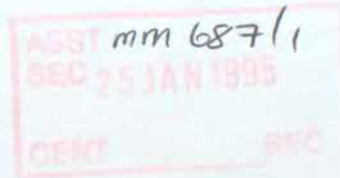


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From: W K Lindsay  
Political Affairs Division  
17 January 1995

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cc Mr Maxwell

cc: PS/Secretary of State (B&L) - B  
PS/Michael Ancram (B&L) - B  
PS/Sir John Wheeler (B&L) - B  
PS/PUS (B&L) - B  
PS/Mr Fell - B  
Mr Legge - B  
Mr Thomas - B  
Mr Bell - B  
Mr Williams - B  
Mr Brooke - B  
Mr Daniell - B  
Mr Leach - B  
Mr Shannon - B  
Mr Steele - B  
Mr Watkins - B  
Mr Wood (B&L) - B  
Mr Maccabe - B  
Mr Brooker - B  
Mrs Brown - B  
Mr Dodds - B  
Mr Perry - B  
Mr White - B  
Mr McLaughlan - B  
Mr Stephens - B  
Mrs Collins - B  
Dr Power - B  
Mrs Madden - B  
Director, TFU - B  
Mr Beeton, SIL - B  
Mr P Lever, Cabinet Office  
HMA, Dublin - B  
Mr Lamont, RID - B  
Miss Collins, Cabinet Office

NOTE FOR THE RECORD

LOYALIST EXPLORATORY DIALOGUE (LXD): THIRD MEETING - THURSDAY  
12 JANUARY 1995, HELD AT PARLIAMENT BUILDINGS

LXD(3) began slightly later than planned (at the request of the parties) at 10.45 am and concluded at 1.40 pm, with a recess of 30 minutes from 12.15 to 12.45 pm. The Government side was represented by Messrs Leach, Steele, Maccabe, Mrs Brown and myself. Contrary to information previously received about Councillor Blair joining the UDP team, both parties fielded unchanged delegations - for the PUP Messrs Hutchinson, Ervine, Smith, Robb and Mahood and for the UDP Messrs McMichael, English, White, Kirkham and Adams. The PUP had a backup team comprising John Cowan, Eileen Ward, Samuel Austin, Norman Dunseath and Alfred McCrory.

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Summary

2. The meeting was business-like and friendly, with points put in a constructive manner and some touches of spontaneous humour. Proceedings began with a discussion of the overnight loyalist punishment beating in Lisburn, which both sides said they deplored. The minutes of the last two meetings were agreed without a single amendment. Both parties submitted detailed papers on prisons (the PUP likened their lengthier document to "War and Peace"). The PUP indicated that they did not wish to make their document public at this stage so as not to "constrain Government" or turn the prisons issue into more of a political football than it was already.

3. The suggestion of an amnesty was firmly rebutted by the Government team, and discussion then focussed on remission arrangements for determinate prisoners and special reviews for life sentence prisoners. The delegations were reminded of the unhelpful nature of disruptive activity by loyalist prisoners in the Maze in recent months, which was neither conducive to further regime improvements nor to any other prisons measures which the Government might consider. After a break, various other points in relation to the enhancement of parole and compassionate home leave arrangements and the role of loyalist prisoner welfare groups were made. The Government side undertook to give careful consideration to the two papers and the points made verbally, and in due course to provide a paper in response which could be discussed at a further meeting.

4. Other issues mentioned included the decision that Ministers would now meet with Council delegations which included Sinn Fein/UDP/PUP, and the reduced levels of military patrolling in the greater Belfast area which had just been announced. A draft press release to be issued by the Government after the meeting was tabled and agreed with some amendment; and a date for the next meeting was set for 25 January.

Punishment Beatings

5. Mr Leach welcomed the two delegations and referred to the punishment beating in Lisburn the previous night. He accepted that both the parties had made their position clear on punishment beatings and had deplored them. But it was important that, beyond that, they should do all in their power to bring about an end to this type of activity. Mr Hutchinson, for the PUP, said that they did not agree with punishment beatings and both parties had gone public in an attempt to stop them. However, there were policing problems in these areas which also needed to be remedied. Mr Ervine said that the public, and even the press, might not be aware that the beatings were now largely confined to internal discipline and did not involve ordinary members of the public.

6. Mr McMichael, for the UDP, agreed that punishment beatings were wrong, but they would not stop overnight so long as people preferred to go to the paramilitaries with local anti-social problems. The police had a role to play in this, but it depended on their being seen in the community and having the confidence of the community. He also pointed out that punishment attacks were not exclusive to Northern Ireland and people in many societies expressed their disapproval of anti-social behaviour (such as sexual offences) in this direct way.

