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DEPARTMENT OF STATE
ADMINISTRATOR
Bureau of Security and Consular Affairs
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MEMORANDUM FOR: Mr. Robert Francis, Warren Report Task Force

FROM: SCA

SUBJECT: Aspects of Warren-Report Subject Matter Within
Jurisdiction of SCA

I. DISSEMINATION OF INFORMATION ON POTENTIALLY DANGEROUS PERSONS

A. FBI Requests for Information on Travel of "Subversives" Abroad

Requests by the FBI for information on the foreign travel of American "subversives" are received in the Department by INR. The INR/DDC memorandum to the Task Force dated November 4, 1964, describes as follows the routing of the FBI request to PPT and possibly also to SCA, the dispatch of an appropriate notice to the field by PPT, and the routing of any information received from the field in reply:

"Formal memo from FBI-Mr. Hoover to INR-Mr. Hughes indicates that an individual intends to travel abroad. The Bureau wants any information.

. . . .

"In the case of significant travelers, a copy is made immediately available to SCA-Mr. Schwartz and the country desk involved. (If necessary, either INR/DDC-Mr. Ekern or Mr. MacDonald should be advised of the travel notice.) SCA will note and pass to PPT/LS for action.

"If the travel is of no apparent significance, copies should go direct to PPT/LS and the desk involved.

"In any case, PPT/LS will send appropriate notice to the field, sending INR a duplicate copy.

"IPS copy should be given to country desk analyst.

"If information comes in from the field, PPT/LS will send us two copies. One copy will be given to INR/DDC for handling to the FBI, or, if urgent, hand-carried or alert telephone call will be made. The second copy will be incorporated in the individuals "39" file.

If not indicated otherwise, a copy will go to CIA/DDP/CI."

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Within SCA, the routing of the outgoing notice by which PPT asks the posts to advise concerning the "subversive" person's activities abroad, and of any incoming reports in reply, has been subject since August 27, 1964, to the following rules:

1. Two copies of any outgoing message are to be routed by the action officer in PPT/LS to INR/DDC and one copy to SCA.
2. With respect to incoming reports of this nature from posts abroad which indicate that they have not been sent to INR/DDC and SCA, PPT is to take immediate action to see that such messages are routed to INR/DDC and SCA.
3. With respect to any incoming reports from the posts, they will be transmitted to FBI by INR/DDC and not by PPT, because of the coordinating responsibility of INR/DDC with respect to this type of activity.

Under the procedure that prevailed prior to August 27, 1964, it appears that INR was generally not on distribution of such messages being dispatched or received by PPT, and that SCA was not always on distribution of them either. At present, however, the distribution for all outgoing airgrams includes SCA, INR and the FBI, and hence these same offices will normally be on distribution for the incoming replies as well. However, offices on distribution for the outgoing message will automatically be on distribution for the incoming one as well only if the incoming message refers by number to the outgoing one; where this is not done, RM/R reports that it assumes no responsibility for routing the incoming message to the same offices that saw the outgoing one. To close this loop-hole, it is recommended that PPT be instructed to include in its airgrams to the field an express statement that any replies should refer by number to the outgoing request. PPT has already been instructed to check the routing on all incoming messages of this nature and make sure that it includes INR/DDC and SCA, and PPT reports that this is being done.

B. Information Concerning Repatriation Loans

1. The Lookout File in the Passport Office

The fact that an unpaid repatriation loan is outstanding in the name of an American citizen will cause the Passport Office to deny that citizen's application for a new or renewed passport. With citizens who have unpaid repatriation loans, as also with those who have renounced or attempted to renounce their American nationality or have otherwise evidenced disaffection with the United States, and with those whose files contain other reasons

that would cause

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that would cause them to be denied the routine issuance of a passport -- in all such cases, the Passport Office relies upon its "Lookout File" to bring the difficulty to light before a new passport is issued. A description of the "Lookout File" is attached to this memorandum as Attachment A.

2. Operation of the Lookout File with Respect to Repatriation Loan Notices

Volume 7 Foreign Affairs Manual, Section 423 sets forth the criteria and procedures for granting financial assistance loans for the repatriation of destitute United States nationals.

In general, Foreign Service Posts are authorized to grant such loans where (1) It is shown the national will suffer undue hardship and no other source of funds is available; or (2) he is in or is the cause of a situation damaging to the prestige of the United States.

