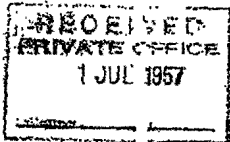


Appendix 'B'



GOVERNMENT HOUSE,
KENYA,
EAST AFRICA.

SECRET AND PERSONAL

June 25th, 1957.

Dear Secretary of State

....
In this covering letter to the enclosed papers, I wish to put before you two ideas. The first is that the so-called 'dilution' technique in camps for detainees is giving very hopeful results indeed and is in fact the only way of dealing with the more dyed-in-the-wool Mau Mau men who will be our problem in the future. The second is that its successful implementation depends on our ability to deal with a small number of very difficult men; and if we are to do this successfully, risks are unavoidable.

2. I have mentioned in previous letters the checks we have received. These are the riot at Athi River, followed by the setback caused by detainees reading a report on the violent speech made by Kodhek, and the Mwea investigations following the death of a detainee (the Jasiel Njau case). A result has been delay and the administrative re-arrangements at the Mwea which we have found it necessary to make have increased this delay. But now we are in sight of overcoming these checks. The staff at Athi River are once more dealing successfully with the 'Z' detainees from Mageta Island. An administrative officer named Gavanhan, who has taken charge of all the Mwea camps, has introduced a number of changes and the result with the Manyani 'Zs' who go there has been good. He staggers the arrival of detainees, bringing them from the station in batches of twenty with intervals between each batch, he has introduced a modified dilution technique mixing one new arrival with ten co-operators. He insists that any steps taken to deal with refractory detainees must be by the staff and not by the co-operating detainees. He has introduced more Kikuyu warders and over half the warden staff on the Mwea are now Kikuyu. He has generally improved co-operation and organisation all round.

He said this at Gavel's last year

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The Secretary of State for the Colonies.

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GOVERNMENT HOUSE,
KENYA,
EAST AFRICA.

SECRET AND PERSONAL

-2-

June 25th, 1957.

3. As a result the Mwea is now again taking Manyani detainees and dealing with them successfully. Thus, since last November the Mwea camps have received 2,160 'Z' detainees from Manyani. The number of rejects sent back to Manyani has been 50. The number sent on down the pipeline quite recently has been 150 and threequarters of the remainder are graded as fit now to be sent down the pipeline to the camps in the districts of the Kikuyu Land Unit. More generally last month we were back to a net release figure of 2,000 and in short the flow of detainees has been resumed. The rate of intake into the Mwea from Manyani is still somewhat below that which was operating before the troubles I have mentioned but it should be possible to increase it soon on one condition.

4. That one condition is the reason for this letter and for the enclosed papers. We find that, with the type of men from Manyani with whom we are now dealing, there are a certain number who arrive determined to resist and to cause others to resist. We also find that the resistance of these men breaks down quickly in the great majority of cases under a form of psychological shock. It was for this reason that the Ministers mentioned in Mr. Griffith Jones' memorandum visited the Mwea and saw the treatment of the new intake.

5. Gavaghan has been perfectly open with us. He has said that he can stop secret beatings such as that which occurred in the case of Jasiel Njau. He has said that he can cope with a regular flow in of Manyani 'Zs' and turn them out later to the district camps. We believe that he will be able to go on doing this a very long way down the list of the worst detainees. But he can only do it if the hard cases are dealt with on their first arrival in a rough way. We have instituted careful safeguards, a medical examination before and after the arrival of the intake, the presence of the officer in charge all the time, the force being used by European staff only.

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GOVERNMENT HOUSE,
KENYA,
EAST AFRICA.

SECRET AND PERSONAL

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June 25th, 1957.

6. We have felt that either we must forbid Gavaghan and his staff to proceed in this way, in which case the dilution technique will be ineffective and we will find that we cannot deal with many of the worst detainees, or, alternatively, we must give him and his staff cover provided they do as they say they are doing. That is the reason why the Attorney General has prepared a new draft regulation and that is the reason why, unless you disagree, I will accept the proposals and sign the new regulation in the first week of July.

7. Put another way the problem is this. We can probably go further with the more fanatical Mau Mau in the way of release than we had ever hoped eighteen months ago. But to do so there must with some be a phase of violent shock. I privately discussed this question with Dr. Junod of the International Red Cross, who I knew well in South Africa and who has spent his whole life working with Africans and most of it with African prisoners. He has no doubt in his own mind that if the violent shock was the price to be paid for pushing detainees out to the detention camps near their districts, away from the big camps, and then onward to release, we should pay it. I agree and if we get into trouble would be quite prepared to ask Dr. Junod, at the invitation of the Kenya Government, to visit us again and examine the methods used.

