to a call for strike action. The number who would remain at work would depend on the circumstances and cause of the dispute, but would be likely to be at least 30%. The 30% would probably not be evenly distributed: some establishments might continue to work normally but there might be virtually complete walk-outs in others. In the light of the experience at Wandsworth (a hard-line establishment) the Working Group has taken a prolonged strike by 85% of prison officers as a realistic worst case.

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4. On the basis of discussion with the police, the Working Group has concluded that such a strike would be survivable, but that its consequences would be serious and damaging. It is therefore best avoided, but not to the point of management's being inhibited from pursuing firmly reasonable management objectives in negotiation with the POA. Further work is, however, required to refine the plans and bring them to a state in which they could be relied upon in the event of a national strike.

5. In the event of all out or widespread strike action by prison officers, the main burden would fall on the police. This would be a very heavy burden, surpassing to a considerable extent the burdens imposed even at the height of the miners' strike. The whole police service would have to go over to an emergency regime of 12 hour shifts. On this basis, sufficient police manpower could, it is believed, be provided to run the prisons and deal with associated disorder within and without prison establishments. The police presence on the streets would, however, be visibly reduced, and it would be common knowledge not least among criminals that a high proportion of police resources were being mobilized to deal with the dispute. This could be expected to lead to an increase in opportunist crime and low level public disorder on the streets. Positive policing (crime prevention, community relations, home beat officers etc) would have to be curtailed, as well as training. The effects would be damaging and some of them would persist after the prison dispute was resolved.

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6. It is difficult to estimate with any precision how many police officers would need to be deployed. A great deal would depend on the circumstances at the time, and on operational decisions about shift patterns etc. Following a joint analysis by the former Deputy Director General of the prison service and senior police officers of the existing tripartite contingency plans, we can say with reasonable confidence that the number of police officers required to run prisons in a steady state (ie without serious inmate disturbances and excluding any police required to control pickets and demonstrations) would be about 12,000 on a two shift system and 22,000 for three shifts (falling to 10,000 and 19,000 respectively once servicemen were deployed). About an additional 4,000 officers would need to be in reserve to deal with disorder associated with the dispute. This represents between 10% and 26% of the effective manpower available for day-to-day policing (ie excluding senior officers and specialist departments such as CID). This may be an overestimate of the numbers that would actually be required and deployed, but recent experience at Wandsworth prison has broadly validated the assumptions which were made in order to arrive at these figures. It has also suggested that, in the early stages, substantial additional manpower may need to be deployed to assert control. The figures have the endorsement of the Association of Chief Police Officers (ACPO) who are involved in this exercise and therefore form a solid basis for further planning. But it has to be acknowledged that the scenario of a virtually all-out strike takes us into new and uncharted waters, and that the actual deployment (which would be a matter for police operational judgement at the time) might turn out to be significantly different from these estimates.

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7. Although on these figures, the police could just about cope, a range of measures should be prepared to ease the burden. These should include the preparation of emergency legislation to extend the powers for early release of prisoners, and to ban events such as football matches which impose a heavy policing burden. No fundamental change in the nature of the military contribution need be envisaged, though there are some areas, such as logistical support for the police, where additional help from the armed services may be required. The police have stressed the importance to them, both practical and symbolic, of not being left alone to carry the burden but of receiving the maximum help possible from the military within the guidelines which have been set.

8. Police morale will be an important consideration. Rank and file officers would be expected to replace the striking prison officers. This is a different situation from the miners' strike, where the police job was simply to enable those miners who wished to do so, to work. There will undoubtedly be misgivings among many officers (particularly in the federated ranks) about the rightness of what would be seen as direct strike breaking. It would therefore be essential for any strike not to be seen as having been provoked by management.

9. On the military side, a national deployment of Servicemen to the prisons would involve some 10,000 men and if sustained for more than a short period would have a seriously damaging effect on the operational readiness and effectiveness of the Armed Forces. Long term damage would be done to recruitment, retention and to individual and collective training programmes. The inability to

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participate in major NATO exercises would if it arose, erode our standing in NATO and would reduce for a period the overall effectiveness of NATO military forces.

No-disruption scheme

10. It is against this background that Ministers will wish to consider the merits of the introduction of a no-disruption arrangement on the lines proposed. If such an arrangement were brought in, it would need to be in circumstances in which it was, and was seen to be, a fair and reasonable response to damaging and irresponsible behaviour by the POA. The package should be designed to encourage its acceptance by as many prison officers as possible. It would also need to be perceived as fair by the public at large, and crucially by the police officers who might have to deal with any associated industrial action. It would also need to be brought in in circumstances in which there was a reasonable degree of confidence that it would be effective against any likely form of industrial action, (including for example a work to rule).

11. The main elements of the proposed scheme are as follows. It would be an offence to incite a prison officer (which would include governor grades) to breach his terms of employment or commit acts of indiscipline. In this respect, the prison service would be put in the same position as the police. However, union membership, as such, would not be banned, nor the existing unions replaced by a special body like the Police Federation. But union officials who tried to organise industrial action would be committing an offence,

and individual officers who took industrial action would be dealt with under the discipline code. In return for this loss of ability to strike, new machinery and procedures would be put in place for settling pay and resolving disputes. The main options for pay determination are a process based on negotiation, but with special provision to take account of the union's loss of bargaining power (probably involving guaranteed unilateral access to arbitration); or some form of indexation; or a review body. None of these options is particularly attractive in its own right, but would be put forward as part of a package of arrangements to secure industrial peace in the prison service. Ministers will wish to consider which of the options they prefer.

12. The no-disruption scheme would require legislation.

Tactics

13. Introduction of the no-disruption scheme and possible activation of the contingency plan could be brought about by a variety of sequences of events. One possibility is that relationships between management and the POA may deteriorate in the way that they did during the summer and autumn of 1988, resulting in widespread disruption which undermines the working of the system but is short of national action. This may be considered enough to trigger the introduction of the no-disruption legislation. Depending on how the POA react, (and a call from the Executive for a national stoppage must be contemplated at this stage) the contingency plan may then have to be activated. An alternative

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scenario is that local contingency plans may have to be activated, as at Wandsworth, in a number of establishments, and that it is judged right to bring in the emergency legislation in the wake of that. For a successful outcome, it will be important to ensure that the legislation is not perceived as unprovoked, but as part of a reasonable package in response to intransigence on the part of the POA. As noted above, the consequences of an all-out strike would be so serious and damaging that it would be best avoided if possible.

14. A possible approach, once the scheme and the contingency plan are in a sufficient state of readiness, will be to let it be known that they exist so as to influence the POA's attitude. Having the scheme and contingency plan in reserve will strengthen management's hand to take whatever steps are judged to be required for the good running of the system.

15. Industrial relations in the prison service are such that any planned tactics may have to be revised in the face of an immediate crisis at any time. That said, there is clearly a case for the further work on the contingency plans to include an assessment of the relative benefits of the various tactical options, in the light of the continuing industrial relations picture and of the emerging cost (in all respects) of activating the plans.

