

PS/PUS (B & L) (BY MUFAX)

MAZE PRISON: CLOSED VISITS FOR TOP RISK PRISONERS

Bill Kerr has kindly let me see the recent papers on this subject and I note that PUS is to have a discussion about it before advising the Secretary of State. As I am unable to be present in person I thought I should set out my views which I hope PUS will find helpful.

2. TOP RISK SCHEME AT MAZE

While the public controversy mainly centres on the closed visits Bishop Daly's letter calls in question the top risk scheme itself by his expressed doubts as to the objective criteria whereby distinctions can be made on security risk grounds between prisoners.

3. A top risk scheme to provide additional security in respect of a small number of prisoners was proposed and implemented at HMP Belfast in 1981 on the recommendations of the then Chief Inspector of Prisons who concluded that "it is always sensible to concentrate additional efforts on the security of the minority (of prisoners) who present the gravest risks". Sir James Hennessy clearly endorsed the application of that principle to the Maze when he said (at 9.06) "The arrangements for the introduction of a new security category for inmates who present a particularly high risk, for example, have not yet been applied to the Maze".

4. I am entirely persuaded of the merits of a top risk scheme as recommended. As the Secretary of State has accepted the Hennessy Report and the Minister has approved the parameters of the scheme I assume that whatever the decision may be on closed visits that the top risk scheme will continue to be defended.

5. OBJECTIVE CRITERIA FOR SELECTION AS TOP RISK

Any assessment of "dangerousness" cannot be wholly objective but we are satisfied that after careful examination of relevant information about all prisoners in the Maze including the fullest consultation with the RUC that the 49 men selected are those presenting the most extreme danger to the public if they were to escape. The list

contains both terrorist planners and leaders as well as the most ruthless and deadly operatives. The number involved is around 5% of the Maze prison population. While the precise numbers will fluctuate there is no intention to apply the top risk scheme more widely.

6. CLOSED VISITS - THE HENNESSY VIEW

In my interview with Sir James Hennessy and his team during their Inquiry Sir James pressed strongly on me his view that all Maze prisoners were such dangerous terrorists that they should all have closed visits. I equally strongly resisted that view. The opposing arguments are fairly summarised in 4.13 of the Hennessy Report from which it can be seen that he accepted the Prison Department view.

7. The only other specific Hennessy recommendation on closed visits is at 4.21 - "Closed visits should continue to be the normal practice where there is evidence to show that a prisoner or his visitor cannot be trusted in open conditions". While this recommendation does not say in terms that top risk prisoners should have closed visits I would contend from my discussions with the Hennessy team and in the context of the Report as a whole that this was what Hennessy intended to happen. I think it could also be reasonably argued that the fact that a prisoner is selected as being of such extreme dangerousness as to warrant his inclusion in the top risk category is of itself evidence that such a prisoner cannot be trusted in open conditions.

8. CLOSED VISITS - THE PROBLEM NOW

Whether or not Hennessy favoured closed visits for top risk prisoners is in any event not a decisive issue in facing up to the problem now which is quite simply whether or not to continue them in the face of a challenge to their imposition. Before analysing the problem I think we should seek to clear away some confusion about our prison objectives which appear in the papers. Bishop Daly says in his letter at the top of p.2 "I know that security within the prison is a paramount imperative, which must take precedence over other considerations"

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and then goes on effectively to show why in his view this is not so. But there is no disagreement here at all. Neither the Prison Department, nor the Northern Ireland Office, nor the Secretary of State take the view that "security within the prison is a paramount imperative, which must take precedence over other considerations". What is the paramount imperative in my view to the Prison Department, the NIO and the Secretary of State is the public safety in Northern Ireland. Prisons and prison issues cannot be looked at in isolation. They are an integral part of the wider Northern Ireland political/security problem. The issue of closed visits must therefore be decided in that wider context in which prisons considerations are only one of a number of factors though an important one.

9. RISKS IF CLOSED VISITS ABANDONED (THE CASE FOR CLOSED VISITS)

While naturally the opponents of closed visits have sought to illustrate a variety of dire consequences which will follow the continuation of a prison policy to which they object I think that before looking at the realism or otherwise of such eventualities we should first seek to analyse the likely risks to security in the prison if closed visits were abandoned. If in fact it is concluded that no serious risk would arise or that an equally efficacious alternative is available then perhaps we need look no further but can act at once.

10. In my view the strategy of Republican prisoner in the Maze has radically altered since the end of the Hunger Strike. A detailed analysis of these changes and their prison consequences is the subject of a separate paper but I quote here a paragraph which sets out some of my concerns about their new objectives.

"The stunning success of the mass escape; its boost to morale; its publicity value; and its ability to cause such severe embarrassment to HMG will not be lost on the Republican leadership. Another escape attempt by different means would be an attractive idea; even to smuggle guns into the prison again would be politically embarrassing;

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to go further and take hostages or take over a wing or a Block would be even more so. A whole new range of opportunities for Republican prisoners to contribute to "the war against the British" opens up if they conclude that Ministers might be politically vulnerable to attack by way of further dramatic breaches of prison security and controls".

