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NOTE ON CONVERSATION WITH GARETH PIERCE, SOLICITOR FOR FOUR OF THE
BIRMINGHAM SIX, 3 FEBRUARY 1988

1. Ms Pierce said there were three options open to the Birmingham Six, assuming either that leave to appeal to the House of Lords was refused or, in the event of leave being granted, that the House of Lords held against the men on the given point of law referred to it. (1) Firstly, the Home Secretary could recommend the exercise of the Royal Prerogative of Mercy. This would mean automatic remission of the remainder of the men's sentences. However, their convictions would still stand, as with Cooper and McMahon, whose case had been referred four times to the Court of Appeal before their release. (Ms Pierce mentioned that Cooper had been unable to get a job after his release because of his record and she had been in court the previous day defending him on a minor deception charge).

(2) 2. Secondly, the Home Secretary could recommend a pardon. This was out of the question in the Birmingham Six case. There had to be unanswerable proof of innocence: it was not sufficient for there to be doubt about a prisoner's guilt. Ms Pierce instanced the cases of Timothy Evans and Patrick Meehan.

(3) 3. The third option was release on compassionate grounds. This was rare. There had to be compelling reasons. For example, a prisoner might be terminally ill. In any event, it was standard practice in such cases for the Home Secretary to consult with the trial judge and the Lord Chief Justice before ordering a release. In the case of the Birmingham Six, Ms Pierce doubted if the judges would be sympathetic.

4. Ms Pierce went on to say that the demeanour of the prisoners after the Court of Appeal judgement had been very restrained and dignified. She mentioned that prison warders had broken the rules to put the men on the telephone to her after the verdict and, before passing them over, had said to her "This is terrible. What are you going to do about it?" Probation Officers had written to her, as

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had the Wormwood Scrubs Chaplain, deploring the judgement. The prisoners were still on low-risk visits despite being affirmed guilty of a heinous crime because the "prison governors did not know how to treat them". Ms Pierce finished by saying with conviction that the men would eventually be released.

B O'Reilly
B O'Reilly
Third Secretary

4 February 1988

*cc Ambassador
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Mr. J. Diller, Dept. Int'l Dev. USA*