Further work and handling

16. If Ministers agree with the conclusions set out in this report, the next stages would be:

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1. Work on the drafting of clauses for legislation on a no-disruption scheme and emergency powers to deal with an all-out strike.
 2. Elaboration, in the light of Ministers' views on the options, of pay determination and disputes procedures to go with the no-disruption scheme.
 3. Further refinement and validation of the contingency plans within the framework established by the existing tripartite process. This would include attention to the machinery for central control and direction of the handling of the run up to a major strike, the strike itself and its aftermath.
 4. Consideration of arrangements for the Department of Health special hospitals.
 5. Assessment of the financial costs (which will be great) of activating a national contingency plan, and consideration of how it should be accounted for (particularly vis a vis police authorities).
17. If Ministers are content with this programme of work, the Working Group would report again when sufficient progress had been made to enable further judgements to be made about the implications for the future handling of industrial relations in the prison service. Particular attention will need to be given to the tactics

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and timing of the introduction of a no-disruption scheme. As noted above there would be serious drawbacks to any action on the Government's part which came across as unprovoked, and Ministers will probably wish rather to view the no-disruption scheme as part of the general contingency plan against future disruption by the POA.

WORKING GROUP ON DISRUPTION IN THE PRISON SERVICECONTINGENCY PLANNING

1. Quite separately from the Working Group's exercise, prison governors have been drawing up, semi-overtly contingency plans for dealing with disruption in the prison service: this has been done establishment by establishment in conjunction with representatives of the military and police. These tripartite plans now cover some 90 establishments - all the closed adult male prisons. Although the exercise is being co-ordinated by prison department headquarters, it has been conducted on the assumption that only a limited number of establishments would be affected, and without substantial reference to the cumulative resource implications of the individual plans in the event of a national dispute. The Working Group has therefore had to assess these implications as the basis of its consideration of the consequences of a virtually complete walk out by prison officers. To do this, it has been necessary to consult, on a very restricted and strictly confidential basis Mr Peter Wright, the president of ACPO, Assistant Commissioner McLean of the Metropolitan Police, and two other senior officers nominated by them. Mr Gordon Lakes, the recently retired Deputy Director General of the prison service, has also advised on the prison operational aspects of the exercise.

2. There are at present just over 18,000 uniformed prison officers (grades VI-VIIIA), 97% of whom are members of the POA. For the reasons set out below the Working Group has assumed that in a worst case national strike, 85% of them would have withdrawn their labour. We have also assumed (and in the light of experience this is realistic) that governors would remain loyal. It is also likely that working prison officers would be concentrated in the higher grades, whose contribution to helping the police run establishments would be particularly valuable.

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3. The burden of running the prisons in the event of such a walkout would fall primarily on the police, but a substantial contribution would also come from the military. Servicemen would not, however, (with the exception of a limited number of Provost-type specialists) be employed in any capacity which involved direct supervision of prisoners.

4. Mr Lakes and the police representatives have examined in detail the existing contingency plans to eliminate identifiable over or under provision, and have considered the options of staffing prisons on a two or three shift system. Bearing in mind the experience at Wandsworth (when 8.5% of officers in a particularly militant branch worked normally) the calculations have also assumed that a minimum of 15% of prison officers across the country would remain at work. This is regarded as a conservative and safe estimate. This gives the following approximate totals: on a two shift system, 12,000 officers before deployment of servicemen, 10,000 after; and on a three shift system, 22,000 officers before deployment of servicemen and 19,000 afterwards. The Wandsworth experience suggests that in the early stages, substantial additional manpower may need to be deployed to assert control before numbers fall off to the "steady state" reflected in the above figures, and it is estimated that about a further 4,000 officers would need to be kept in reserve to deal with disorder associated with the dispute (both inmate disturbances and picketing, etc outside establishments).

5. The police view, as expressed by Mr Wright, is that a commitment on this scale would be an extremely severe, but not impossible, burden. It would be unprecedented and take the police service into unknown territory. (Looking to recent experience, at the height of the NUM dispute, for example, some 6,000 officers were provided daily to police picket lines. This was a fairly long-running five day a week commitment but the officers were not on duty permanently. There were peaks and troughs. The greatest number of officers was required at the beginning of the working day; few were required after the pits closed at night. Involvement in prisons for seven days a week, 24 hours a day, would be an entirely new commitment for the police. Thus, dealing with an

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all-out prison strike could require more than three times the police commitment than the miners' strike).

6. Even so, Mr Wright takes the view that the police service would simply have to meet the commitment, there being no practical alternative, and do so for as long as necessary. But the implications would be wide-reaching and extremely serious.

Implications for the police

7. First, ACPO representatives have stressed that there should be no underestimation of the difficulties which officers throughout the service (particularly members of the Police Federation) would have in reconciling themselves to the police role in a prisons dispute. They already consider that their role in industrial disputes is frequently misunderstood, and hold firmly to the principle that they are there solely to maintain public order. Involvement in running prisons would involve what many police officers (perhaps urged on by the Police Federation) would regard as strike-breaking. Moreover, the tasks which the police would have to undertake in prisons would be unfamiliar, and not made easier by the likelihood that police officers would meet with considerable antagonism from prisoners.

8. The circumstances leading up to police intervention would be of great significance in determining police attitudes. There would be considerably less difficulty for officers if they saw themselves as reacting to a publicly perceived emergency and doing so with the purpose of preventing a breakdown in order and maintaining public safety. It would be different if they felt that the Government had deliberately provoked the conflict and were using the police to win it. Underlining the difficulties, the Police Federation was openly critical of the decision to put the police in at Wandsworth. Its chairman, Alan Eastwood, made much of their lack of training for this job, and the dangers of exposing them to an alien environment. (His statement did not, however, have any discernible effect on the officers actually deployed to Wandsworth).

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9. It is difficult to assess precisely the impact on other police duties which the level of commitment envisaged would have. It would take somewhere between 10% - 26% of the available strength of the service in England and Wales. This is on the basis that there are currently about 125,000 officers of whom about 25,000 will be senior officers, CID and other essential specialists not available for deployment to the prisons. The manpower for the prisons commitment would probably have to be produced by switching the whole service from the usual 8 hour to 12 hour shifts (so theoretically increasing available manpower by up to a third). In-service training would have to be suspended, though recruitment and basic training would be protected for as long as possible. The police presence on the streets would have to be drastically reduced.

10. The results would depend to some extent on the timing. Winter would be easier for the police because there would be fewer officers on leave and because there would be less chance of public order problems on the streets. It would not be easy, however, to influence the timing, given the importance of ensuring that the dispute was not seen to have been engineered by management. But whenever it happened there would be likely to be a significant increase in opportunist crime, and of spontaneous public order incidents (for example, rowdyism at public house closing times). Officers would have to be diverted from community relations, Home Beat and crime-prevention duties. There would be difficulties providing the manpower for football matches, demonstrations and other public events.

