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HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

6 May 1986

Dear David,

PRISONS: WEDNESDAY 7 MAY, 4.30 PM

I attach a note from the Home Secretary designed to serve as a  
... basis for tomorrow afternoon's meeting on prisons.

Copies of this letter and enclosure go to the Private Secretaries to the Lord President, the Lord Privy Seal, the Secretaries of State for Employment, Northern Ireland and Scotland, the Chief Secretary to the Treasury, the Attorney General and Mr Unwin (Cabinet Office).

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Clare

PP S W BOYS SMITH

David Norgrove, Esq

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## PRISONS DISPUTE

Note by the Home Secretary

1. This note describes developments in the Prisons Dispute since last Wednesday and sets out the strategic and tactical issues which face us.

### The Situation in the Prisons

2. The disturbances of last Wednesday night, precipitated by the Prison Officers Association's overtime ban, affected 17 prison service establishments. Major incidents took place at Bristol, Lewes, Northeye and Wymott Prisons and at Erlestoke Youth Custody Centre. Less serious disturbances - involving for example small fires, roof top protests and sit down demonstrations - occurred at 12 other establishments: all of these were successfully contained. No-one was seriously injured. There was extensive damage to buildings, particularly at Northeye, where the prison had to be evacuated. Altogether some 800 prison places were lost. Some 50 inmates made escape bids.

3. On Thursday and Friday there were further disruptions in the number of establishments, particularly at Stafford and Send, though these gradually diminished in scale and intensity. By the weekend, the situation was generally calm.

4. Thirteen inmates are still unlawfully at large. Remedial work is in hand to make damaged buildings weather proof: this should be completed (apart from Northeye) by the end of this week. At Northeye it is hoped to have at least 50 prisoners back in the prison within the next fortnight. No assessment has yet been possible of the total cost of remedying the damage but it seems likely to run into several millions of pounds. A fuller account of these events is at Annex A.

### Inquiry into the Events

5. In my statement to the House on Thursday, 1 May, I indicated at the fact that there would need to be an inquiry into the disturbances. I have asked Her Majesty's Chief Inspector of Prisons, Sir James Hennessy, to conduct an inquiry, and he has agreed. He will enquire into the disturbances and the action taken in relation to them and identify the lessons to be learned from the handling of the disturbances.

6. Disciplinary or criminal investigations arising out of the disturbances will have been initiated for the most part before the inquiry begins. In accordance with normal inspection practice, any prima facie evidence of a disciplinary offence by a prisoner or prison officer will be referred to the Governor of the establishment for action. Similarly prima facie evidence of a criminal offence will be drawn to the attention of the police.

7. The terms of reference will enable the Chief Inspector to give a full account

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of the events and of the prison service response to them, including the deployment of other services in support.

#### Talks with the POA

8. Following the POA's decision on Thursday to suspend its industrial action and my statement to the House, exploratory talks took place at the Home Office on Friday between the POA and Home Office officials. The POA agreed that the suspension of industrial action meant the restoration of normal working. This allowed for the return to duty of those officers who had been suspended. The POA sought clarification of a number of points in my letter of 22 April proposing an agenda for future discussion, to the POA General Secretary (Annex B). It was agreed that the two sides would meet again on Wednesday morning, 7 May to resume discussion of these issues, with the objective of securing simultaneously the calling off of industrial action (which requires a ballot under the POA's rules) and the start of substantive discussion of the issues in my letter. I will give colleagues an oral report on the outcome of Wednesday's talks when we meet.

#### The Issues at Stake

9. There is little doubt that the events of last Wednesday appalled not only the public but many members of the Prison Service, including POA members. The events have brought about the present uneasy peace. They have not brought the POA any closer to management's approach to the fundamental issues in the dispute.