The Office of Special Consular Services of the Department must approve or obtain the approval of all repatriation loans.

In requesting a loan the national must execute an application form, giving among other items: his name, place and date of birth, an affirmation that he will repay the loan, and his understanding that after his repatriation he will not be furnished a passport for travel abroad until his obligation to reimburse the Treasurer of the United States is liquidated.

When the loan is granted the recipient executes a promissory note, which includes a statement that he understands he will not be furnished a passport for travel abroad until his obligation is liquidated. Posts have been instructed by Circular Airgram to include the date and place of birth of the recipient on both the promissory note and the application for financial assistance. This information is forwarded to the Office of Finance of the Department. See the memorandum on "United States Government's Repatriation Loan Program" dated November 4, 1964, from OF:ACD/RR to OF:ACD, which has been circulated among members of the Task Force.

As the means of notifying the Passport Office of the extension of the loan the Office of Finance hand delivers to the Clearance Section of the Passport Office an IBM (Lookout) card (Form 5081) coded and punched with all the pertinent particulars - name, date, and place of birth, etc. - placed thereon by the Department's Automatic Data Processing Office. The cards are accompanied by a listing of the particulars.

The clearance section

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The Clearance Section of the Passport Office immediately inserts the card in the Lookout File. In addition, a form (Lookout Sheet) giving all the particulars of the loan and the date the card was inserted in the Lookout File, is placed in the individual's passport folder or if none exists then in the current name file of the Passport Office.

When a repatriation loan has been repaid the Office of Finance prepares a list showing the name, date and place of birth, the amount of the loan and the date of its liquidation. This list is forwarded to the Clearance Section of the Passport Office.

This Section then removes the IBM card (Form No. 5081) from the Lookout File. A notation is made on the card that the loan has been repaid and the date the notice of such action was received in the Passport Office. This card is then incorporated into the individual's passport folder.

SCA is prepared to make available to the Task Force as supplements to this memorandum, if they should be desired, copies of the following items:

i) Instruction 2300.3, issued by the Passport Office on February 20, 1964, establishing responsibilities and prescribing procedures for the operation and maintenance of the Lookout File;

ii) Attachment 1 to Instruction 2300.3, supra, covering the preparation of Lookout Cards;

iii) Attachment 2 to Instruction 2300.3, supra, describing the manner in which a passport application is cleared against the Lookout File.

3. Deficiencies Noted in the Oswald Case Corrected

The Report of the Warren Commission states that "The operation of the 'lookout card' system in the Department of State was obviously deficient...." These deficiencies were evidenced by the facts that: (1) no lookout card was in the file during the period when Oswald's citizenship was in doubt; (2) no lookout card was in the file during the period when the repatriation loan had been granted to him and remained unpaid; and (3) a permanent lookout card should have been in the file characterizing Oswald as a 'defector'.

The correction of deficiencies (1) and (3), relating to doubtful citizenship and the "defector" characterization, will be

discussed in the next

discussed in the next section of this memorandum, relating to notice of disaffected Americans abroad. The second deficiency, with regard to the absence of a lookout card in connection with an unpaid repatriation loan, has been corrected. In the Oswald case, the Passport Office did not prepare a lookout card on the repatriation loan because Oswald's date of birth was not among the information furnished to the office by ACD/RR in the Office of Finance. On April 16, 1964, however, the Office of Finance issued instructions to all Diplomatic and Consular posts abroad to provide the complete name, date, and place of birth of an individual applying for a repatriation loan. The Office of Finance accordingly supplies this information to the Passport Office, and the Passport Office is able to prepare and post an appropriate lookout card. The information supplied to PPT by OF does not, however, include the date the loan was granted. It is thus impossible at present to determine whether there is an undue delay in getting the notice of the loan to PPT. Mr. Reeley of ACD/RR reports that it would be easy enough to include the date of the loan in the information supplied. It is recommended that this be done.

C. Information Concerning Disaffected Americans Abroad

SCA defines the category of "disaffected Americans abroad" as including those who have renounced or attempted to renounce their American citizenship, those who have defected to a Communist-dominated country, and those who have in any other manner given evidence of disaffection with or hostility to the United States.