7. Mr Hutchinson said that sometimes it was simply about getting justice, and when the RUC and other agencies did not respond people often felt that they had no option but to "take their own justice" or have others take it for them. After their joint press conference with the UDP some months earlier which had condemned punishment beatings, the PUP had received a number of telephone calls saying they had been wrong in taking this line. It was claimed that, since the ceasefire, crime rates had gone up considerably; also police response times were often far too long (2½ to 3 hours was quoted). Mr Leach, concluding this part of the discussion, pointed out that the media were used to looking for bad news about Northern Ireland, and the absence of significant terrorist violence meant that this

type of activity got more attention. It was clearly important to bring home to the community that turning to the police rather than the paramilitaries in relation to criminal activity would lead to a satisfactory outcome; and ways of achieving this, together with the claim of slow response times, could be discussed further when policing and criminal justice issues were addressed in meeting five on the future workplan.

#### Minutes of last meetings

8. The summary minutes of the first two meetings of LXD (15 and 23 December), supplied to the parties by the Government side, were agreed without amendment.

#### Matters Arising

9. As the PUP and UDP had no matters arising, Mr Leach referred back to the issue of physical protection measures, which had been raised at the last meeting. He explained that a limited scheme was operated at public expense for certain individuals and groups whose death or injury by terrorist attack could damage the democratic framework of Government or the maintenance of law and order. It was not meant to protect everyone under threat, and the assessment of risk was determined by the RUC. If anyone considered that they were under threat and required some level of protection, they could apply in writing to the Police Division of the NIO, who administered the scheme on behalf of the Secretary of State. However, there could of course be no assurance that particular applications would be successful.

10. The position of Sinn Fein had been specifically mentioned at the last meeting and, while it was not the practice to discuss individual cases with third parties, Mr Leach said he could confirm that there was no truth in any claim that Sinn Fein was being treated more favourably than the UDP/PUP or that loyalists were being denied protective measures which might potentially be available to Sinn Fein. Mr McMichael said that Police Division were

arguing that there was no threat since the ceasefires but he would contend that there was fragility about the process and it could all change very quickly. Mr Mahood argued that loyalists were still at risk from republican splinter groups like INLA which had never declared a ceasefire. Mr Leach said that the police would be likely to take such factors into account in any threat assessment. It was agreed to leave the subject there to see how the situation developed, though if any individual members of the delegations wished to make application to Police Division direct or through the LXD Secretary, then that course was open to them.

### Prisons Issues

11. The PUP submitted a 14 page document on prisons, with a two page preamble, while the UDP submitted a slightly revised version of their 23 December document. On the status of these, the PUP said that they would not be releasing theirs to the press because this was an emotive subject, the public at large were not aware of detailed prison issues, prisoners were in danger of becoming a political football and, finally, they did not want to "constrain the Government" in any proposals they might be considering.

12. Mr Leach, by way of introduction, said the Government recognized that the parties saw prisoners as a significant issue. However, the parties should equally recognize that there were issues which were of great concern to the Government side, notably arms. Many of the PUP and UDP proposals in respect of prisoners would involve profound political and other difficulties - for example, legislation would be required in many cases and the views of the victims of terrorism and their families had to be taken fully into account. While the Government had not closed its mind to the possibility of developments on the prisons front, the wider situation would have to be able to support such development. There could be no question of bartering, and every issue should be treated on its merits, but he hoped that at the end of the day concurrent progress on a range of issues might be possible which would enable all sides to achieve a satisfactory outcome. As for the current discussion, there would be no final response to the parties' views at this meeting, but he

would hope in due course to table a Government paper responding to the parties' submissions, and would suggest that a further meeting on prisons should be included in the workplan at a later date.

### Amnesty

13. Mr Leach observed that the proposal for an amnesty was highlighted in the PUP document, while mentioned as being politically unacceptable at present in the UDP paper. He had to say that the Secretary of State had made clear that there was no question of an amnesty and that prisoners must serve their sentences according to the law. He could see no possibility that that position would change, and the parties might wish to bear this in mind in their public statements. It was of course true that the law was not unchangeable, but, as an example, to enact a change in remission rates for determinate prisoners would require primary legislation. There would be obvious difficulties for the Government in justifying this to Parliament if there was continuing terrorist activity such as targetting, coupled with no progress on weapons. Mr Ervine deployed one of his many throw-away lines - "we will ask what we want and you will do what you can".

14. Mr Steele commented that continuing punishment beatings, and the fact that the paramilitaries retained their organizations and resources intact, did not make the position easier. Neither did the very unhelpful and often disruptive behaviour of prisoners at the Maze, for example, the breaches of the "contract" made with the loyalist prisoners by the Governor six months ago. Mr Maccabe said that it had been a very forward step to draw up the contract, which was a sign of trust between both sides. The breaches which had been reported sent an entirely wrong signal if prisoners were seriously interested in achieving further regime enhancements.