10. For years firm management in the prison service has been lacking: the Labour administration's attempts to introduce budgets of overtime hours, in 1976 failed, for example, in the face of POA intransigence. Overtime has gone up steadily to reach present average levels of 16 hours per man in spite of the recruitment of additional staff faster than the rate of increase in the prison population. When one sets alongside this the fact that overtime is voluntary and can be withdrawn without notice, as happened last week, the weakness of management's position is evident. In the past two years and with the strong support of my predecessors and myself, prison service management has begun to get a grip and to restore to governors their managerial authority. This process has been accompanied by the progressive delegation to regional offices and governors of staff costs budgets, in line with our Financial Management Initiative.

11. Management has also launched critical reviews of existing organisation and working practices. I received last week the report of a study by a joint team of prison service personnel and PA Management Consultants into shift systems and complementing for prison officers, which provides a telling critique of present arrangements and suggests that if new systems can be introduced (including new pay arrangements) 15-20% additional capacity/efficiency savings are possible. A Rayner scrutiny of the Court Escort System, due to report this month, is expected to show scope for up to 30% savings in the prison service's external commitments.

12. The POA is well aware of the vulnerability of existing systems and of the inevitability of change. The NEC members show varying degrees of militancy. The present dispute, and in particular the NEC's insistence on the Association's right to negotiate manning levels, are undoubtedly fired by their wish to maintain the veto they have hitherto had over changes in working arrangements, and to drive a coach and horses through cash limits and the FMI, with all the knock-on consequences for control of the prisons and our ability to sustain these disciplines elsewhere in the public service.

13. In the longer term the answer to the inefficiencies in the Prison Service must

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lie in the improved working procedures emerging from the studies I have mentioned. The Governors and senior prison managers feel this strongly - and we must retain their confidence. In the immediate future, we must ensure that Prison Governors can make the budgets they have been given this year stick.

#### Future Handling of the Dispute

14. In the "talks about talks" now going on with the POA, some members of the NEC will be reluctant to recommend dropping the threat of industrial action, which the earlier ballot put in their hands. Under their rules they believe they need another ballot to remove the threat entirely. If this reluctance prevails we may not get any substantive negotiations going. There is also the risk that management action at a particular establishment, needed by this year's cash limits and entirely justified, will trigger unreasonable POA action and aggravate the dispute.

15. The trick, and a difficult one in negotiating terms, will be not to give anything further of substance while avoiding a breakdown of talks appearing in such a way as to lay the Government open to blame for having caused a resumption of industrial action.

16. We have so far secured a generally favourable press. We must increase pressure on the POA by this means. Publication of the report on complementing and shift systems will be helpful in this context. The report will need to be covered by a brief statement making clear our general attitude to the issues it raises: anything less and there will be a genuine risk that critics will focus the attention of prison officers on the disadvantages for them of the proposals in the report without the potential advantages of a package deal coupling changes in working systems with changes in pay being apparent. I propose to minuted the Chief Secretary shortly with the draft of a statement which will aim to set the report in context. I am also asking my officials to take forward consideration of the report with officials in other interested departments as a matter of urgency.

17. Should industrial action resume in spite of management's best efforts to the contrary, we may need to consider other means of bringing pressure to bear on the POA in addition to the stoppage of pay and Temporary Relief from Duty (TRD) sanctions we have so far deployed. Two courses open to us in extremis are:

- (i) exploitation of the POA's lack of immunity under the Trade Union and Labour Relations Act 1974 (TULRA); and
- (ii) stopping check-off from pay of POA members subscriptions.

#### TULRA

18. As an unintentional consequence of the drafting of the legislation, the POA is not immune from civil actions for damages as a result of industrial action. (This is the position in England and Wales, and almost certainly in Northern Ireland too; the Scottish Prison Officers Association does have immunity.) As a result, individual officers or the Association are open to actions in tort if they induce others to break their contracts of employment. I am advised that provided we can demonstrate a breach of contract, an application for an injunction restraining the POA from industrial action would probably be successful. The Attorney General has emphasized that we should not delay seeking an injunction as soon as the circumstances warrant one and we should not threaten an injunction unless we intend to apply for one.