1. Reporting of Such Cases by Posts Abroad

The Foreign Affairs Manual, apparently contains two reporting requirements applicable to cases of disaffected Americans abroad. 11 FAM 938, as revised May 15, 1964, which is attached to the memorandum submitted to the Task Force by INR, dated November 4, 1964, on the subject of "INR/DDC Procedure for the Handling of Intelligence on Disaffected U.S. Citizens Abroad," reads as follows:

"938 Federal Bureau of Investigation

"938.1 Disaffection of U.S. Citizens Abroad

The Federal Bureau of Investigation has a continuing interest in U.S. citizens who travel abroad, particularly to Sino-Soviet-Bloc countries, or Cuba or Yugoslavia, and who, by their actions and/or statements while abroad, indicate a disaffection for the United States. While the Bureau's responsibilities do not include inquiries into the activities of such persons while they are abroad, it does have an interest in certain of these individuals when they return to the U.S.

"938.2 Reporting Requirement

Overseas posts shall submit the following information to the
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Department by airgram on U.S. citizens abroad;

a. Information concerning U.S. citizens who are approached by foreign intelligence agencies while abroad;

b. Information on U.S. citizens described in section 938.1 who might constitute a threat to the internal security if and when they return to the U.S.;

c. Information concerning the return or intent to return to the U.S. of persons who, by their statements and/or actions while abroad, indicate:

- (1) A desire to renounce U.S. citizenship;
- (2) A desire to seek citizenship in any of the countries mentioned in section 938.1;
- (3) A repudiation of or antipathy for the United States; or
- (4) An intent to remain in any of the countries mentioned in section 938.1 for an extended period because of a preference for the communist system."

is amending

The Passport Office, meanwhile, ~~proposes to amend~~ 8 FAM 225.6, dealing with "Renunciation of Nationality," to include a reporting requirement to the effect that, when a U.S. citizen has completed the procedure required to renounce his nationality, "the officer executing the oath shall submit a statement that the seriousness and consequences of the act were explained to the renunciant before the oath was administered. Any pertinent facts or circumstances having a bearing on the renunciation and reasons therefore should also be reported." A copy of the text of the proposed amendment is attached to this memorandum as Attachment B.

SCA believes that both these reporting requirements are inadequate and should be revised, and SCA is taking steps to have that done in the case of 8 FAM 225.6. The difficulty with INR's requirement in 11 FAM 938 is that it does not cover all disaffected Americans abroad as such. While 938.1 states that the FBI is interested in all such cases, the actual reporting requirement, embodied in 938.2, is applicable to disaffected Americans in only two circumstances: if they are persons "who might constitute a threat to the internal security if and when they return to the U.S.," and if the possibility has arisen of their "return or intent to return to the U.S." SCA believes the reporting requirement should be applicable to all Americans abroad who fall within 938.1 or, more specifically, within categories (1), (2), (3), or (4) of 938.2(c), whether or not the reporting officer judges that they might constitute a threat to the internal security/and when they return to the United States, and whether or not they have indicated an intention to return. It would seem obvious that a comprehensive, unqualified, and unequivocal requirement of the type suggested is more consistent with the Task Force's objective of closing all loopholes than is the requirement as presently worded. Moreover,

while the interest

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while the interest of the FBI in disaffected Americans abroad may be limited by the FBI's jurisdiction to the possibility of a threat to the nation's internal security, this is not true of such agencies as the CIA. Indeed, Director McCone is said to have testified to the Warren Commission, in testimony not yet officially released but leaked to the press, that the CIA is definitely interested in all reports concerning disaffected Americans abroad, and that it relies upon the State Department to report such information as it has on such cases. So far as SCA is concerned, it might be argued that our interest is satisfied by the reporting requirement which becomes applicable as soon as the "disaffected" citizen indicates an intent to return to the United States, since he will not be applying for a passport again until after he does return. But, in the interest of closing all loopholes and minimizing the possible effect of human error, we believe it desirable that a report be required from the field, so that the Passport Office may post a lookout card and other appropriate action may be taken, as soon as it comes to the attention of a post abroad that the citizen is in fact "disaffected." Also, failure to report at the actual time of "disaffection" may mean that the citizen's disaffection is unknown to the acting officials at a time when he subsequently applies for a repatriation loan; he may, for example, apply for such a loan at a different post, or to a different official, from the one who originally became aware of his disaffection. SCA recommends, then, that the reporting requirement in 11 FAM 938.2 be expanded to apply whenever a U.S. citizen has evidenced "disaffection" within any of the categories of 938.2(c), or in any other way.