11. Prison establishments are not distributed evenly between police forces and the commitment varies significantly from force to force. Thames Valley, Kent and Hampshire would be very heavily burdened and would need outside help. But some of the large Metropolitan forces (Greater Manchester, Merseyside, the Metropolitan Police themselves) would be less heavily committed in their own force areas, and so may be able to help other forces. There would need to be a large-scale mutual aid co-ordination exercise and considerable logistical support for the

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transportation, feeding and accommodation of thousands of police officers. Unlike prison officers, police officers would need to be imported to the areas (sometimes remote) where prisons are situated. In certain areas, for example the Isle of Wight, accommodation would present a severe problem.

12. Further consideration needs to be given to the arrangements for special hospitals and women's and open establishments, but in broad terms, the work done so far indicates that a total walk-out by the POA could be managed by the police, albeit at great cost and with considerable difficulty.

Military involvement

13. The foregoing assumes no fundamental change in the role which it is envisaged that service personnel should play in the contingency plans. Experience at Wandsworth and analysis of the local plans has suggested that some tasks which have been agreed in principle as suitable for the military are still allocated to the police in local plans. This is being followed up in the tripartite planning exercise. It has also been agreed that further examination should be given to the provision of logistical support to the police - particularly transport, catering and accommodation.

14. The military implications of deploying up to 10,000 men would of course depend on the duration of the crisis and on whether it coincides with particular operations or major exercises. Disruption is likely to be severe and some of the effects long lasting (training time once lost cannot always be made up and this has implications for operational effectiveness). Long term damage would be done to recruitment, retention and to individual and collective training programmes. The inability to participate in major NATO exercises would, if it arose, erode our standing in NATO and would reduce for a period the overall effectiveness of NATO military forces.

15. The police are, however, anxious to secure a full military contribution both to relieve the pressure on their own numbers and to demonstrate to the public and to police authorities that the burden was being shared. As the previous paragraph shows, the

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military contribution is in fact a substantial one in terms of numbers; what is now needed is to ensure that in further work on local contingency plans it is translated within the existing guidelines, into the kind of practical help which gives the most relief to the police effort.

Next Steps

16. The work which has already been done establishes that the burden of coping with an all-out strike appears to be sustainable, though formidable. Against this background the aim of further work should be:

- (a) to bring the plans to the best possible state of readiness, and maintain them at that state;
- (b) to add to the existing local plans the necessary mechanisms for central control and direction for a national emergency, and;
- (c) to develop measures which could be taken to relieve the pressure which would be imposed, particularly on the police.

17. The following proposals are based on the premise that an all-out prison strike would be a national emergency whose gravity would require and justify the application of very exceptional measures (in some respects approaching wartime conditions).

(a) Bringing plans to state of readiness

18. To some extent, bringing plans to an optimum state of readiness and maintaining them in that condition is a continuing process, but steps can be taken to achieve a sufficient state of readiness over the next few months (ie by the summer).

19. A start has already been made within the context of the tripartite planning process. A prison department Panel of

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Assessment met in late February to assess all aspects of the plans submitted by governors and identify points to be referred back to governors for further study and elimination of weaknesses. The points of weakness identified by Mr Lakes in his analysis of the plans were introduced into this process, and will be included in the guidance to be issued to governors about their plans.

20. In parallel with this continuing process, it is proposed that work should continue at the centre to examine the plans to test their realism and assess their implications force by force. The aim would be to ensure that the public order dimension was catered for, and to identify for planning purposes, the establishments which would have a high risk of disorder or would, because of their location or for other reasons, pose particular difficulties for the police.

(b) Central control and direction

21. A plan would need to be drawn up for top-level co-ordinating machinery, bringing together involved Government departments, the police service and the military. This would need to involve Ministers as required to act as a source of rapid political decision on the handling of the dispute, including supervision of negotiation on the terms of a return to work, media handling, direction of the deployment of military effort, and liaison with the police mutual aid co-ordination centre. This machinery would need to be compatible with the current arrangements (CCU) for handling peacetime civil emergencies. Further consideration of the means of achieving this level of coordination will be needed in the next stage of the work.

(c) Easing the burden

22. The worst case scenario assumes that there has been an 85% walkout by prison officers, no programme of early release of prisoners, and no steps taken to relieve the police of other commitments. There are, however, measures which could be taken in each of these areas to relieve the pressure and make the situation less difficult to handle.

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23. These measures would need to address the handling of the run-up; population reduction; emergency powers to relieve the police of other commitments; and a plan for ending the dispute as quickly as could possibly be done on the Government's own terms.

24. The run-up to the disruption would need very careful handling within the prison system so that the police were intervening in as calm and manageable a situation as possible. The 1986 events demonstrated the importance of good communication with prisoners in the run-up to strike action by prison officers (particularly in view of the danger of deliberate misinformation being given if the communication initiative were left with prison officers themselves). Prisoners would need to be told at the right time that, in the event of prison officers walking out, police officers would be coming in, but that their visits, and other essential activities would not be threatened (as long as order was maintained). Recent experience at Wandsworth has demonstrated that, even with this kind of careful pre-briefing, prisoner attitudes to police intervention are likely to be a source of control problems.

25. Another important way to relieve the pressure on the system would be emergency action to reduce the prison population. There are a number of options for which provision could be sought in emergency legislation. Section 32 of the Criminal Justice Act 1982 already enables the Home Secretary to order (subject to affirmative resolution in both Houses of Parliament) the early release of some non-violent prisoners. Other options for reducing the population would include releasing all Category D prisoners who have served one third of their sentence; the release of a proportion of remand prisoners; and restricting the power of the courts to commit fine defaulters to prison. (This last would ease the administrative burden of reception and discharge, rather than significantly reduce the population as such). The advantages of reducing the population by these means would have to be weighed against the political difficulties of releasing large numbers of prisoners early (particularly at a time when police manpower was tied up in the prisons) and the administrative burden of identifying the prisoners

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to be released and organising their release especially at a time of widespread disruption. It might, however, be possible in the circumstances envisaged to reduce the population by up to 9,000, with the consequent closure of a number of establishments. Further work should therefore include the drafting of legislative provisions for population reduction and the preparation of operational plans for emergency release and closure of establishments. The latter should take into account an assessment with the police of which establishments would pose disproportionate difficulty for police (eg because of their remoteness) and so be worthwhile candidates for closure.

26. As well as emergency powers to reduce the population, it would be sensible to have ready a set of provisions aimed at reducing the burden on the police of commitments outside the prison dispute. As noted above, football matches demand a high commitment (for example, a snapshot survey in two weeks in November 1988 showed a commitment of 5,346 and 4,718 officers to football matches). Other organised events demanding large police numbers are rock concerts, demonstrations and state and political events such as party conferences. Consideration should be given to the inclusion in emergency legislation of wider powers than those provided in the Public Order Act for chief officers of police, with the approval of the Secretary of State, to direct the cancellation or postponement of sporting and entertainment events whose policing would in the prevailing circumstances impose an undue burden on the police. In view of the problems of political acceptability, however, it would probably not be wise to extend such a power to other events such as demonstrations. Care would need to be exercised in the use of the power to ensure that its use did not give rise to more public order problems than it solved.