8. Another difficulty has arisen from the new problems of dealing with the most difficult detainees. This is that even the small number of 'Z' detainees rejected from the Mwea, or from district camps, or from Athi River, and sent back to Manyani has had a powerful and bad influence on the many detainees waiting there to be sent forward to camps. Manyani is in fact a unit and however great a distance we place between the rejects and the others they never fail to get messages to one another. The rejects tell those awaiting their move forward that the whole idea of return to the Kikuyu country is bogus and the Government is sending the detainees through a sort of merry-go-round. We must therefore find another place for these rejects. They are not

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GOVERNMENT HOUSE,
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SECRET AND PERSONAL

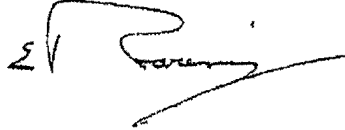
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June 25th, 1957.

very numerous and they will be only temporarily in the place we choose.

9. We cannot leave the position at the Mwea as it is for any length and so I shall be very grateful indeed if you could reply by telegram so that I can sign the new regulation. We must either do this or greatly slow down the flow and thereby undoubtedly increase the number of persons who prove irreconcilable over a long period of years. As the International Red Cross visitors remarked, the greater the number of detainees brought into comparatively small camps near their homes, the smaller will the number of those so near being irreconcilable that they have to go to Hola prove to be.

Yours sincerely



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SECRET

SECRET.

"DILUTION" DETENTION CAMPS.

USE OF FORCE IN ENFORCING
DISCIPLINE.

1. INTRODUCTION.

In the application of the "dilution" technique of rehabilitation of the more intractable detainees there are two main objectives: firstly the conversion of the bad detainees, and secondly, but no less important, the maintenance of progress in rehabilitation of the co-operative detainees. The maintenance of strict discipline is a prerequisite to the attainment of these twin objectives. Success depends on the overwhelming predominance of the reformative influences on the bad detainees over their disruptive influence on the co-operative detainees.

Psychology and symbolism play a decisive part in the process, and at no stage more vitally than at the very beginning, i.e. on the arrival at the "dilution" camp of a new intake of Z detainees. Experience has shown that, on a new intake, two essentials must be substantially achieved if any appreciable prospects of success are to be preserved: firstly, discipline and authority over the new arrivals must be immediately established, and secondly, all physical symbols and souvenirs of their Mau Mau past, and of the camp from which they have come, must be removed from them. Thus, in the latter regard, their hair and beards (if any) are shaved off with clippers - this also facilitates their ready identification in the important days immediately following arrival and "dilution" -, they are made to take off their own clothes and put on camp clothing, and any souvenirs (e.g. metal bracelets, made by themselves, which are a feature of Manyani) are taken off them; the purpose is to condition them psychologically to shed the past and look to the future, with its prospects of potential release. The establishment of discipline and authority over the new arrivals necessitates the use of force on any who defy authority and resist the impact of discipline. This use of force, and the responsible concern of the officers engaged therein regarding their own position in relation thereto, have been the subject of anxious consideration by the Government and prompted a recent visit to Kandongu Camp in the Mwea by the Ministers for Legal Affairs, African Affairs and Community Development, accompanied by the Acting Secretary for Defence and the Commissioner of Prisons. The purpose of the visit was to witness a new intake of Z detainees from Manyani and to observe the procedure and technique of reception. A description follows. Mr. T.J.F. Gavaghan, the District Officer i/c Rehabilitation, Mwea Camps, conducted the visiting party and explained the operation as it proceeded, and also himself participated in the proceedings and maintained,

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in conjunction with the senior prison officers, direct personal control over the proceedings.

2. DESCRIPTION OF RECEPTION OF NEW INTAKE.

The intake consisted of 80 Z detainees from Manyani. They arrived by train at Sagana, in a third-class coach attached to a goods train. The disembarkation area was cordoned off by a Police G.S.U. armed with rifles and automatic weapons. Disembarkation took place at a siding, by which four lorries were drawn up, each with a "guard" of 10 warders (unarmed save with truncheons in their belts, and barefooted) under a warden N.C.O. On each lorry were two detainees of the last intake.

