

**CONFIDENTIAL****TAB J****PRISONER ISSUES (DETAIL)****KEY CONFIDENCE POINTS**

- \* Since November 1995 some 240 prisoners have been released early under the Remission of Sentences Act.
- \* About 50 prisoners from the Maze receive compassionate temporary release every month.
- \* We expect about a third of all sentenced prisoners to receive Christmas home leave.
- \* No outstanding applications from republican prisoners held in Great Britain for transfer to Northern Ireland.
- \* Prisoners on temporary transfer to Northern Ireland are eligible for temporary release under local arrangements.
- \* Most transferred republican prisoners have already taken periods of temporary release and will receive 10 days Christmas Home Leave.
- \* 9 republican prisoners have already been repatriated to the Republic of Ireland.
- \* The Home Secretary approved the application for repatriation from Donnelly on 5 December.
- \* Further cases are under consideration by the two Governments.
- \* No republican prisoners are held in SSUs.
- \* So that reviews of life sentence cases take account of the changed circumstances of the cease-fires, no case will be knocked back for more than 3 years.



**CONFIDENTIAL****TRANSFERS FROM GREAT BRITAIN TO NORTHERN IRELAND**

- \* There are currently no applications by republican prisoners for transfer to Northern Ireland outstanding.
- \* Patrick Martin, who was the only outstanding case, was told on 5 December that the Home Secretary had agreed to grant him a restricted transfer to Northern Ireland.
- \* Prisoners granted restricted transfers to Northern Ireland are eligible to apply for temporary release under local rules; all except two republican prisoners have already taken periods of temporary release.

**Background Note**

1. Since new arrangements were introduced in 1992 15 terrorist prisoners have been granted temporary transfer to Northern Ireland (13 republican and 2 loyalist). Martin will raise this number to 16. During the same period 14 terrorist prisoners have been granted unrestricted transfers.
2. A prisoner will generally be granted an unrestricted transfer unless the effect would be to significantly reduce the period he is required to serve in custody. In such circumstances he will be granted a restricted transfer which means that ultimate release remains the responsibility of the sending jurisdiction.
3. The two prisoners who have not received temporary release are McNulty and Jack. They do not meet the criteria for any of the pre-release temporary release schemes.



**CONFIDENTIAL****REPATRIATION TO THE REPUBLIC OF IRELAND**

- \* 9 republican prisoners have now been repatriated to the Republic of Ireland (Hayes, Woods and Denis Kinsella were repatriated last week).
- \* The application by Donnelly has now been agreed and he will transfer shortly.
- \* Of the outstanding cases 7 are with the Home Office for decision; however, no final decision can be made in these cases until the Irish Government passes further legislation to allow the enforcement of their sentences; 3 cases are with the Irish Government and 4 cases (the Balcombe Street gang) have yet to be passed to the Irish Government; 1 case (John Kinsella) has been suspended as the prisoner has appealed against his conviction.

**Background Note**

1. Donnelly was told on Friday 5 December that his application had been approved.
2. Final decisions in the cases currently with the Home Office have not been made because the sentences being served in each case are longer than is available for the equivalent offence in the Republic of Ireland (with the effect that their sentences could not be enforced following repatriation). The Irish Government has undertaken to pass legislation allowing for their Courts to make orders to enforce such sentences.
3. Tariffs have yet to be announced for the Balcombe Street gang (see separate briefing note) and have now been delayed because of representations from O'Connell. Until tariffs are set and announced the cases cannot be referred to the Irish.



**CONFIDENTIAL****BALCOMBE STREET FOUR**

- \* The so-called Balcombe Street gang were convicted of a series of horrific offences.
- \* They were eventually convicted of six counts of murder and one of manslaughter, as well as numerous other offences and received a total of 47 sentences between them.
- \* Tariffs were not set at the time of the convictions. However, present policy is to set tariffs in all cases.
- \* Aware that tariffs are required in these four cases before their repatriations applications can be processed further.
- \* Currently giving careful attention to the tariffs appropriate, in all the circumstances, to the offences committed and to the formal representations (received on 2 December) on behalf of Martin O'Connell which will delay the announcement of the outcome for some weeks. All four had previously declined to make any representations about tariff.