There then arises the question of distribution of the information on disaffected Americans abroad after it comes in to the Department. SCA believes that it should be on distribution for such material, both for the purpose of having a lookout card posted in the Passport Office, and for the purpose of initiating a file in the Office of Special Consular Services in case the disaffected person should subsequently change his mind and apply for a repatriation loan. SCA is accordingly concerned that the November 4, 1964 memorandum submitted to the Task Force by INR, and referred to above, does not indicate that SCA is included among the "appropriate offices and agencies" that are on distribution for such incoming information.

With respect to the reporting requirement in 8 FAM 225.6, SCA is similarly concerned that this appears to apply only to an actually completed renunciation of citizenship. SCA believes that it should be amended to apply clearly to any attempted renunciation and to any indication that the person is contemplating or desires to renounce his citizenship. (This is the language used by PPT in Instruction 2560.2, the purpose of which is "to establish procedures for the processing of cases of persons who have renounced United States nationality or who have expressed a desire

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a desire to renounce such nationality" (italics added).

2. Receipt and Treatment within SCA of Information on Disaffected Americans Abroad

As stated in the preceding section, SCA believes that it should be on distribution for all incoming information as to disaffected Americans abroad, so that lookout cards may be posted in the Passport Office and file initiated in the Office of Special Consular Services looking toward a possible application for a repatriation loan.

With regard to persons who have renounced their citizenship or indicated an intention of doing so, the Passport Office's procedure for preparing a lookout card and otherwise processing the case is governed by Instruction 2560.2, issued by the Office on November 6, 1964, which is attached to this memorandum as Attachment C.

In accordance with the remarks made above with respect to the reporting requirements, SCA believes that this Instruction is similarly inadequate in scope and is taking steps to have it revised. It should cover, and should require the preparation of lookout cards with respect to, not only "persons who have renounced United States nationality or who have expressed a desire to renounce such nationality," but also persons who have become defectors, or have otherwise indicated disaffection with the United States, without formally renouncing their nationality or indicating any intention to do so. However, with respect to the deficiency in the Oswald case of failure to have a lookout card in the file during the period when Oswald's citizenship was in doubt, the Instruction would seem even in its present form to close that loophole, for it does require the preparation of a card in any case where an American has renounced his citizenship or attempted to do so.

The third deficiency, involving the absence of a permanent lookout card on Oswald as a "defector," has also been remedied. At the time of the Oswald case the Passport Office did not maintain a separate classification within the lookout file of "defectors." Now, however, pursuant to direction by the Administrator of SCA in March of 1964, the Passport Office does keep current lookout cards on "defectors." To assure that the file is complete, the names of all defectors and re-defectors known to the Military have been obtained and furnished to the Passport Office and are now covered by lookout cards, as are non-military defectors, and the Passport Office has been instructed to keep the cards current on the basis of information furnished SCA by the military and the intelligence agencies. Again, however, it appears that Instruction

2560.2 is inadequate

2560.2 is inadequate to cover this function of the Passport Office, for not only does it not apply to defectors as such, but it speaks only of "receipt of information from a Foreign Service post," with no indication that the information may come through SCA from the military or intelligence agencies -- or that it may come through INR under the expanded reporting requirement of 11 FAM 938 as proposed above.

Finally, it should be noted that, as the Administrator of SCA informed the Secretary on September 28, 1964, dissemination of information to the intelligence agencies during the period of the Oswald case -- information on Oswald's citizenship status, return to the United States, etc, -- was performed by the Passport Office. Early in 1963 the Deputy Under Secretary for Administration and the Administrator, SCA, determined that all liaison with the intelligence agencies should be conducted through INR. Since then all information concerning defectors which comes to the attention of the Passport Office, is brought to the attention of the Administrator, SCA, whose office forwards it to the Director of INR for appropriate dissemination.

II. LAW AND POLICY AS TO EXPATRIATION AND REPATRIATION OF DISAFFECTED AMERICAN CITIZENS

A. Expatriation

A United States citizen may lose his nationality by performing any one of the expatriating acts described in the subsections to Section 349(a) of the Immigration and Nationality Act of 1952 (to the extent that these provisions have not been held unconstitutional by the Supreme Court). It would appear that only two of those acts -- formal renunciation of nationality under sec. 349(a)(6) and oath of allegiance to a foreign state under sec. 349(a)(2) -- are relevant here, however, for they are the only two that were even arguably involved in the Oswald case, and they are also the only two that involve a substantial scope for interpretation of the law by the Department.