19. Exploiting this legal loophole has its attractions. There are also a number of difficulties:

- (i) the POA has always behaved as if it is a trade union and the Government has not attempted to put the record straight. We should be accused of exploiting the legal accident. Support for the POA NEC might harden among POA members;
- (ii) the Opposition could be expected to leap to the defence of the POA's trade union rights and to draw a parallel with GCHQ;
- (iii) support for the POA by other trade unions could be strengthened, with the possible risk of repercussive action elsewhere in the Civil Service;
- (iv) we should expose the anomalous situation that prison officers in Scotland have immunity while those in the rest of the UK do not.
- (v) exposing the legal position would strengthen demands for prison officers to be treated on a par with the police, including for pay purposes. If this were to be done, it might well lead to increased expenditure and could reopen the whole question of the Government's attitude to strikes in essential services.

20. Nevertheless, we must recognise that failure to exploit the situation in response to renewed industrial action could leave us open to criticism. There is a strong body of opinion in the Party that industrial action should not be allowed in the Prison Service. I conclude that using TULRA is not an immediate option but it remains one we may have to contemplate in extreme circumstances.

#### "Check-off" of Union Subscriptions

21. A different means of putting pressure on the POA in the face of renewed industrial action would be to stop the automatic deduction from pay of their members' subscriptions. I understand that there is no right to this "check-off" arrangement and stopping it, which would interfere with the flow of funds to the Association, could be justified on the grounds that the POA was using the money to damage the Government. On the other hand, the effect on the union would probably be delayed (it does not pay strike pay) and there would be some who would regard it as positive evidence in support of their charge that we are engaged in a vendetta against the unions. On balance, I am not inclined to favour the device, again otherwise than in extremis.

#### An Enquiry?

22. In the critical circumstances of the morning of 1 May, before the POA suspended their industrial action, one option I had to consider was whether to propose an independent inquiry into working practices and manning levels, and the procedures for determining them. This is of course a separate proposition from the enquiry which I have already set up under HM Chief Inspector. The object would be to secure independent validation of the case for change and thereby increase the pressure on the POA. This is not now immediately essential. But I hope that it can be urgently studied in case we are faced with a breakdown in the negotiations and further industrial action which cannot be contained. I recognise that such an enquiry would have implications for other parts of the public sector. But the case for change in the prisons is so strong, that if we cannot negotiate it with the POA, there would in my view be much to be said for resorting to an enquiry to prove that case.

Contingency Planning

23. At Annex C is an account of our contingency planning against the operational consequences of POA industrial action, and of the use of police assistance during the disturbances of 30 April. Where industrial action produces results beyond the control of Governors, the key is timely help from the police. I am setting in hand an urgent review of the procedures by which Governors alert police to the need for assistance in the context of industrial action; and an urgent review of the ACPO guidelines for deploying police officers, particularly to prevent escapes.

24. Since 30 April, present contingency plans have been reviewed by officials through the Civil Contingencies Unit. In addition, the National Information Centre has been set up at New Scotland Yard to collate information about police involvement in the response to the dispute. The Ministry of Defence is providing a temporary camp at Rolleston in Wiltshire which can accommodate 360. This will be available from 7 May. A second camp may also be available within the next 2 weeks. If the progress of the dispute makes occupation of either camp necessary, it will be desirable, though not necessarily essential, first to introduce emergency legislation; legislation is essential if the camp is to be manned with other than prison service personnel. The draft of the necessary legislation has been prepared and can be introduced quickly. I do not judge it necessary to do this at this stage. Nor do I regard it as right to use my power of executive release which is likely to be of limited value in response to industrial action and which I anyway regard very much as a power of last resort.

