

OGC Has Reviewed

23 January 1948

*W. J. ...  
Feather ...*

MEMORANDUM FOR THE ADSCO

Subject: Deportation of Aliens

SECRET

1. We informed you recently that the Department of Justice had confirmed newspaper reports on deportation of former members of the Communist Party. The Department views the statute in question as mandatory in regard to ex-communists.

2. A specific problem in this connection has been raised by one of the branches. It now has under its control overseas a young foreigner who was an officer of an organization now coming under the control of the Communist Party. The opportunity appears ideal for him to follow the present course of the organization to become a Communist Party member, with a possibility that he may become a trusted officer with access to valuable information while yet remaining under our control. It is my understanding that he desires no commitment as to entry into this country when the project is finished. He has, however, raised the specific question whether membership in the Communist Party for our benefit would prejudice his position if he would otherwise be admitted as a quota immigrant in the United States, on his own application under applicable Immigration laws.

3. Two courses are possible. In the first, we would merely document the plan and present intention fully by statements of responsible officers concerned. At the end of the project, they would study the situation carefully, and if he seems to have maintained his integrity, present the full story to the appropriate Consul and the Immigration and Naturalization Bureau with our recommendation. This would undoubtedly be of value in any visa application but would in no way guarantee him any protection. The second approach would be again to document the present situation in the same fashion and to present the situation actually, or hypothetically, to the Attorney General and request a statement from him that if the project succeeded and at the end the individual on careful investigation appeared properly qualified for citizenship, his membership in the

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Communist Party for our benefit would in no way prejudice an immigration visa, or subsequent naturalization under applicable law.

4. I feel the Attorney General could commit himself on this point, as, although he feels that he must deport former actual communists, he has some discretion in determining what individuals fall into that category. The presentation of this specific case at this time would permit us to raise the larger general question of exceptions to the deportation rule in the case of defections brought about for intelligence purposes. The issue here would turn on whether we could show that a properly backed defection program, which could offer asylum in this country to the defectors, was necessary to intelligence operations to the extent that those operations would be seriously handicapped unless special handling could be guaranteed.

5. In view of the Attorney General's present attitude, it is felt that any such program would have to be laid before the Judiciary Committee of Congress in Executive Session, in order to get proper guarantees of effective action. The more subtle aspect of this question is that in almost all cases actual asylum in this country would not be required, but the fact that it could be promised would overcome the psychological deterrent to defection which the present attitude of the Department has encouraged.

6. If you wish further information on the Department of Justice's attitude on the questions involved, I believe it can be obtained informally without any commitments being made.

LAWRENCE H. ROUSTON  
General Counsel