11. Open visits are inherently dangerous. We do not intimately search prisoners; we do not strip search visitors. Both decisions are taken - properly in my view - in the knowledge that it is therefore possible for a visitor, particularly a female, to bring a gun or explosives into the prison undetected. Open visits is where the meeting with prisoners takes place and is therefore a possible location for a security incident such as is described above. Bishop Daly suggests that such top risk prisoners would be more likely to use other prisoners to smuggle the gun/explosives in, perhaps through their open visit, and then pass it on in the Block. Maybe this is so. But it does not exclude the possibility of an incident occurring in the visits area involving an armed top risk prisoner.

12. If closed visits are abandoned we might fall back on the strip searching of the top risk prisoners after visits. This would still not exclude the possibility of an armed incident in the visits area but that risk would then simply have to be accepted as it was prior to the top risk scheme.

13. I conclude therefore that there is a real risk of a security incident in the Maze which could have political consequences if it materialised and which closed visits would prevent, ie an armed top risk prisoner in the visits area taking hostages as a means of escape or just to create a politically damaging incident. Closed visits therefore have some real value as a security aid in the Maze prison and no equally efficacious alternative is available. There is a case for closed visits. We must therefore examine the strength of

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the case against their continuance.

14. RISKS IF CLOSED VISITS CONTINUE (THE CASE AGAINST CLOSED VISITS)
The paramilitary prisoners, both Republican and Loyalist, were bound to dislike and object to closed visits. Their threats of a renewed prison crisis find ready ears outside. There is no surprise here. Paramilitary prisoners see themselves as prisoners of war and object to all security moves we make because a fortiori they are contrary to their interests. If we are only to take such security measures as the paramilitaries allow us to take then we might as well all go home and leave them to it. The measure of their case must be made on what they might do not on what they say. There are 3 responses they might make which we need to consider and weigh carefully - (1) prison protest action; (2) a hunger strike; and (3) killing of prison staff. I look at each in turn and while bearing in mind that both Republicans and Loyalists are involved here I look at (1) and (2) in Republican terms which I take to be the more serious but (3) has serious implications in both its Republican and Loyalist dimensions.

(1) PRISON PROTEST ACTION

The whole history of the Maze from 1976-83 is one of prison protest mainly by Republicans. As I said earlier I believe the Republican prisoners' strategy in the Maze has fundamentally altered since the Hunger Strike. They now have both de facto segregation and the freedoms which full conformity with Prison Rules allows them in our humane and liberal prison system. They are not about to give us the chance to take those away, which protest action and consequential punishment would entail, unless they had a really good issue which they could exploit. I do not think closed visits for 50 men out of 1,000 is such an issue and accordingly I do not believe we will see a renewed prison protest.

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(2) A HUNGER STRIKE

Just to say the words Hunger Strike seem to cause flutters of alarm in some quarters. The 1981 Hunger Strike caused very serious political and security problems outside the prisons but it still needs to be remembered that inside the IRA were defeated and 10 men died. They are not about to repeat that experience unless the issue is capable of similar outside benefits. Let us therefore look at how closed visits for 50 out of 1,000 men would run as an issue -

- (a) In America. It would not get off the ground. Closed visits are standard practice in US high security prisons.
- (b) In the European Commission of Human Rights. Closed visits are standard practice for high risk prisoners in Germany and elsewhere.
- (c) In Ireland. The Irish Government would not let an inconvenient fact like closed visits for all IRA men in Portlaoise inhibit them from criticism of HMG but it would be a difficult issue to run.
- (d) In the NI Catholic community. This is a possibility but without the wider dimension I doubt if the IRA would think the issue good enough.

I would therefore discount a hunger strike as a likely response.

(3) KILLING OF PRISON STAFF BY BOTH REPUBLICANS AND LOYALISTS

This is the most worrying prospect. It carries no loss of the prisoners' privileged position and it is likely to produce an early reaction from the POA particularly if the Loyalists were also involved.

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15. I conclude therefore that there is a case against closed visits in that it is likely to precipitate the killing of prison staff and POA unrest. The fact that the Governor has now told us that he favours abandoning closed visits is an added factor which will be used by the POA to press HMG to retreat from closed visits.

16. CONCLUSION

As is usual in NI prison issues there is a case to be made on both sides. The fact that the Governor has said in effect that he will side with staff against the closed visits policy is in my view decisive. The Secretary of State could not sustain a closed visits policy in the face of the killing of prison staff by Republican and Loyalist paramilitaries where both the POA and the Governor contend that closed visits are not justified on security grounds. I conclude therefore that the Secretary of State should be advised to accept the Governor's recommendation that closed visits should cease.

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