Conclusion

25. I invite my colleagues to:

- (i) note my report on the effects of last Wednesday's disturbances (paragraphs 2 - 4);
- (ii) note my decision on an inquiry into those events (paragraphs 5-8);
- (iii) consider my analysis of the issues at stake (paragraph 10-14) and my proposals for the future handling of the dispute (paragraphs 15-18);
- (iv) consider whether we should be prepared, if the POA resume industrial action, to deploy the TULRA and check-off weapons (paragraphs 19-22);
- (v) endorse the need for an urgent study of the proposal for an enquiry with working practices and manning levels.
- (vi) note my proposals for contingency arrangements for handling the operational consequences of any renewal of industrial action (paragraphs 24-25).

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The situation deteriorated rapidly from midday on Wednesday 30 April when a series of instructions issued to establishments by the National Executive Committee of the POA took effect. These instructions included the unilateral withdrawal from all national and local agreements; a national ban on overtime; a refusal to recognise limited and full alerts, and a refusal to meet with management.

On Wednesday night there were major incidents at Lewes, Northeye, Bristol and Wymott prisons and at Erlestoke Youth Custody Centre. Further less serious incidents took place at a dozen or so other establishments, including Pentonville, Leicester, Castington, Deerbolt, Pucklechurch, Highpoint, Ashford, Norwich, Northallerton, Stafford, Manchester and Wayland. These lesser incidents, which were all contained and brought under control, took the form of sit-downs, vandalism, door-banging, noise and small fires.

Disruption, such as roof-top demonstrations and barricadings, continued at a number of establishments over Thursday and Friday. The situation at Stafford was tense, whilst Send suffered from a disturbance created by the prisoners drafted there from Northeye. But generally speaking the number and severity of incidents was decreasing all the time and by the weekend everything was quiet.

#### DAMAGE TO THE ESTATE

Prison buildings were damaged in a large number of establishments, most of it fairly minor. But Northeye prison had to be vacated and there was serious damage at Bristol, Erlestoke, Wymott and Gloucester. In all about 800 places were put out of use. No assessment has yet been possible of the total cost of putting things right, but it is likely to run into some millions of pounds. Since Friday prison works staff and contractors have been working as quickly as possible. By the end of this week all buildings, apart from those at Northeye, should be weatherproof. Where necessary locks have been changed, doors are being replaced, in some places on a temporary basis, and windows repaired.

Northeye - damage was less extensive than first feared and it is hoped that it will be possible to return 50 inmates there within two weeks.

Wayland - immediate roof repairs have been effected.

Erlestoke - the fence has been repaired, and other repair work is in hand.

Gloucester- repairs to the roof are in hand.

Bristol - the roof is being repaired. New locks are being provided where necessary and 68 new doors are being installed in A Wing.

Lewes - repairs to the roof are in hand.

Highpoint - new locks are being provided.

Wymott - extensive minor damage to windows, lights and sanitary fittings. Inmates are clearing up the mess. 24 staff are replacing doors, lights etc. Substantial damage to the roof will be made weatherproof within a week.

Liverpool - Some roof damage - repairs are now in hand.

#### ABSCONDS

During the course of the past few days some 50 inmates were thought to have made escape bids. The position now is that 13 are still unlawfully at large.

#### STAFF SAFETY

Apart from some cases of minor assault and smoke inhalation no members of staff were seriously hurt or injured during the events of Wednesday and Thursday. One Governor collapsed from exhaustion but is reported to be recovering.

#### STAFF DISCIPLINARY ACTION

During the course of the industrial action 18 members of staff were temporarily relieved from duty. Final numbers of those who have lost pay are not yet available; it was about 500, excluding Gloucester, at the last count.

#### USE OF POLICE CELLS

The weekend of 26/27 April saw an increase in the use of police cells as staff, primarily in London, refused to accept prisoners from court on Friday evening. Thereafter, however, the use of police cells as a measure to cope with the events of last week was minimal and mainly in connection with the situation at Gloucester.

6 May 1986

P6 Division



QUEEN ANNE'S GATE LONDON SW1H 9AT

22 April 1986

Dear Mr. Evans,

At our meeting yesterday I promised to give my views in writing in the hope that this would be helpful in finding an answer to the present problems.