Disembarkation proceeded smoothly and without incident, under the direction of European Prison officers.

The detainees, each with his basket or bundle of possessions, were mustered, squatting in rows. A roll was called, each man answering his name and joining a party totalling 20 detainees which was then allotted to a lorry. Each party mounted its lorry; the detainees were ordered to sit on the floor of the lorry, the two "propagandist" detainees from the last intake started chatting to them at once, and the 10 warden-guards also mounted the truck and stood in it among the detainees.

The lorries moved off at 15-minute intervals (in order to stagger their arrival at the Camp). The journey to the Camp was about 7 to 8 miles and occupied, say, 20 to 25 minutes. The visiting party moved off ahead of the first truck in order to observe the truck's arrival at the Camp.

On arrival at the Camp, the detainees were hustled off the truck and into a cul-de-sac catwalk dividing two barbed-wire compounds. Here they were met by some 40 detainees of the last intake, with hair-clippers and clean camp clothing (a pair of shorts and a loose "sailor's blouse" for each new arrival.) Also in the catwalk were European prison and rehabilitation staff (including Gavaghan, Cowan (prison officer in overall charge of the Mwea Camps), McInnes, (Cowan's Community Development opposite number), Woods (Officer-in-Charge, Kandongu Camp), the Kandongu Camp Rehabilitation Officer, and one or two lesser European prison officers on the camp staff); the African warden guards from the truck accompanied the detainees to the catwalk and remained there during the proceedings but were mainly occupied in searching the detainees' possessions.

The detainees were ordered to squat in two rows, one at each side of the catwalk. The "receptionists" from the last intake then handed out the camp clothing

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to each man and set about shaving their heads with the hair-clippers, talking to the new arrivals as they did so. The detainees were ordered to change into the camp clothes. Any who showed any reluctance or hesitation to do so were hit with fists and/or slapped with the open hand. This was usually enough to dispel any disposition to disobey the order to change. In some cases, however, defiance was more obstinate, and on the first indication of such obstinacy three or four of the European officers immediately converged on the man and "rough-housed" him, stripping his clothes off him, hitting him, on occasion kicking him, and, if necessary, putting him on the ground. Blows struck were solid, hard ones, mostly with closed fists and about the head, stomach, sides and back. There was no attempt to strike at testicles or any other manifestations of sadistic brutality; the performance was a deliberate, calculated and robust assault, accompanied by constant and imperative demands that the man should do as he was told and change his clothes.

In each of these cases which the visiting party witnessed on this occasion (and it watched the reception of all four parties of 20), the man eventually gave in and put on the camp clothes. Gavaghan explained, however, that there had, in past intakes, been more persistent resistors, who had had to be forcibly changed into the camp clothing; that some of them had started the "Mau Mau moan", a familiar cry which was promptly taken up by the rest of the camp, representing a concerted and symbolic defiance of the camp authorities; that in such cases it was essential to prevent the infection of this "moan" spreading through the camp, and that accordingly a resistor who started it was promptly put on the ground, a foot placed on his throat and mud stuffed in his mouth; and that a man whose resistance could not be broken down was in the last resort knocked unconscious.

When changed and shorn, the men were made to squat in similar rows, facing the exit from the catwalk. They were then given a "pep-talk" by an African Rehabilitation Assistant in the vernacular. The gist was that they were on the way to release if they confessed and obeyed all orders, that instructions given in the Camp were orders to be obeyed immediately, that they would now be given an order to proceed to the adjoining compound and subsequently to attend a rehabilitation class, and that they would obey. The order was then given. Each man was asked in turn if he intended to obey. If he said "Yes", he moved on immediately; if he said "No" or did not answer, he was immediately struck and, if necessary, compelled to submit by the use of force in the manner described above.

The above process was conducted at speed and with urgently and constantly applied momentum. One party had just about been dealt with and moved into its compound by the time the next party arrived from the railway station, the interval between arrivals being that between departures from the railway station, i.e. 15 minutes.

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Of the total intake of 80, about a dozen needed minor "persuasion" and 4 or 5 pretty rough treatment. One man had to be manhandled to his compound, but was subdued by the time he got there.

The European officers themselves carried out the violence necessary, the senior ones leading and directing. The African staff took little or no part, except that the man who was manhandled to his compound was so manhandled by four African warders on Gavaghan's direct instructions, and the force which they applied, while not gentle, was primarily motive.