15. Mr White readily accepted that there were problems in the Maze in relation to discipline, and both he and Mr Hutchinson commented that this was a matter for the loyalist prisoners welfare organizations. They said they would make representations to them in

relation to the alleged breaches of the contract, and asked if they could have a copy of it. Mr Ervine, in the spirit of openness prevailing at the meeting, said that they welcomed the regime changes which had taken place, but also suggested that the actions of the POA should be looked at as another source of difficulty.

#### Remission Rates/Treatment of Life Sentence Prisoners

16. Mr White pointed to the role played by prisoners in achieving and maintaining the ceasefire. He said they had to be shown that change could and would happen in the new circumstances which prevailed. He considered that the public would accept a change in remission rates which brought Northern Ireland into line with the rest of the United Kingdom, though he knew that a large percentage of those who applied for two-thirds remission in GB were refused. He also thought that every life sentence prisoner should be reviewed, as happened with the special category prisoners in the late 1980s. As there was now no element of risk because of the ceasefires, the main consideration was one of retribution. Mr White suggested that the retributive calculation was flawed and that the Government had used the system for political ends in the past, as in the case of Private Thain, who had only served a fraction of his life sentence before release.

17. Mr Steele noted that even if movement on remission rates or lifers might in theory help the peace process, the danger of an immediate review of lifers would be that everyone reviewed would stay as they were. This sort of mechanism could conceivably come into play somewhere further down the road. Mr Maccabe pointed out that in recent years the risk element had been small because of the policy of paramilitary groups not to use lifers on release and of their record in not re-offending. Therefore the add-on for risk was not high and would not dramatically affect the time served as a result.

18. Mr Smith doggedly made the point, and more than once, that the level of sentencing had increased dramatically over the years,

especially for scheduled offences. He contended that people convicted of such offences got higher sentences than those for non-scheduled offences, and argued that some people charged here would not have been charged in GB. **Mr Steele** disagreed; he said that those convicted of terrorist offences in GB were, if anything, treated more harshly than in Northern Ireland - with lifers serving 20 years' minimum. The position in ROI was much the same, with harsher sentences. **Mr Ervine** maintained, with some degree of personal conviction, that sentences had been given in Northern Ireland for a deterrent effect and now that the emergency was over, these should be reviewed.

19. The discussion touched on the loyalist parties' repeated references to "political prisoners". **Mr Steele** said that the Government did not of course accept that there were political prisoners. Nonetheless, there was some substance in the parties' view that prison issues were central to the conflict and its resolution, and it was manifest that the law separately identified scheduled offenders in Northern Ireland. Prisoners in NI were also somewhat different from GB prisoners in that they were organized within the prisons and supported by structures outside. Prison regimes in Northern Ireland were already imaginative, but there might be scope for further progress. This was high on the republican agenda also. **Mr English** argued that prisoners in Northern Ireland were unique because of the part they played in achieving the ceasefire, while **Mr Mahood** said that they were unique because of the system they had gone through (holding centres, emergency legislation, Diplock courts etc) and the harsher sentences.

20. Moving on, **Mr Steele** said that changes in remission, or some new parole arrangements, could in theory be options at some point, but Ministers had yet to be convinced of that. If a parole system were introduced with new supervisory arrangements, would loyalists be prepared to comply with these? **Mr White** said there would be no problem with that at all. **Mr Leach** commented that one way of creating confidence that any new arrangements would be practicable



would be for loyalist prisoners to demonstrate that they were complying now with the current administrative arrangements inside prison. One problem with parole, suggested Mr Hutchinson, was that the Probation Board would not have any dealings with paramilitary prisoners, while the latter, in turn, saw statutory agencies as criminalising them. Mr Maccabe said that, while the Government team was not empowered to negotiate, it was helpful to know that if any move were made towards the GB position on remission rates, the parties believed that the supervision element would be practicable. Mr Ervine suggested that remission was a guarantee for Government, in that prisoners could be recalled if involved again.

21. To a question from Mr White about whether it was the case that the Government would not be prepared to move on prisons issues until an overall political settlement had been achieved, Mr Leach said that that was for Ministers to judge. However, if good progress was being made in the exploratory dialogue, and issues of major concern to Ministers were being addressed, then it might be decided that the atmosphere was right for further measures to solidify the peace. Clearly developments on the loyalist side would have an effect on the republican side also. Mr Hutchinson said he recognized that decisions rested with Ministers but he firmly believed that prisoners had to be released to facilitate a solution to the whole situation. Mr Leach said that the discussion so far had been very helpful in allowing the parties to register their central concerns about prisons and prisoners, and the Government side to make an initial response drawing attention to the wider picture. He proposed, and it was agreed, that there should be a break, which took place from 12.15 to 12.45 pm.