**CONFIDENTIAL****LIFE SENTENCE REVIEWS*****Reduction to maximum of 3 year deferral***

- \* Dr Mowlam announced on 27 October that in future the maximum period for which a case may be deferred for further consideration by the Life Sentence Review Board was to be reduced from five years to three years. This change, which will apply to all future cases, will ensure that cases are kept under more frequent review. Significant changes in the security situation can therefore be factored in to individual decisions more easily.
- \* The time that a prisoner will serve will continue to reflect the need to punish the offender, to deter the offender and others, and to protect the public from the risk of re-offending.



**CONFIDENTIAL****CHANGES TO PERMANENT RELEASE ARRANGEMENTS**

- \* More than 240 terrorist prisoners have already been released under legislation introduced in 1995 in response to the cease-fires.
- \* We stand ready to consider further concerns raised with us as part of the democratic process.
- \* Further developments will be easier as the community at large gains confidence in that process.
- \* Will not speculate at this time about further changes.

**Background Note**

The issue of prisoner releases in the context of a political settlement remains under consideration by the Northern Ireland Office in consultation with the Home Office.



**CONFIDENTIAL****CHANGES TO TEMPORARY RELEASE ARRANGEMENTS**

- \* There have been a number of important changes over the past three years.
- \* The range of circumstances in which compassionate temporary release will be granted has been **extended**; in addition there is no longer a time-served qualifying period and the maximum period of leave for funerals is now 72 hours.
- \* About **50 applications** from paramilitary prisoners at Maze for compassionate temporary release are **granted each month** (there are about 420 sentenced prisoners at the Maze).
- \* **Christmas leave has been extended to 10 days** for all prisoners and the qualifying period reduced; the 10-day allowance has been extended in a similar manner.
- \* **More than a third of all sentenced prisoners will be granted 10 days Christmas Home Leave this year**; more than 160 paramilitary prisoners at the Maze have already had their applications for Christmas Home Leave approved.
- \* The **number of days of pre-release leave** for prisoners serving longer sentences has been **significantly increased**.



**CONFIDENTIAL****IRISH PRISONERS HELD IN ENGLISH PRISONS**

- \* No republican prisoners held in SSUs.
- \* Irish Republican prisoners who were Category A Exceptional Escape Risk were downgraded in August to Category A High Risk.
- \* The five Irish Republican prisoners held on remand at Belmarsh are due to stand trial at the Central Criminal Court in the near future. High risk prisoners awaiting trial in London are held at Belmarsh prison.
- \* Prior to their downgrading the five remand prisoners occupied one spur of a building within Belmarsh prison which was run as a special secure unit in accordance with the SSU Operating Standards. The three other spurs of the building were occupied by high risk prisoners.
- \* The five prisoners now share a spur with other high risk prisoners and are subject to the local security restrictions imposed on all high risk prisoners at Belmarsh.
- \* There has been **no deterioration** in the conditions of detention for the five republican prisoners currently held at Belmarsh. The restrictions placed on the five prisoners have been reduced since they were downgraded from exceptional risk to high risk. The prisoners are now **treated the same as all other high risk prisoners** at Belmarsh.
- \* As high risk prisoners, the five are **no longer subject to closed visits** and have started to have **family and other visits under open conditions**. The five are also able to mix with a greater number of prisoners.



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- \* Concerns regarding the regime have been carefully considered. Full searches are carried out in specific circumstances and in accordance with national instructions.

She has received a number of representations regarding this case and that of Joseph Doherty and will give consideration to those representations in making her decision.

The decision not to credit Joseph Doherty with the time he spent in custody in the United States fighting extradition and deportation proceedings was made by the previous Secretary of State on the basis of the general policy that time spent by convicted fugitives abroad evading justice will not as a rule be credited against their sentence.