The use of force ceased as soon as a man gave any sign of complying, or readiness to comply, with the orders given. The whole process, however, was one of rush, hustle and prompt and, if necessary, enforced discipline. The purpose is to compel immediate submission to discipline and compliance with orders, and to do so by a psychological shock treatment which throws off balance and overcomes any disposition towards defiance or resistance.

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The detainees comprising these 2 intakes are particularly ugly customers and there is no doubt whatsoever that the use of orthodox methods of non-violent persuasion and normal camp punishments for disobedience would be, and indeed have proved to be, quite useless and ineffective in their case. With possibly a few exceptions they are of the type which understands and reacts to violence and offers no appreciable prospect of responding to gentler treatment.

It will be observed that two types of force are involved - that required to overpower and manhandle, and that entailing the striking of blows. The legal implications of these two types of force are discussed later in this paper.

3. PRACTICAL CONSIDERATIONS AND SAFEGUARDS.

The following practical points arise from an examination of the procedure described above -

- (a) the use of force could only be justified and permitted for the purpose of enforcing discipline and compelling compliance with authoritative orders; its purpose could not and must not be punitive or to injure; the pain caused is an inevitable consequence of the use of the force but must not be the primary intention or design underlying its use;
- (b) serious injury must be avoided; kicking with boots or shoes should not be permitted; vulnerable parts of the body should not be struck, particularly the spleen, liver or kidneys; accordingly any blows should be confined to the upper part of the body and should avoid any area below the line of the chest, front or back;

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- (c) the psychological effects on those who administer violence are potentially dangerous; it is essential that they should remain collected, balanced and dispassionate, and should consciously and resolutely resist the natural upsurge of temper and hot blood;
- (d) equally important as self-control is the close and deliberate control of participating subordinates by the officers in charge of the operation;
- (e) the force should be carried out, where necessary, by senior and responsible European officers, assisted by dependable subordinate European officers under immediate and effective direction and control; the use of African staff for this purpose should be avoided save where absolutely necessary in a sudden crisis;
- (f) officers engaged in these unpleasant duties must be selectively chosen for their qualities of character, and any officer who shows the slightest sign of a lack of the necessary objectivity and self-restraint must be promptly relieved;
- (g) every detainee included in a "dilution" intake should be medically examined before leaving his previous camp and any to whom force is applied should be medically examined again immediately after completion of the intake;
- (h) by these and any other means it must be ensured that any force used is necessary, reasonable and in no way excessive, and that no serious injury is caused.

Consideration has also to be given to the need to impose discipline on the recalcitrant at other times than on the arrival of a new intake. The most obdurate and persistent resistors could gravely undermine the discipline of the Camp if their defiance and refusal to obey orders were not promptly and effectively visited with compulsion. To charge and punish them for a "prison" offence achieves little or nothing, for they take a perverted pride in their incorrigibility and derive satisfaction and encouragement from the distinction which, in their eyes, ordinary punishments afford them. The difficulties of maintaining discipline in a camp of marginal detainees in the face of determined defiance by a number of obdurate resistors are manifest, and undoubtedly the task of the officers responsible for discipline in these camps and for converting the obdurate detainees would be simplified if they were authorised to apply force of the beating type (as well as the overpowering type) on persistently refractory detainees at

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any time. Nevertheless, the risks entailed in any such general authority are considered to be too great to be undertaken; the dangers of excesses, the impracticability of constant and personal control and restraint by responsible officers in all parts of a camp at all times, and the insidious infection of violence, combine to eliminate any certainty of assurance against abuse. The problem of "dilution failures", however, is a difficult one. If sent back up the pipeline, e.g. to Manyani, their influence is most harmful, particularly on future "dilution" intakes, and there are already indications that this influence might eventually reach such aggregate proportions as to wreck the "dilution" scheme; already, comparatively few rejects have had a most deleterious effect on the 3000 - 4000 detainees at Manyani awaiting "dilution" - and this despite segregation. It is, therefore, hoped that arrangements now under examination to move such failures to a holding camp or camps, with a view to re-injecting them into the "dilution" process after a time, and in the meantime to prevent their contaminating pending intakes, will prove satisfactory.