#### Home Leave

22. Mr White began the resumed session by saying that the parties had been looking for a goodwill gesture from Government around Christmas to recognize the major contribution prisoners had made, and continued to make, to the ceasefire. He suggested that the threshold for consideration for Christmas parole could be reduced

from 11 years (as it had been reduced from 12 in the past). Also, pre-release parole for long-term prisoners in the last year of their sentence could be extended to the last two years, as happened with female prisoners. Compassionate Home Leave (CHL), they believed, should be extended to the wider family to include grandparents and should be for longer (in cases of death or serious illness) than 24 hours.

23. Mr Smith made similar points for the PUP in relation to CHL for the extended family; a minimum of four weeks leave throughout the year, for instance at Easter and Halloween, as well as Christmas and summer; and parole for prisoners undergoing medical treatment before going back to prison. He also suggested that long-term determinate prisoners, some of whom served longer than lifers, should be included in the working-out schemes. Mr Leach said that these were all points which had been noted and on which the Government would respond. Enhancements of regimes of this type were not ruled out, but could clearly not be isolated from the wider level of confidence in the community and the behaviour of prisoners in the prisons. This could be developed further at future meetings. He proposed another meeting on prisons after meeting five on the workplan, for which the Government side would table a paper in advance. He commended the parties for putting their points across clearly and for the comprehensive papers they had prepared. The Government accepted the seriousness with which the parties viewed prison issues and appreciated the thoughtful suggestions which had been made.

24. Mr Hutchinson asked whether sentenced prisoners could (after release) stand for public office. Mr Maccabe said he thought they could but he would obtain a definitive ruling on this and inform the parties accordingly.

#### Loyalist Prisoners' Welfare Organizations

25. Mr White said that most of the paramilitary prisoners did not avail of the services provided by NIACRO or the Probation Service, because of the danger of being criminalised. They turned instead to

the loyalist welfare groupings, but the services which these bodies could offer would begin to decline if no Government support was forthcoming. Mr Smith agreed and said that one of the main ways of redressing control problems in prisons was to improve communications. He suggested allowing welfare representatives to have the same access into the wings as probation officers. Mr Hutchinson maintained that, in his view, it was also important for officials in Prison Regimes to meet LPA officials. [Mr White to note please.]

26. Mr Steele, in response, said that many of the issues raised in this section would be determined by the climate both inside and outside the prisons. The reason financial assistance had not been given to the loyalist welfare organizations was because they were too close to the paramilitary organizations. However, if the Hurd doctrine were to alter, then that position might change. Mr English, in a rare intervention, suggested that, for instance, in relation to transport, no money would pass to the paramilitaries via the welfare organizations if public transport to the prisons was made available. Mr Maccabe pointed out that this already happened in relation to the YOC. Mr Hutchinson said that all the questions raised during the course of the meeting were questions of trust, both in relation to prisons and arms. Prisoners would not go to the statutory agencies, and the Probation Service would anyway have nothing to do with them, so the Welfare organizations, in his view, did need additional support. Mr Ervine suggested that if Government decided to assist the welfare organizations, they would abide by the law in relation to accounting and other requirements.

#### Any Other Business

27. Mr Leach informed the delegations that Ministers had decided to lift the restrictions on meeting council delegations which included Sinn Fein/UDP/PUP representatives. This was part of the process of normalizing relations with these parties. It would not be announced but could be mentioned by the parties if they so desired. To a question from Mr Hutchinson about whether this applied to community

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groups, Mr Maccabe said that only elected representatives were affected by it.

28. Mr Leach also said that an announcement had been made during the course of the day that, from the following week, no soldiers would be patrolling in the Greater Belfast area during daylight hours. Mr Steele said that this was another signal that the process was alive and well. It created a further context where further movement was possible. The situation inside prisons, as mentioned before during the course of the meeting, affected this as well. Mr Ervine said that it had long been PUP policy that soldiers should be withdrawn from the streets of Belfast. Mr Smith made the point that there were a number of blocked roads in North Belfast. They had found great difficulty in having bollards removed - for instance outside Tennent Street RUC Station, where, he claimed, the police had also agreed they should be removed. But they were 197th on the DOE list.

29. Some final points were made by the delegates. Mr Adams suggested that the Secretary of State's remark about his namesake (Gerry) needing help sent the wrong signals to the Unionist community. Mr Mahood asked how many more breaches of the republican ceasefire would be allowed - for instance, the incendiary device in Woolworths and one found in the furniture store in Newtownards Road, which had apparently been there for some time. He hoped these would be raised with Sinn Fein.

Press Release

30. A draft press release by the Government side was circulated to the parties and agreed after some discussion.

Date of Next Meeting

31. The date of the next meeting was agreed as 25 January at 10.30 am.

W K LINDSAY

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