27. The worst case scenario assumes a prolonged dispute. The police view is that they would hold out for as long as it took, but even if morale held up the risk of growing lawlessness in the country and the adverse effects on training, community relations and so on would make it desirable to bring the dispute to an end as swiftly as possible.

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28. The problems would be eased if any walk-out was less than the worst case envisaged. A walkout by even as many as 85% of prison officers is assessed to be highly unlikely provided that the run-up to a dispute is carefully managed and attention paid to effective communication with prison officers so that the Government's position was seen by as many as possible of them as fair and reasonable, rather than driving loyal and moderate elements into the hands of the militants. Unless matters were very badly handled (in a way which would also erode rank and file police support for the Government's position) at least 30% of prison officers could be expected to remain at work, compared with the 15% which the plans assume as the worst case.

29. In this case, the reduction of police commitment to running the provision would be to some extent offset by the task of enabling working prison officers to cross picket lines, and some establishments might draw mass pickets.

DISRUPTION IN THE PRISON SERVICE

A POSSIBLE NO-DISRUPTION SCHEME

The main requirements for any no-disruption scheme for the prison service are that it should be effective in securing industrial peace in the service, and in putting an end to the kind of guerilla warfare that breaks out sporadically under current arrangements, and that it should be seen by Parliament and the public as striking a fair balance between the rights of prison officers as trade unionists, and the need to avoid disruption in this essential public service. A possible scheme which may meet these criteria is set out below. It includes features, such as new pay determination arrangements, which it would not be right to concede unless there were very significant compensating advantages for the government. The advisability of proceeding with the implementation of a scheme on these lines would depend on a judgement about whether the advantages outweighed the disadvantages, and on the existence of adequate contingency plans to counter any reaction it might provoke from the POA.

2. An important consideration will be to avoid forfeiting the goodwill of the many prison officers who, as the 1986 events showed, will in the last resort put their loyalty to the service before their loyalty to the union. However effective contingency plans were, a complete walkout could not fail to have the most serious consequences, and it would be essential to retain the support of as many prison officers as possible in the event of widespread disruption and not drive moderate officers into the arms of the militants. This will, among other things, have implications for the coverage of any new arrangements; and requires an approach which, while constraining the actions of prison officers and/or their unions, provides acceptable alternative means for settling their pay and resolving grievances.

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3. The proposed scheme rests on the proposition that prison officers are members of a disciplined service, analogous to the armed forces and the police. By entering such a service staff accept obligations which do not apply to other employees and which place them in a different relationship with management. This affects particularly the use of the discipline code, which is a key element of the proposed scheme. In presentational terms the analogy with the police is an important one. It will appeal to the self image of many prison officers as part of a disciplined law and order service. And it makes a clear distinction between the prison service and other essential services to whose employees similar arrangements would not be extended.

Coverage

4. A no-disruption scheme must clearly apply to uniformed officers. The position of governor grades is more questionable. They have not hitherto been involved in disruption, but have on the contrary demonstrated their loyalty in providing cover and keeping the system going when uniformed officers have caused disruption. On the other hand, Fresh Start created a unified grading structure spanning the uniformed and governor grades, and it would be a backwards step to drive a wedge between the two in the way no-disruption arrangements were introduced. A scheme which applied only to the uniformed grades would be easier for its critics to represent as purely an attempt to knock the POA rather than provide a suitable working basis for everyone whose services were essential to the orderly running of the system. Moreover, if a prison service scheme is to be based on the police model, governors ought to be included in the same way that police superintendents and chief officers are caught by the corresponding provisions of the Police Act. It is not, however, suggested that prison staff outside the unified grades should be covered by a no-disruption scheme. Administrative staff, chaplains, etc would therefore not be caught. Again this follows the police model, where civilians employed by police authorities are not placed under the same restrictions as police officers.

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A possible scheme

5. The scheme falls into two parts which it may be convenient to refer to as the 'imposed' and 'negotiable' elements. They are as follows.

(a) Imposed elements

(i) It would be made a criminal offence to incite a prison officer to breach his terms of employment or commit acts of indiscipline. This would, as in the police context, prevent anyone, including union officials, from attempting to organise a strike or other disruptive action; both official and unofficial industrial action would be covered by the same restraints.

(ii) It would not be an offence as such for the individual officer to go on strike or take disruptive action. But by doing so, for example by disobeying management instructions, he would breach his terms of employment and be liable to be proceeded against under the code of discipline. Use of the discipline code in connexion with industrial disputes, although in line with practice in parts of the private sector, would be a departure from the general policy in the civil service that disciplinary action is not taken in these circumstances. A different policy for prison officers would be justified on the grounds that unlike other civil servants they are members of a disciplined service and that it is therefore right and proper for breaches of discipline, whatever their motive, to be met with appropriate sanctions under the discipline code. Since there is no right as such for any employee to go on strike, there is little point in legislating directly to remove such a supposed right. But where, as in the prison service, it is unacceptable for staff to disrupt the system through industrial action, the effective use of points (i) and (ii) together would ensure that they could not do so with impunity.

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(iii) Individual members of staff would be free to belong to the union or staff association of their choice. This is different from the police model, where police officers can belong only to the Police Federation or associations approved by the Secretary of State to represent senior officers. The benefits of points (i) and (ii) can be secured without forbidding prison officers to belong to an ordinary trade union. Requiring them to belong only to a body approved by management would create an uncomfortably close parallel with the GCHQ arrangements, which politically is best avoided. But whilst the POA, and the associations representing prison governors, would retain their independent identities and be able in many respects to function as normal trade unions whilst representing their members in the prison service, they would not (under point (i)) be able to organise or support industrial action.

(iv) It should be noted that it may be difficult to frame legislation containing these imposed elements in such a way as to be consistent with our international obligations: in particular to the International Labour Organisation and possibly under the European Social Charter. However, Ministers may not judge that this need be an insuperable obstacle to the further development of this scheme.

(b) Negotiable elements

(v) There would be a disputes procedure with an independent element. Point (i) would ensure that disruption did not take place whilst the disputes procedure was in operation. (This would have to be otherwise provided for if the negotiable elements were implemented independently of the imposed elements.) There would be various issues connected with the different levels and timing of procedures to be considered, but the most important would be:

- How far management would be prepared to concede that the status quo should be maintained in relation to disputed changes, which the management wished to implement, whilst the disputes procedure was running.

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- Content. There would need to be clear policy on what issues would be subject to the procedure and, if necessary, to arbitration.
- Final resolution. Decisions would need to be taken about the availability of arbitration, and how far it would be binding.