In any consideration of the use of force on the lines described above, two considerations are of primary importance -

- (i) the lack of any practicable alternative method of dealing with the worst types of detainees, with whom we must now deal if we are not to resign ourselves to holding them in detention for the rest of their lives;
- (ii) the necessity to maintain discipline in the dilution camps and to support and protect the officers charged with this most difficult, dangerous and unenviable task.

4. THE LAW RELATING TO THE USE OF FORCE ON PRISONERS.

The only reference in the Prisons Ordinance and Rules to the use of force on prisoners is contained in section 18 of the Ordinance, which provides for the use of weapons against escapes or attempts at escapes, combined outbreaks or attempts to force outside doors, gates or the enclosure wall of the prison, or the use of violence by a prisoner. Under section 19 of the Ordinance prison officers have the powers, protections and privileges of police officers in arresting escapers and for the purpose of conveying prisoners to and from a prison (power to use necessary force in making arrests is contained in section 20 of the Criminal Procedure Code).

The authority under section 18 to use weapons must necessarily imply an authority to use lesser forms of force, if adequate, for the like purposes. Accordingly, it may be taken that the use of force on prisoners, and on detainees (the relevant provisions of the Prisons

/Ordinance

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Ordinance and Rules being applied to detention camps and detainees by reference - Regulations 18 - 20 of the Emergency (Detained Persons) Regulations, 1954) is contemplated and authorised by law, to such extent as is necessary, for the following purposes -

- (a) to prevent escapes or attempts thereof;
- (b) to prevent combined outbreaks, attempts to force outer doors, gates or enclosure walls;
- (c) to counter violence used by prisoners;
- (d) to arrest escapers or to keep prisoners or detainees in custody while in transit.

It will be observed that there is no express mention in the law of the use of force for the maintenance and enforcement of prison discipline. Section 52 of the Ordinance, however, provides that all prisoners (and, by reference, detainees) are subject to prison discipline, and Rule 20 (24) of the Prisons Rules, 1948, requires prison officers to maintain proper discipline among the prisoners. Section 84 sets out "prison offences", i.e. offences by prisoners against prison discipline, and succeeding sections deal with trial and punishment therefor.

There must, therefore, it is considered, be implicit in the disciplinary provisions of the Ordinance and Rules an additional authority to use force, to the minimum degree reasonably necessary, for the following purposes -

- (a) to arrest offenders against prison discipline (section 18 does not extend to this) for the purpose of their trial and punishment for prison offences;
- (b) physically to prevent offences against prison discipline; and
- (c) to enforce physical compliance with orders, e.g. to move prisoners, or prevent prisoners from moving, in accordance with lawful orders disobeyed, and to e.g., wash a prisoner forcibly if he refuses to wash himself when ordered to do so.

It seems, therefore, that it would be legally justifiable to strip a prisoner of his clothes and forcibly introduce him into other garments if he refused to perform these acts for himself when ordered to do so; to manhandle him from A to B if he refused, when ordered, to move himself; and to shave his head and search his

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person if he refused, when ordered, to submit thereto. Such action would be without prejudice to the prisoner also being tried and punished for prison offences committed by disobeying orders, and any violent resistance by the prisoner, or attack on prison officers, in the process of compulsion could legitimately be met by such counter-force as might be necessary to overpower him.

There still remains, however, the force used in the Mwea Camps to compel new intakes to submit to discipline, i.e. the blows struck in order to make a man do for himself what he is ordered to do, as distinct from the force used to overpower him and do forcibly for him what he is ordered to do and refuses to do for himself. This form of force is not "necessary" in the orthodox sense, and is therefore probably not included in the express or implied authority mentioned above, being an authority imported by reference to the treatment of convicts in prisons. Nevertheless, it is the crux of the whole psychological problem of disciplining the more thug-like Z's on dilution. It has been found to be the most successful means of receiving these thugs into the dilution camps without undermining the system of discipline in those camps. Not only do 75% of those who have to be beaten on arrival subsequently turn and volunteer to confess but the shock treatment on arrival sufficiently subdues the new intake collectively to allow the balance of discipline to be held over the rest of the camp notwithstanding the disruptive influence of the new arrivals.