The previous Secretary of State did indicate that the period served in custody in the United States could be taken into account by the life sentence review board, but did not agree that he should receive an early review by the Board.

Both Mr Doherty and the authorities in the United States were made aware of this policy prior to his deportation and the decision will not be set aside at this time.

**Background Note**

1. There is evidence of a concerted campaign on behalf of Joseph Doherty to persuade the Secretary of State to re-visit the decision that he should not receive credit against his determinate sentence for the time he spent in custody in the United States. This decision was challenged but upheld on judicial review.

2. We are giving further consideration to this application on the basis of decisions by the Home Office to grant credit to two prisoners in similar circumstances.



**CONFIDENTIAL****TIME SERVED IN US BY DOHERTY AND SMYTH**

- \* The Secretary of State will decide shortly whether or not to give Smyth credit for any of the period during which he was unlawfully at large following his escape from the Maze prison in 1983.
- \* She has received a number of representations regarding this case and that of Joseph Doherty and will give consideration to those representations in making her decision.
- \* The decision not to credit Joseph Doherty with the time he spent in custody in the United States fighting extradition and deportation proceedings was made by the previous Secretary of State on the basis of the general policy that time spent by convicted fugitives abroad evading justice will not as a rule be credited against their sentence.
- \* The previous Secretary of State did indicate that the period served in custody in the United States could be taken into account by the life sentence review board, but did not agree that he should receive an early review by the Board.
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**CONFIDENTIAL****EXTRADITION/DEPORTATION**

- \* Individual cases are for the Courts to decide but it is the general policy of the Government to seek to return to justice those who attempt to flee or escape.
- \* It is the Government's policy to seek to ensure that extradition arrangements with other countries are effective and workable.
- \* Deportation of illegal immigrants is a matter for individual states HMG has no locus or desire to become involved in these.
- \* Terrorists' ability to claim political offence as a defence have been greatly reduced by under the 1986 UK/US Supplementary Treaty and the 1994 amendment to the Irish Extradition legislation.
- \* ***[if pressed on whether HMG is seeking Kelly's extradition]*** It is our policy not to comment on whether warrants have been issued in specific cases.

**Background note**

1. There are a number of high profile extradition cases with the Courts at the moment: Artt, Brennan and Kirby are all Maze escapees in California. The District Judge announced on 11 August that the three should be extradited; they have indicated that they will appeal. Kelly and McNally are also Maze escapees and are known to be in the Republic of Ireland. The District Court ordered that McNally be extradited; he is on bail pending appeal. A warrant was issued for Kelly's extradition and he was arrested on 22 October.

2. There are nine Irish deportation cases currently ongoing in the United States. Six of these have been suspended in recognition of the IRA cease-fire. A decision on the remaining three has not yet been taken.



**CONFIDENTIAL****ROISIN McALISKEY**

- \* Roisin McAliskey was arrested for the purpose of extradition on 26 November 1996.
- \* The German authorities are seeking her return from the United Kingdom to face charges relating to the Osnabruck bomb attack in 1996. The request is now under consideration by the UK courts, and there are a number of routes of appeal open to her.
- \* There is a hearing this Friday (12 December) which may lead to a decision on committal. At that stage, the case may be put before the Home Secretary or there are further legal avenues of appeal

***Delay?***

- \* Ms McAliskey will have opportunity to make representations against her return to the Home Secretary before he takes a decision. The Home Secretary's decision is governed by the safeguards contained in the Extradition Act 1989.
- \* There has been some delay in the court proceedings: first, because of the birth of her child, and secondly, because the magistrate has taken great care to establish whether she is well enough to attend the committal proceedings.

***Latest Developments (if raised by Sinn Féin)***

- \* The Home Secretary has received a formal set of representations from Ms McAliskey's solicitors asking him to review the original order to proceed in this case. The main ground is Ms McAliskey's mental health. The Home Secretary is considering his response.