(vi) There would be new machinery for setting pay. Given that prison officers are already well remunerated, this may not be as contentious, at least in the short term, as the disputes procedure. The current industrial problems in the prison service revolve around staffing levels and working arrangements, not pay. There are essentially four options for pay determination:

- the status quo, with direct negotiation and no special arbitration or review arrangements. This is not likely to be accepted as fair if management held all the cards while all sanctions had been withdrawn from the unions, as it would if the imposed elements were implemented.
- a process based on negotiation, but with special provision to take account of the unions' loss of bargaining power. This would probably involve guaranteed unilateral access to arbitration (subject to a reserve power to override the arbitrator's decision in the national interest).
- some form of indexation. Whilst a system similar to that for the police would appeal to many POA members, and would be generally perceived as fair, we should need to avoid the expensive rigidities of Edmund Davies if we went down this route (eg we would need to index to settlements not earnings and would aim for less cumbersome machinery)..
- A review body, like those for the armed forces, doctors and nurses, and the TSRB. Nurses and the armed

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forces are in many respects good analogues for prison officers with respect to pay determination arrangements, and it would be difficult for the POA or others to argue that putting them on the same basis as these groups was inherently unfair. If we went down this route, as opposed to one based on negotiation, there would be no, or only a very limited role for the unions in the pay determination process.

(vii) The POA's position under TULRA would be regularised. It would have the same rights and obligations as other unions, except as restricted by point (i). Thus whilst the POA would not be able to call its members out on strike, its union status would in other respects have been put on a proper footing, and a wide range of duties and benefits would apply to it. The possibility of challenge to the validity of its listing by the certification officer as a trade union would be removed, and there would no longer be any doubt that the POA could sue, and be sued, in its own name; elect its officials in accordance with the provisions of the Employment Act 1988; make contracts in its own name; claim tax refunds on the income of its provident funds; and apply for a certificate of independence which would give it the right to recruit new members and conduct organisational activities on the employer's premises, conclude facilities agreements for time off work for trade union activities, etc.

Handling

6. The introduction of the imposed and negotiable elements could be handled in a variety of ways:

(i) Imposition of the whole scheme. This might appear unduly draconian and alienate moderate elements, and would deny the unions any say on future pay determination and disputes arrangements.

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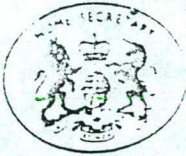
SECRET AND PERSONAL

(ii) Attempt to secure a satisfactory arrangement on the basis of the negotiable elements, leaving the threat of introduction of the imposed elements in reserve as a bargaining counter in the negotiations. Under this option, the negotiations would have to be conducted in good faith, with the government ready to forego the imposed elements if negotiations on the rest achieved a satisfactory settlement. It is questionable, however, whether it would be right to concede pay determination arrangements which were favourable to the unions without the benefits, both practical and symbolic, of a change in the law to ensure that they were no longer in a position to foment disruption. If the imposed elements were not to be proceeded with it would probably be better simply to rely on the existence of adequate contingency plans (if these can be devised) to support a firm management line against disruption.

(iii) The government could introduce, or say that it intended to introduce, legislation which would include the imposed elements. Negotiation on the negotiable elements would take place against this background, with the unions given an opportunity and incentive to reach a sensible deal which would reflect their new legal situation.

7. Which of these handling options should be pursued will depend on judgements about the adequacy of contingency plans and about the likely reactions to them of Parliament, the public and the service. Much would depend on the circumstances of their introduction - for example the public and Parliamentary mood might favour firm action if irresponsible behaviour by the POA were to precipitate a major crisis.

SECRET AND PERSONAL



cc Ms. Collins Rice.
Mr. Yates
Mr. Chilcot
Mr. Train.
~~Mr. Pitting.~~
Mr. Hammond.
Mr. Lidington.

QUEEN ANNE'S GATE LONDON SW1H 9AT

16 June 1988

M. Falken

Dear George,

PRISON OFFICERS' ASSOCIATION

I have long been concerned at our vulnerability to industrial action by the Prison Officers Association (POA). I believe that we have reached a stage where we should now examine carefully whether we can take steps significantly to reduce their ability to disrupt the prison system. We have virtually completed the introduction of the major elements of the Fresh Start arrangements and are now moving into a period of consolidation of the new system. At the same time work is well in hand on a Green Paper on private sector involvement in all aspects of the remand system, and we intend to appoint consultants in the near future to help us in working out the practical implications. The background to these developments is, of course, our continuing problems in housing the rising prison population.

As we move into this new phase in the development of our arrangements for managing the prison system, I should like to explore within Government the possibility of reaching a no disruption agreement with the POA. This would have to embrace long term arrangements for settling pay and conditions of service, and any deal might have to include an immediate compensatory payment. But even if we were able to offer an agreement which would be attractive to individual prison officers, I judge that, in their present frame of mind, the POA's national leadership would be unlikely to support any deal which we would find acceptable. If that is likely to be their response, we then have to consider whether we should impose no disruption arrangements by legislation. That would mean in turn that we would have to be ready to switch to emergency legislation if the POA responded with serious industrial action. And the POA's likely intransigence on issues such as private sector involvement might push us in this direction anyway.

There is, however, probably no point in thinking of setting off down this road, unless we are confident that we have adequate contingency plans to deal with a very widespread withdrawal of labour by the POA. Our present plans, which involve senior and loyal prison staff, the police and the armed forces, are directed at dealing with only limited industrial action. I should like us to think through how we would cope with disruption on a far bigger scale.

The Rt Hon George Younger, TD., MP.

/over...

SECRET AND PERSONAL

SECRET AND PERSONAL

2.

If we conclude that we do not have the means of dealing with trouble of these dimensions, then we shall have to carry on on present lines, accepting that as we seek to make the prison system more effective and efficient, any assertion of strong management would rest on a bluff which the POA could call. That is not a happy prospect, and before we resign ourselves to it I should like, as I say, to examine in some depth how we might achieve a fundamental shift in relations between the management and the POA which would put us in a much better position to secure improvements in the running of our prisons.

I have consulted the Prime Minister, and she agrees that such a study should be undertaken. I propose, therefore, to ask Sir Clive Whitmore to chair an inter-Departmental group of officials with the task of examining in detail both the possibility of no disruption arrangements and contingency planning for major disruption, and of reporting to me within a few months. When we have seen and digested that report we can settle the way forward on both fronts.

Subject to comments which you and other recipients of this letter may have, Sir Clive will shortly write to Sir Michael Quinlan and senior officials in other interested Departments to establish the group.

I need not emphasise the sensitivity of this exercise, knowledge of which should be confined to the smallest possible circle.

I am sending copies of this letter to the Prime Minister, Nigel Lawson, Norman Fowler, Tom King, Malcolm Rifkind, John Moore and Patrick Mayhew, and to Sir Robin Butler.

Over,
Douglas.