If we accept the necessity to enforce discipline on defiant Z's on intake into dilution camps, not only by force to overpower and manhandle but also, if necessary, by force, i.e. beating, to compel submission to discipline, the authority to use force should, it is considered, be provided expressly and in the direct context of the treatment and disciplining of detainees in detention camps. The authority would then be construable in relation to the particular and exceptional circumstances of detention, its underlying purpose of rehabilitation and its special requirements of discipline. The importation of authority to use force on detainees merely by reference to and analogy with the treatment of convicts in prisons would, it is thought, leave the officers concerned in the use of force by beating open to prosecution for, in effect, carrying out accepted executive policy; their only protection would be the Attorney-General's discretion not to prosecute, and it would be neither constitutionally correct nor politically advisable that the discretion of a quasi-judicial authority, independent of the Executive, should be relied on as the means to implement executive policy with respect to a practice of questionable legality.

The Prison Rules, 1949, of England (1949 No.1075) contain, inter alia, the following provisions under the heading "DISCIPLINE AND CONTROL" -

/Rule 29 (1)

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Rule 29 (i) "Discipline and order shall be maintained with firmness, but with no more restriction than is required for safe custody and well ordered community life;"

Rule 34 (i) "No officer in dealing with prisoners shall use force unnecessarily and, when the application of force to a prisoner is necessary, no more force than is necessary shall be used."

The Prison (Scotland) Rules, 1952 (1952 No. 565 (S.18)) contain in rule 179 the following provisions -

"(1) No officer in dealing with prisoners shall use force unless its use is unavoidable, and no more force than is necessary shall be used.

(2) An officer shall not strike a prisoner unless compelled to do so in self-defence."

Both the English and Scottish Rules go on to provide, in relation to the use of force, that " no officer shall deliberately act in a manner calculated to provoke a prisoner".

(It is perhaps interesting to note that the U.K. Rules are framed in limitative terms; they limit an assumed or implied power to use force rather than confer an express power to use force. This reinforces the view that there is an implied power to use force, where necessary, beyond the strict confines of sections 18 and 19 of our Ordinance).

With the U.K. Rules as a partial terminological guide, the following draft regulation has been devised, which, supported by precise administrative instructions limiting the use of beating to the time of reception of new intakes and importing the necessary safeguards, is considered to be adequate to provide sufficient legal cover without being too ostentatious and politically provocative.

"Discipline and order shall be maintained with firmness. Force shall not be used in dealing with detained persons save when necessary to enforce discipline and preserve good order, and no more force than is necessary shall be used. Moreover, save by or under the personal direction of the officer-in-charge or, in the case of his absence or incapacity, the senior prison officer present in the camp, force shall not be used under this regulation except when immediately necessary to restrain or overpower a refractory detained person, or to compel compliance with a lawful order or to prevent disorder".

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The above draft is designed for incorporation in the Emergency (Detained Persons) Regulations, 1954, immediately before Regulations 16 and 17, which deal with punishments for minor and major offences against camp discipline.

5. CONCLUSION.

It cannot be over-emphasised that the use of force on persons in custody is ordinarily abhorrent and illegal, and, even within the strictly limited confines discussed above, potentially dangerous. Its only justification is the necessary enforcement of discipline; it must never be used punitively (save by way of corporal punishment awarded formally and by due process for a proved offence) and, needless to say, it must never be used to extort confessions. When necessarily applied, it must be applied responsibly, deliberately and dispassionately, with adequate safeguards against causing serious injury, under the immediate control of a senior European officer, and in no greater degree and for no longer than its purpose necessitates.

The subject is fraught with difficulties, dangers and pitfalls, and, if the solution is unorthodox, the reason is that it is designed to meet an unorthodox problem and to afford some prospect, which would otherwise be lacking, of reforming and releasing the worst type of detainee, whom experience has proved to be irredeemable by gentler methods.

7. SUMMARY OF ACTION PROPOSED.

- (i) The present shock treatment for new intakes at dilution camps, involving the use of force as described, should continue.
- (ii) The Emergency (Detained Persons) Regulations, 1954, should be amended by the insertion of a new regulation in the terms of the draft set out above.
- (iii) Administrative instructions should be issued by the Commissioner of Prisons restricting the use of force by beating to the reception of new intakes and recording the safeguards mentioned above against causing serious injury (which have already been introduced in practice).
- (iv) Arrangements are being examined and will in due course be made, to remove "dilution failures" to a holding camp, with a view to giving them a

/subsequent

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subsequent chance of passing through the dilution process, and in the meantime to avoiding their contaminating pending intakes at Manyani.