With regard to what has been discussed between the two sides of the Prison Department Whitley Council so far, my view, subject to what I say further below, is that the statement which the Official Side left on the table at the end of the resumed Council meeting on 9 April accurately represents the process which ought to be followed in discussions about manning levels. For the sake of completeness, I re-state what the Official Side said:

"Management accepts the Trade Union Side's unfettered right to meet with management to present its concerns in relation to manning levels by means of discussion and consultation leading where possible to agreement. Where agreement is not reached by this process, management will determine manning levels."

As has been constantly reaffirmed, and as I said publicly at the week-end, management has no intention of riding roughshod over its staff or their representatives. The commitment expressed in the statement will be carried out to the letter. The Deputy Director General has during the last week drawn it personally to the attention of all governing Governors. The safety of staff and the security of inmates are prime responsibilities of management at all levels of the Prison Service.

When I set the above statement alongside those in your letter to me of 16 April, namely that the Association does not challenge management's right to manage nor wishes to dictate manning levels, (a position which you reiterated yesterday) it seems to me that the process is clear. I understand from our discussion that the Association attaches much importance to calling this process "negotiation"; that must be a matter for you. What is vitally important is that the process works in the way described and that everybody tries to make it work.

I also realise from our discussion that you are concerned about the status of agreements. On this point I can assure you that agreements reached by whatever process will be honoured. As you stated yesterday it is, of course, always open to either side to seek review of arrangements (however reached) through the same processes.

David Evans, Esq, BA

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I hope that this will reassure you and that we shall not continue stumbling over these particular issues, though I realise you set great store by them. If they cannot be surmounted, however, I must reaffirm the Government's stated position and I am afraid that movement on a wider range of matters will necessarily be delayed.

But assuming that the Association will feel able to move on to the wider issues, and on condition that the present threat of national industrial action is lifted, I am ready to take a number of steps to carry matters forward:

- (i) I would ask the Treasury to seek to conclude a settlement of this year's pay claim as quickly as might reasonably be done. This would cover settlement of the outstanding question of a reduction in the working week on which my predecessor gave an undertaking to you last year. Negotiations cannot go on, of course, unless the threat of industrial action is removed;
- (ii) as a gesture of goodwill I am prepared to pay tax compensation on housing allowances for 1985/86 forthwith, without prejudice of course to the stance the Department may have to take for subsequent years;
- (iii) I will ask Prison Department to put to you within one month, i.e. in time for consideration at your Association's Annual Conference, the outcome of the studies on working practices which my predecessor proposed at your Conference last year. Thereafter, I would expect our proposals, which will, as foreshadowed by Mr Brittan, comprehend new pay arrangements, to be the subject of detailed discussion with you, with a view to new arrangements being in place by April 1987.

I hope the Association will give serious thought to the proposals set out above. I shall be very sorry indeed, as I am sure will you and your members, if a sensible way through the present difficulties cannot be found and if damaging industrial action ensues.

In view of the great interest in the Service and among the wider public in the resolution of the difficulties, I am making this letter generally available.

Yours sincerely,  
Douglas Hurd.

E.R.

ANNEX C

Contingency planning and the use of police assistance during the disturbances of 30 April