WORKING GROUP ON DISRUPTION IN THE PRISON SERVICE

Sir Clive Whitmore (Chairman)

Mr Train	
Mr Hammond	Home Office
Mr Pilling	
Mr Chilcot	
Mr Inglese	
Mr Fulton	
Brigadier Budd	Cabinet Office
Mr Bevan	MOD
Mr Steele	NIO
Mr Davies	DH
Mrs Marsh	Law Officers' Department
Mrs Case	HM Treasury
Mr Kelly	
Mr Whybrew	DE
Miss Sinclair	No 10 Policy Unit
Ms Rogerson	Secretary

SECRET AND PERSONAL



SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Rt Hon Douglas Hurd CBE MP
Secretary of State
Home Office
Queen Anne's Gate
LONDON SW1H 9AT

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

BF 10/45

CH/EXCHEQUER	
REC.	2 MAY 1989
ACTION	MR CHIVERS
COPIES TO	CST
	SIR P MIDDLETON
	MR MONCK
	MR MCATEER
	MR KELLY
	MRS CASE

✓ 3/5

2 May 1989

Dear Home Secretary,

WORKING GROUP ON DISRUPTION IN THE PRISON SERVICE

Thank you for your letter of 25 April enclosing a copy of the first report from Sir Clive Whitmore's working group.

It is good to know that you have a viable contingency plan in the event of major disruption in the Prison Service in England and Wales. We are similarly placed in Northern Ireland although, like you, we do not relish the thought of having to bring it into effect. As you will realise, the diversion of a large number of policemen and soldiers from security duties could provide the terrorists with an opportunity which they would be unlikely to ignore.

I agree that the no-disruption scheme should be kept in reserve until required. Otherwise it might in present circumstances be perceived as a provocation by the POA, possibly including the Northern Ireland membership. It may be that at some time in the

future it will be worth attempting to achieve a no-disruption package by agreement.

On the question of pay determination, I agree with you that a review body is likely to command most support with the Prison Service and that, given the high levels of pay now enjoyed by prison officers, it need not be expensive.

Following the POA (NI) rejection last year of the Northern Ireland version of Fresh Start we have, with POA co-operation, been working on a new set of proposals to achieve broadly similar ends, although retaining a limited amount of overtime. This has now reached the stage when a ballot is due to be held later this month and we are hopeful that the new package will attract the support of a majority of prison officers, leading to implementation towards the end of the year. Your officials have kept in close touch with all of this. In the meantime the national POA have accepted that they cannot rely on POA (NI) support in any dispute in England and Wales, which is an advantage for both of us.

If the new set of proposals is rejected, we will be bound to go for essential efficiency measures without agreement and this will inevitably lead to confrontation. In those circumstances one course open to us would be to impose a Northern Ireland no-disruption scheme but obviously I would not go down that road without the support of yourself and other colleagues.

I am content that you should ask Sir Clive Whitmore to take the work forward as proposed.

Copies go to the Prime Minister, Nigel Lawson, Norman Fowler, George Younger, Ken Clarke, Patrick Mayhew, Malcolm Rifkind, John Wakeham and Sir Robin Butler.

*Yours sincerely,
J. Murphy*

TD TK

[Approved by the Secretary of State and signed in his absence]

~~Mike~~ Duncan / Mr Kelly will be advising Sam.

Pls ask Mr Chivers when he will
be submitting on Mr Hurd of
25/4 — Hurd asked specifically
for views on prison pay
arrangements.

DIS

**SECRET AND PERSONAL**

Department of Employment
Caxton House, Tothill Street, London SW1H 9NF

Telephone 01-273 5802
Telex 915564 Fax 01-273 5821

Secretary of State

CH/EXCHEQUER	
REC.	- 5 MAY 1989
ACTION	MR CHAMBERLAIN ✓/S
COPIES TO	CST
	SIR P MIDDLETON
	MR MOWER
	MR FARMER
	MR KELLY
	MRS CASE

The Rt Hon Douglas Hurd CBE MP
Home Secretary
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT

BF
~~15/4~~
15/5

4 May 1989

[Handwritten signatures: "Dear" and "Douglas"]

WORKING GROUP ON DISRUPTION IN THE PRISON SERVICE IN ENGLAND AND WALES

Thank you for sending me a copy of your letter of 25 April to George Younger.

I strongly endorse your strategy of improving contingency arrangements to meet resistance to change from the Prison Officers Association whilst keeping a possible statutory no disruption scheme in reserve. In major disputes of the kind that may arise here it is essential to ensure that there is a clearly understood case for any action taken by Government. Once the prison officers have demonstrated their intransigence publicly there would be a much firmer basis for introducing a statutory no disruption scheme.

I am content with the no disruption scheme as outlined in the officials report. The question of pay determination is obviously a difficult one and, like other elements of the scheme, should be handled in a way that reinforces the hand of moderate elements in the POA. Continuing existing arrangements would be hard to justify having removed the union's ultimate negotiating weapon. It would not be realistic to expect prison officers to accept indexation to anything other than earnings given the obvious link with the police, and in any case there are quite strong arguments against producing an official settlements index. Of the remaining options I agree with you that a review body is the least unpalatable.

**SECRET AND PERSONAL**

Employment Department · Training Agency
Health and Safety Executive · ACAS



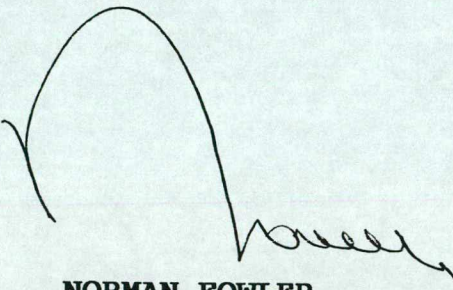
Secretary of State

SECRET AND PERSONAL

I am not convinced that once a major strike was underway it would be necessary to recall Parliament to introduce the statutory no disruption scheme. Such a scheme would be important in preventing future problems developing but would not necessarily be appropriate or helpful in dealing with the initial action. It may be though that Parliament would be needed to consider other aspects of the contingency plan, for example on early release.

I am grateful for your recognition of the need to consider the wider industrial relations scene in considering the timing and pace of any moves which might make it necessary to activate these arrangements. I am also content for the work to proceed as you suggest.

I am copying this to the Prime Minister, Nigel Lawson, George Younger, Tom King, Ken Clarke, Patrick Mayhew, Malcolm Rifkind, John Wakeham and Sir Robin Butler.

Yours

NORMAN FOWLER

SECRET AND PERSONAL



MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000

DIRECT DIALLING 01-218

MO 19/1V

9th May 1989

CH/EXCHEQUER	
REC.	10 MAY 1989
ACTION	MR KELLY
COPIES TO	CST
	SIR P MIDDLETON
	MR FLOCK
	MR MORTIMER
	MRS CASE
	MR CHEVERS

owp
(on BF)

✓ 10/5

Dear Douglas,

WORKING GROUP ON DISRUPTION IN THE PRISON SERVICE

Thank you for your letter of 25th April enclosing the first report of Sir Clive Whitmore's Working Group.

I am pleased to note the good progress which the Working Group has made in defining the elements of a possible no-disruption agreement in the prison service and establishing the validity of contingency planning to meet industrial disruption on a major scale. Clearly any significant activation of contingency plans would place a major burden on both police and military manpower, with long-lasting effects. This underlines the importance of devising a no-disruption agreement which will be seen as manifestly fair and will thus reduce the scale of any industrial action that may be precipitated by its introduction. Pay determination arrangements will be a central part of such a scheme. Of the three options identified by officials I, like you, have a preference for a review body. Experience with the AFPRB shows that such a body can retain the confidence of its client group and take the heat out of pay issues without making awards above the general level of pay increases.