The second of the two may be disposed of quickly. Sec. 349(a)(2) states that an American citizen shall lose his nationality by "taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof." Oswald delivered to the American Embassy in Moscow on October 31, 1959, a signed statement reading: "I affirm that my allegiance is to the Union of Soviet Socialist Republics." The Department has taken the position that this statement and conduct by Oswald did not have the effect of depriving him of his American nationality under sec. 349(a)(2). This determination was based on a number of cases in which the Department and other tribunals have consistently

held that.

held that "for loss of nationality to result from taking an oath of allegiance to a foreign state, the oath must be one which is prescribed by law or by regulations having the force of law' and must be taken before a competent official of the government concerned." (III Hackworth Digest of International Law 218 (1942).

Also, it has been held that the oath or declaration must place "the person taking it in complete subjection to the state to which it is taken, at least for the period of the contract, so that it is impossible for him to perform the obligations of citizenship to this country."

The Department has taken the view that Oswald's statement could not reasonably be interpreted to have placed him "in complete subjection to" the U.S.S.R., within the terms of this requirement. (The legal authorities are set out in full in the Department's report to the Warren Commission.) That is thus the pertinent law, and the Department's interpretation of it, with respect to allegiance to a foreign state as an act of expatriation by a United States citizen. SCA has considered whether the Department should change its policy in favor of a more liberal interpretation which would find a greater number and variety of acts to meet the statutory requirement and constitute acts of expatriation. It is SCA's position, however, that in view of the firm line of legal authorities on both the points involved, and in view of the policy consideration that an American citizen should be held to have committed the momentous act of expatriating himself only when there cannot be the slightest doubt about it, that the interpretations applied by the Department to the Oswald case were proper ones and should not be changed.

As to expatriation by renunciation of citizenship, sec. 349 (a)(6) of the Act provides that an American citizen shall lose his nationality by "making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State."

Current statistics show that in 1962 there were 202 cases of renunciation of United States nationality abroad under this statutory provision, that in 1963 there were 254 such cases. During the first 9 months of 1964, 212 persons renounced United State nationality abroad.

In accordance with the statute, the Secretary has set forth the requisite form and procedure for renunciation of citizenship. These regulations are found in Sections 50.1 and 50.2 of Title 22 of the Code of Federal Regulations, and in Section 225.6 of Volume 8 of the Foreign Affairs Manual. They provide, among other things, that four copies of the specified renunciation form are to be executed, and the original

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executed, and the original and one copy sent to the Department; after the Department has approved the form it advises the appropriate consular officer, who may then furnish a copy of the form to the person to whom it relates.

When Oswald appeared at the United States Embassy in Moscow on October 31, 1959, he presented a signed handwritten statement reading in part: "I Lee Harvey Oswald do hereby request that my present citizenship in the United States of America be revoked." The consular official told Oswald that the Embassy was then closed and that he would have to come back on a later date to complete the necessary forms for formal renunciation of citizenship. Oswald was subsequently informed in a letter as well that he could execute the necessary documents at any time when the Embassy was open, but he never returned to do so, and hence, as the Department determined, and as the Warren Commission [apparently] agreed, never actually renounced his citizenship. In requiring Oswald to come back another time, the consular officer was acting consistently with the Department's policy that consular officers are to make every effort to insure that individuals stating a desire to renounce their citizenship are sane and understand the seriousness and irrevocability of the act. Although this policy was not set forth in regulations at the time, it was embodied in the instructions generally given to foreign service personnel in orientation courses. In accordance with this policy, it was common practice to delay accepting renunciation declarations in order to insure that the individual ^{was} not acting on a sudden impulse which he would later regret.

and
As a result of the Oswald case, the Department's policy governing the manner in which consular officers should treat would-be renunciants of U.S. citizenship has now been put in the form of a written regulation. Section 225.6 of the Foreign Affairs Manual has been revised by the Passport Office and the revision, cleared by SCA, is presently being printed for distribution. A copy of the text of the revision is attached to this memorandum as Attachment B. In pertinent part, the revision reads as follows: "The officer initially must verify whether a would-be renunciant does possess the United States nationality which he seeks to surrender. He then shall explain the irretrievable seriousness of the act contemplated, and the procedure prescribed under Section 349(a)(6) for making a formal renunciation of the nationality. In suitable cases the officer may suggest to the person that he defer the act of renunciation for a period to permit further reflection on the gravity and consequences of his contemplated act. In no case, however, shall an American citizen be denied the right to take the oath of renunciation."