1. Contingency planning for the Prison Service in the event of industrial action by the POA recognises three possible types of police involvement:
  - (a) assuming responsibility to guard the perimeter of a prison establishment because of an atmosphere of potential riot;
  - (b) use of police cell accommodation for the incarceration of prisoners sentenced or remanded by the courts
  - (c) carrying out security functions and maintaining peace inside prison establishments, on the footing that it is no part of police functions to substitute for prison officers in any other way than to restore or maintain order if necessary.
2. It is police and Prison Service policy that the duty to restore and maintain order among inmates lies primarily with the Prison Service; the police should be called into the establishment only when the Prison Service find themselves unable to constrain the disorder. The agreed strategy in this dispute set out in the Home Secretary's minute of 17 April to the Prime Minister is "to seek to make maximum use of our own resources of management and such staff as remain loyal".
3. The absence of adequate prison staff was a crucial factor in some establishments in creating an environment in which prisoners could cause trouble. Governors particularly lacked information about what prisoners were planning and starting at a time when counter-measures would normally be taken.
4. Out of 130 establishments over 100 had no serious control problems arising from POA action on 30 April.
5. Although the POA NEC had instructed its members not to work overtime or to respond to the emergency calls to duty known "full alert" and "limited alert", the staff at a number of establishments responded to a full alert or similar call to emergency duty. At five establishments (Bristol, Lewes, Leicester, Stafford and Pucklechurch) the staff did not respond to a full alert or similar call to emergency duty.
6. At 11 establishments the police took up preventive positions on the perimeter at an early stage. The police were needed to enter the prison only at Bristol to restore order and at Wymott to protect the fire service. At Northeye the police took action on the perimeter.
7. In summary form:
  - (a) Bristol Police on the perimeter at an early stage. Staff did not respond to a full alert. Police were called in when there was a risk of disorder leading to prisoners escaping. Order was rapidly restored. No escapes. Considerable damage.
  - (b) Lewes Staff did not respond. Police on perimeter at an early stage. Considerable damage. No escapes.

(c) Wymott (Medium security (category C) with accommodation in cubicles, not cells. Staff responded when disorder broke out. Fires started. Staff gradually gained control during the night. Police brought in to the establishment to protect the fire service. Considerable damage. No escapes.

(d) Northeye (Category C; medium security; dormitory accommodation). It was decided that the benefit of trying to restore order in the burning establishment did not justify the risk of loss of police and prison officer lives. Both police and prison officers were deployed at the perimeter detaining prisoners as they surrendered at the gate or sought to leave the establishment. Extensive damage. 6 escapes; 5 still at large.

(e) Police and prison staff attended promptly at Erlestoke Youth Custody Centre when a passive demonstration rapidly deteriorated into violent behaviour followed by an attempted escape by 40 inmates. Over 30 surmounted the perimeter fence, of whom 5 are still at large.

8. 30 April was the first occasion in recent years when the police have been brought into a prison to restore order. Serious riots at maximum security prisons, involving comparable damage, have been quelled by prison officers with police remaining outside the perimeter.

9. Each prison governor has contingency plans drawn up with his local police force in accordance with these principles and the guidance circulated to police by the Association of Chief Police Officers (ACPO). The covering paper makes proposals for an urgent review of these arrangements as they apply where the POA take industrial action. The President of ACPO has set up the national information centre at Scotland Yard to co-ordinate information about police involvement in the dispute, as was the case in 1980-81. Communication is satisfactory between Governors and local police, between Regional Directors and Chief Officers and between the Home Office and the President of ACPO.

Advice to the courts

10. On 30 April a circular was issued to magistrates' courts encouraging them to take what steps they reasonably can to reduce or defer their use of custody and to reduce the requirements for productions to court.

Emergency legislation

11. A draft Bill has been prepared to provide power to:

- (a) hold prisoners in temporary camps;
- (b) remand prisoners in custody in their absence;
- (c) release on bail prisoners remanded in custody by the courts;
- (d) prevent courts committing to prison for fine and other default.

Temporary changes

12. The Ministry of Defence are providing a temporary camp which will accommodate 360. It will be available from 7 May. If the progress of the dispute makes occupation of the camp necessary it will be desirable, though not necessarily

essential, first to introduce the emergency legislation so that the camp can be manned with other than Prison Service personnel. A second camp has been identified and the Ministry of Defence hope to have this available within the next two weeks.

Executive release

13. There is a power in section 32 of the Criminal Justice Act 1982 to release early those convicted of offences other than violence and drug trafficking. This power is likely to be of limited value in response to industrial action and is regarded very much as a last resort.