MINISTER FOR LEGAL AFFAIRS.

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SECRET

OUTWARD TELEGRAM

FROM THE SECRETARY OF STATE FOR THE COLONIES

3

TO KENYA (Sir E. Baring)

Cypher
(O.T.P)

Sent 3rd July 1957: 15.45 hours.

PRIORITY
SECRET AND PERSONAL
Personal No. 49

Following Personal from Secretary of State.

Your letter of 25th June.

Procedure at Mwea Camps.

I am sure you know that I am always anxious to give you prompt support over those measures which you judge to be in the interests of Kenya. But frankly this is a difficult one. Experience has shown the depth of passion which can be aroused on such topics and how formidable they are as political weapons. Before I engage the responsibility of the Government as a whole by authorizing the issue of the new regulation I feel I must have a full discussion with you of my doubts and hesitations. I am very sorry but I cannot give you a final answer before we have had a talk, so in the meantime please don't make the regulation.

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SECRET

INWARD TELEGRAM

TO THE SECRETARY OF STATE FOR THE COLONIES

COPY FOR REGISTRATION

FROM KENYA (Governor's Deputy)

Cypher D. 5th July 1957
(O.T.P.) R. 5th " " 17.05 hrs.

**IMMEDIATE
SECRET AND PERSONAL
No. 564**

Following for Secretary of State from
Baring. Begins.

- (3) Your Personal telegram No. 49.
Mwea Camps.

I fully appreciate your great difficulties. I suggest that we ask Junod to visit us as soon as possible and give his views on whether we are doing the right thing, if we are not, what we should do, if we are, whether we should change the method. I know him well and he is completely reliable.

- 2. If you agree I will send him a letter and get him here as soon as possible.

Ends.

NOTHING TO BE WRITTEN IN THIS MARGIN

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1. Sir F. Baring London - 25.6.57

2. Kenya P. Tel. No. - 27.6.57

MR. MORETON

I submit a draft telegram to Governor, Kenya, as directed by the Secretary of State in discussion this morning.

I am sending a copy of this minute and the draft to Sir John Martin who was also present.

W.A.C. Mathieson
(W.A.C. MATHIESON)
3rd July, 1957.

3. C. Kariuki P. Tel. No. - 3.7.57

4. Kenya Tues. 6.6.4 - 5.7.57

Mr. Mathieson

Please see (4). I cannot see that this can cause difficulty, as Sir F. Baring suggests that Mr. Juvard should not advise merely on what is now going on, but on alternative methods of handling land - case. The S. of S., by agreeing, would consequently be committing himself to nothing.

But I think it would be wrong if Juvard's advice had to be given during the Governor's absence or before after his visit to London. The matter must be settled in some way or the other during that visit.

I submit a draft

John Burt
J.B.

I do not think we can
make this excellent on
having the advice before
the General discussion with
Sigs. The General leaves
Kenya in less than a
week and he has not yet
written to Professor Jones.

Sigs has annotated (4)
"Fugie"

As in revised off
1957
16/7
at once.

16/7 S Kenya Tel. St. Ken. - Sec. Ken. Ind. - 8/7/57
CW

6 Minutes by R. Hall

-16-7-57

SECRET

OUTWARD TELEGRAM

FROM THE SECRETARY OF STATE FOR THE COLONIES

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TO KENYA (Sir E. Baring)

Cypher (O.T.P.)

RAF 15/149/010

Sent 8th July, 1957. 11.45 hrs.

IMMEDIATE
SECRET AND PERSONAL
PERSONAL No. 51.

Your telegram No. 564.

Mwea Camps.

I agree that it would be helpful to have Junod's advice on this subject, and particularly convenient if at least his provisional view were available to us before you leave London. I assume that you would be inviting him personally and that he would recognise that he was not being asked to advise on behalf of the Red Cross.

No.
by marking
1957

BRANCH
Code
Cypher
Stamp
Hrs.

DISTRIBUTION AND FURTHER ACTION

50

Your telegram no. 564.

Mwea Camps.

I agree that it would be helpful to have Junod's advice on this subject, provided that and particularly convenient if at least his provisional view were available to us before you leave London.