The Rt Hon Douglas Hurd CBE MP



I am content that Sir Clive Whitmore's Working Group should take work forward on the basis proposed.

I am copying this letter to the Prime Minister, Nigel Lawson, Norman Fowler, Tom King, Ken Clarke, Patrick Mayhew, Malcolm Rifkind and John Wakeham and to Sir Robin Butler.

Yours truly,
George

George Younger

2 X 10 up

FROM: C W KELLY (PAY)
Room 120A/3
DATE: 11 May 1989
ext 4400

CHANCELLOR

cc: Chief Secretary
Paymaster General
Sir Peter Middleton
Mr Anson
Dame Anne Mueller
Mr Monck
Mrs Case
Mr Chivers
Mr Strachan

*Ch/ Content to write to
Mr Hurd as drafted?*

DIS

*OK
(as v. Shady 2.1)*

WORKING GROUP ON DISRUPTION IN THE PRISON SERVICE

The Home Secretary's letter of 25 April covers the report of a working group set up to look at the state of contingency planning for major disruption in the prison service in England and Wales, and to consider the possibility of a no-disruption scheme. He asks for agreement on the further work identified in paragraph 16 of the report, and for comments on the special pay arrangements suggested.

2. Mr King, Mr Fowler and Mr Younger have already commented.

Background

3. The working group was set up a year ago against the background of a succession of local disputes. The aim was to see whether steps could be taken to reduce the POA's ability to disrupt the prison system. Mrs Case and I have jointly represented the Treasury. I provided a progress report on 15 December.

4. A large part of the work underpinning the group has been the elaboration of existing contingency planning to deal with major industrial action in the prisons. Initially the Home Office's view was that they could not cope with really substantial action, defined as withdrawal of labour by up to 85 per cent of staff below the governor grades. But they have reassessed some of the

assumptions on which existing contingency plans were based and now believe that they could just about do so. This reflects experience at Wandsworth and, crucially, a police view that they could meet the commitment implied.

5. This judgement has not been reached lightly. But Mrs Case and I both retain considerable doubts about it. An all out strike, even if the governors remained at work, would require a continuing commitment of at least 10 per cent and possibly up to one-quarter of the available strength of the police force, plus up to 10,000 military. Whether we would be prepared to sustain this, and all that it implies, for any significant length of time in the face of sustained bloody-mindedness from the POA must in our view be open to question. Fortunately the likelihood of co-ordinated national action by the POA at present is probably fairly small, unless the Home Office do something silly. The problem is much more at local level.

The no-disruption scheme

6. The no-disruption scheme has been the second leg of the exercise. It could be introduced cold now, in the hope that it would then make the contingency planning largely unnecessary. Or it could be kept in reserve to be used only if major disruption did develop, as part of picking up the pieces thereafter. The Home Secretary's preference is for the latter. He takes the view that proceeding in isolation could itself provoke disruption. He also believes that we are more likely to receive public support, and the support of moderate prison officers, if we are seen to be responding to provocation. It is difficult to disagree.

7. The bones of the scheme, which are modelled on the Police Act, were set out in my earlier minute. It involves legislation which would make it a criminal offence for anyone (eg a trade union official) to incite a prison officer to breach his terms of employment. Individual acts of disruption would be made subject to disciplinary action. Membership of trade unions would not be outlawed. But many of the union's functions would cease to be relevant. The scheme would probably have to apply to governors as well as other prison officers, but not to support staff.

8. In return for the removal of the right to strike it is envisaged that there would be some agreed way of settling disputes (eg binding arbitration) and some mechanism for settling pay.

9. The further work envisaged includes elaboration of what this would involve, including assessment of potential costs (so far hardly looked at), refinement of the contingency plans, and draft legislation.

Pay machinery

10. The main alternatives for pay machinery are set out in paragraph 5(vi) of Annex B to the report. They are:

- i. The status quo.
- ii. The status quo plus guaranteed unilateral access to arbitration.
- iii. Some form of indexation.
- iv. A review body.

11. Some form of special treatment for pay is generally regarded by the working group as a necessary quid pro quo for removal of the right to strike. Even though it is thought unlikely that a no-disruption scheme could ever be negotiated with the POA, we would still have to be able to demonstrate to individual officers (and to Parliament) that we were proceeding reasonably fairly if the arrangement were to have any hope of success. Simply sticking with the status quo, with direct negotiation and no special arbitration or review arrangements, would be unlikely to meet this test.

12. Adding guaranteed unilateral access to arbitration (subject to a reserve power) would make the package look a bit more respectable. But the POA could reasonably claim that in principle they already have unilateral access to arbitration under the terms of the Civil Service Arbitration Agreement (even though we do our best to deny it to them).

13. Some form of automatic indexation would look closer to the police model and might therefore be easier to sell. The POA already have indexation after a fashion, to the rest of the Civil Service (though the Civil Service pay system is nowadays so fragmented that the operation of the traditional form of indication has now become highly judgmental). The alternative would be indexation to private sector settlements. That would, however, give us little flexibility. Moreover, Mr Fowler has suggested that it would be unrealistic to expect to achieve even tacit acceptance of indexation to settlements when the police are still indexed to earnings. He has also pointed out that it would require us to produce an official index of settlements (to which he is, of course, opposed).

14. I doubt that you will find either argument persuasive. You have argued for an official index of settlements anyway, and you commented at an earlier stage that indexation to settlements for prison officers might help to set a precedent for the police to follow, rather than the other way round.

15. Review bodies are in principle objectionable, for familiar reasons. But if it was sensibly set up, a review body could in this instance actually work to our advantage. It would mean that settlements are not automatic and make it at least possible to take account of the minimal recruitment and retention difficulties in the prison service and the fact that prison officers are currently, by all normal criteria, paid too much. Nor would the argument we have deployed in the past against the extension of review bodies to group such as teachers, that they are only appropriate for groups who do not have, or do not choose to exercise, the right to strike, apply in this case.

Feasibility

16. This does, however, rather beg the question of whether any no-disruption scheme would actually secure its objective. A review body or some form of indexation would be a small price to pay if it really did deliver harmony in the prison service. But there must be a risk that we would end up with significantly less - prevention of withdrawal of labour but not a great deal of protection against disruption stopping short of that, eg a work to rule.

17. A lot will depend upon the circumstances in which any scheme is introduced, including the mood then of the prison officers and the extent to which management of the prisons is in control. The Home Office view is that we can only take a judgement about this at the time. That may well be right. But, of course, the more we firm up details of the scheme, the greater will be the pressures on us to agree to its implementation whatever reservations we may then have.

Conclusion

18. The work that has been done on contingency planning has been useful in its own right. It must be sensible for it to continue and to be refined further. The clearer the Home Office are about what they would do in the face of serious industrial action, the stronger will be their ability to handle it (or prevent it happening). It should also strengthen their hand in day to day management.

19. In firming up the plans, we shall seek to ensure that proper consideration is now given to the financial implications.

20. As part of the same contingency planning, it also seems sensible to take work on a no-disruption scheme one stage further, to the point of preparing draft legislation.

21. There seems no pressing need to take any decision now about new pay arrangements. But the Home Secretary has staked a claim for a review body as front runner, and has been supported by Mr Younger, Mr King and Mr Fowler. Unless we challenge them now it would become the established presumption if and when the scheme ever needs to be implemented.

22. It would be nice to think that we could get away with continuation of the existing arrangements of broadly linking to the average for the rest of the Civil Service combined with some greater commitment on our part to the role of arbitration. We should certainly keep that option open. But I find it difficult to envisage the circumstances in which it would be sufficient to buy enough co-operation from prison staff to make the rest of the machinery worth implementing. Of the two alternatives, indexation to settlements (if that could be achieved) would be simpler to

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operate and over time not necessarily a great deal more expensive than continuation of the present arrangements. But it would be very inflexible. A review body ought to offer greater scope for exercising judgement in the light of recruitment and retention, affordability and so on. For this reason, if we were to form the view that a no-disruption scheme could be made to work, a review body, much as it goes against the grain, could well be the least objectionable option. But it would not take much to shift the balance the other way.

23. I attach a draft reply. You may wish to discuss.

MX

CWK

C W KELLY

enc

pls type as
final

FROM: CHANCELLOR
TO: THE RT HON DOUGLAS HURD CB
HOME SECRETARY

WORKING GROUP ON DISRUPTION IN THE PRISON SERVICE

Thank you for sending me a copy of your letter of 25 April enclosing a copy of the first report from Sir Clive Whitmore's working group.

I was glad to see the contingency planning that has been done and agree that it would be sensible to take it to the next stage. Work of this kind can only strengthen management's hand in dealing with disruption, and might even help to prevent it developing in the first place.

I also agree with your strategy of keeping the possibility of the statutory no-disruption scheme in reserve, to be used only as a last resort as part of picking up the pieces after some major confrontation. Whether in these circumstances it would be capable of achieving its objective is something which will require careful judgement at the time. I imagine that it ^{would} ~~is~~ ^{be} still possible ^{for prison officers} to cause considerable disruption in the prison service by methods which fall short of withdrawal of labour and are not necessarily amenable to disciplinary action.

I doubt that it is sensible to take any firm decision now about the nature of any special pay arrangements which may be necessary as part of the price of introducing a no-disruption scheme. A lot could depend upon the circumstances at the time, and what has happened in the intervening period. The ideal would obviously be if we could get away with something like the present arrangements, ~~perhaps~~ buttressed by a strengthened disputes procedure and arbitration agreement. But I accept that that may prove not to be realistic.

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Neither of the two alternatives is very attractive. Indexation to private sector settlements would be very inflexible (though if it could be achieved it might help to point up further the ^{anomaly} oddity of the police link to earnings). A review body, despite the other objections to it, would at least provide the possibility of taking account of recruitment and retention and other factors and it could therefore turn out to be less expensive.

We do not, however, need to take a decision about this now.

The immediate need is to improve the existing arrangements for handling prison service pay. The Wynn-Parry formula, which linked pay to settlements in the Civil Service, is in disrepair and perhaps defunct. Both the Officers and the Governors have expressed interest in the possibility of negotiating long-term pay agreements on Megaw lines such as now cover most of the rest of the non-industrial Civil Service. We have not wanted to rush into such negotiations while the Fresh Start framework agreement is running its course. But in a year or two's time, and perhaps sooner if the Framework Agreement breaks down, we shall need to table proposals for future pay determination even without a no-disruption agreement.

I am copying this letter to the Prime Minister, George Younger, Norman Fowler, Tom King, Kenneth Clarke, Patrick Mayhew, Malcolm Rifkind, John Wakeham and Sir Robin Butler.

N L

envelopes (double)
pls

+ copy list as cover
minute inc. Mr Kelly



mwp

Treasury Chambers, Parliament Street, SW1P 3AG
01-270 3000

15 May 1989

Rt Hon Douglas Hurd CBE MP
Secretary of State for the Home Dept
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9BW

cc: PS/Chief Secretary
PS/Paymaster General
Sir P Middleton
Mr Anson
Dame A Mueller
Mr Monck
Mr C W Kelly
Mrs Case
Mr Chivers
Mr Strachan

Dear Home Secretary,

WORKING GROUP ON DISRUPTION IN THE PRISON SERVICE

Thank you for sending me a copy of your letter of 25 April enclosing a copy of the first report from Sir Clive Whitmore's working group.

I was glad to see the contingency planning that has been done and agree that it would be sensible to take it to the next stage. Work of this kind can only strengthen management's hand in dealing with disruption, and might even help to prevent it developing in the first place.

I also agree with your strategy of keeping the possibility of the statutory no-disruption scheme in reserve, to be used only as a last resort as part of picking up the pieces after some major confrontation. Whether in these circumstances it would be capable of achieving its objective is something which will require careful judgement at the time. I imagine that it would still be possible for prison officers to cause considerable disruption in the prison service by methods which fall short of withdrawal of labour and are not necessarily amenable to disciplinary action.

I doubt that it is sensible to take any firm decision now about the nature of any special pay arrangements which may be necessary as part of the price of introducing a no-disruption scheme. A lot could depend upon the circumstances at the time, and what has happened in the intervening period. The ideal would obviously be if we could get away with something like the present arrangements,



buttressed by a strengthened disputes procedure and arbitration agreement. But I accept that that may prove not to be realistic.

Neither of the two alternatives is very attractive. Indexation to private sector settlements would be very inflexible (though if it could be achieved it might help to point up further the anomaly of the police link to earnings). A review body, despite the other objections to it, would at least provide the possibility of taking account of recruitment and retention and other factors and it could therefore turn out to be less expensive.

We do not, however, need to take a decision about this now.

The immediate need is to improve the existing arrangements for handling prison service pay. The Wynn-Parry formula, which linked pay to settlements in the Civil Service, is in disrepair and perhaps defunct. Both the Officers and the Governors have expressed interest in the possibility of negotiating long-term pay agreements on Megaw lines such as now cover most of the rest of the non-industrial Civil Service. We have not wanted to rush into such negotiations while the Fresh Start framework agreement is running its course. But in a year or two's time, and perhaps sooner if the Framework Agreement breaks down, we shall need to table proposals for future pay determination even without a no-disruption agreement.

I am copying this letter to the Prime Minister, George Younger, Norman Fowler, Tom King, Kenneth Clarke, Patrick Mayhew, Malcolm Rifkind, John Wakeham and Sir Robin Butler.

Yours sincerely,

Duncan Sparkes

p.p. NIGEL LAWSON

[Approved by the Chancellor
and signed in his absence]