PRINT (Date) NO PRINTING (Date)

Mr. Buls

I have consulted the Prison Commission in very general terms about rules and regulations authorising the use of force to exercise control over a violent prisoner being removed from one institution to another. I am informed that Standing Order No. 409 is generally held to authorise the use of such force as may be necessary in cases of this kind. S.O. 409 reads as follows:

"409 (a) Should it be necessary to use force in removing a prisoner, a principal officer or other senior officer will supervise the escort and will remain in charge until the prisoner has been finally locked up.

(b) Judo methods in the restraint of prisoners are not to be used except in self defence. This includes violent resistance by a prisoner when he is being removed. When ordinary persuasive methods have failed and when it appears that the use of other forcible methods are likely to result in possible injury to the prisoner and escort, judo holds are to be employed".

2. There is apparently no regulation authorising the use of forcible methods of restraint in other cases (e.g. in requiring a prisoner to change his prison uniform; or to keep himself clean; or to exercise control over him if he becomes violent during exercise or at other times in prison) but apparently it is commonly held that there is such a regulation for I am told that all reports reporting forcible methods of restraint end with some such phrase as "no more force was used in restraining the prisoner than was required in the circumstances".

3. I have not had the time yet to examine Kenya Prisons Standing Orders - assuming, of course, that we have a full set - but I will put arrangements in train at once.

N. Buls
16th July, 1957.

PRINT (Date when used)
NO PRINTING (if applicable)

*Send this document via the
airmail to us before you leave /*

Sir E. Baring discussed this with Mr. Gorell Barnes, Mr. Mathieson and myself this morning.

2. The proposals at (1) he now wishes to modify as follows:-

(1) Those who refuse to obey a lawful order, such as moving from one compound to another or changing their clothes, should be compelled to do so by means of "overpowering force" on the lines of (6), for which powers already exist.

(2) Those who commit a major offence by disobedience of a lawful order "in such a manner as to show a wilful defiance of authority" should be summarily tried under Regulation 17 (a) of the Detained Persons Regulations and the penalty (corporal punishment not exceeding twelve strokes) inflicted on the spot.

3. It was not possible to discuss this with Mr. Chinn, who is away in Cyprus until Monday, 22nd.

J. I. P. Buist

(J. I. P. BUIST)
16th July, 1957.

7: Kenya - Tel. 166 53 -

16.7.57

H. Mathieson

Re-circulated w. F/A (Y)

S. Clark
17/7.

Sir E. Baring and the Secretary of State discussed the issue of the treatment of the Mwea detainees on 16th July.

2. Sir Evelyn stressed that all they wished to do was to introduce a fairly summary procedure for the administration of prison punishment to

/recalcitrant

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recalcitrant detainees within the terms of existing regulations. If this treatment when once administered did not break down resistance, then the detainees in question would be sent back down the pipeline without further treatment. In answer to a question from the Secretary of State, he said that he was satisfied that this procedure would remain fully controlled and would not develop in any unauthorised directions. The Secretary of State also asked whether this modification of the Governor's proposal was in fact adequate for the purpose in view since he was much impressed by the need to use every legitimate means to keep the flow of rehabilitated detainees going. The Governor assured the Secretary of State that although the treatment as proposed would not administer the same psychological shock to the detainees, he was justified in asking the Secretary of State to approve and also that it was adequate to be effective.

In consequence the Secretary of State approved the issue of telegram personal No. 53 to Kenya.

[Signature]
 (W.A.C. MATHIESON)
 18th July, 1957.

8 Kenya Tel 597 -17.7.57.

(P) This is satisfactory; pass by.

[Signature]
 27/7/57

[Signature]
 9. 10.00 by Mr. R. L. Ford 31.7.57

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SECRET

OUTWARD TELEGRAM

FROM THE SECRETARY OF STATE FOR THE COLONIES

TO KENYA (O.A.G.)

Cypher (O.T.P.)

RAF 15/149/010

Sent 16th July, 1957. 21.00 hrs.

IMMEDIATE
SECRET AND PERSONAL
PERSONAL No. 53.

My telegram Personal No. 51.

Following for Turnbull from Baring.

I have discussed question of Mwea detainees. Is Attorney-General satisfied that proposed use of Regulation 17 of Emergency (Detained Persons) Regulations 1954 does not require on each occasion authority of Commissioner of Prisons (see Section 88, sub-section (2) of the Prisons Ordinance)? If as I presume he is satisfied, then please proceed as settled in Nairobi. I have said that the number of occasions on which Regulation 17 would have to be used would be relatively small. If this proves not to be the case we would have to think again.

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