This language

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This language reflects SCA's position as to what the Department's policy should be with regard to the handling of would-be renunciants. SCA has considered whether this policy should be changed, and whether the elements of the policy which might tend to discourage the renunciation should be removed. SCA adheres to the view that these elements should not be removed -- that it is the duty of the Department in its service to American citizens to make sure that a citizen intending to renounce his nationality is aware of the serious and irrevocable nature of his act and has considered it as fully as possible.

B. Repatriation of Defectors and Other Disaffected Americans Who Are Still American Citizens

If an American, though he has defected or otherwise evidenced disaffection with his country, has not renounced or otherwise lost his United States citizenship, there is no legal basis for preventing him from returning to the United States if he so desires. There are, however, means by which the Department often has the ability to encourage or discourage such return. The principal such means is the granting or denial of a repatriation loan, such as was granted to and subsequently repaid by Lee Harvey Oswald.

1. Repatriation Loans

a) Statutory Authority

The statutory authority for repatriation loans is found in 5 U.S.C. 170 which authorizes the Secretary of State to:

"(a) make expenditures, from such amounts as may be specifically appropriated therefor, for unforeseen emergencies arising in the diplomatic and consular service and, to the extent authorized in appropriation Acts, funds expended for such purpose may be accounted for in accordance with section 107 of Title 31"

Since 1947 the Department of State's annual Appropriation Act has included a sum "for expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, to be expended pursuant to the requirement of Section 291 of the Revised Statute (31 U.S.C. 107)." In recent years, the accompanying House Reports state that:

"These funds are used for relief and repatriation loans to United States citizens abroad and for other emergencies of

For fiscal years 1962 and 1963, Congress appropriated \$1,500,000 for these purposes. Between 1953 and 1952 the sum appropriated annually for these purposes had been \$1,000,000. From these amounts the Secretary of State has annually allotted approximately \$100,000 to meet the expenses of repatriation of indigent United States nationals who request repatriation loans.

b) Regulations Governing Procedure

Under the Department's regulations, repatriation loans to destitute United States nationals are authorized by the Department only when:

"a. Investigation shows that the United States national will suffer undue hardship if he does not return to the United States, that he is without relatives or friends either abroad or in the United States who are able and willing to assist him financially, and that he is unable, through employment or otherwise, to obtain funds for support or for return passage (an initial telegram may be sent to relatives or friends in the United States through the Department at Government expense); or

"b. The United States national is in or is the cause of a situation which is damaging to the prestige of the United States Government or which constitutes a compelling reason for extending assistance to effect his return." (7 FAM 423.1-2)

The Department considered that Oswald's continued presence in Russia was damaging to the prestige of the United States because of his unstable character and prior criticisms of the United States. The provisions of subsection "b" were, therefore, applicable. The Department sought, however, in accordance with subsection "a," to obtain funds for the Oswalds' repatriation from both Oswald's mother and from the International Rescue Committee. Neither effort was successful.

These regulations further provide that repatriation loans may be granted only to United States nationals:

"a. Who are in complete and unquestioned possession of their citizenship rights;

"b. Who are entitled to receive United States passports;

"c. Whose loyalty to the United States Government is behind question, or to whom the provisions of section 423.1-2(b) apply." ("The United States national is in or is the cause of a situation which is damaging to the prestige of the United States Government or which constitutes a compelling reason

for extending

for extending assistance to affect his return.") (7 FAM

Oswald met the requirements of subsections "a" and "b." As for subsection "c," the provisions of Section 423.1-2(b) applied, as noted above.

The Department's regulations provide that all repatriation loans must be approved by the Department (7 FAM 423.3-1), and that prior to approval of any loan the Department will first endeavor to obtain funds from the individual's family or other private sources. (7 FAM 423.3-2) Both of these requirements were met in the Oswald case. Loans are limited:

"to the minimum amount required to cover transportation and subsistence while en route to the nearest continental United States port The cost of transportation shall be limited to third-class passage by ship; loans shall not be granted to cover travel by air except:

"a. In cases of emergency; or

"b. When no other means of transportation by surface route added to unavoidable expenditures while awaiting embarkation exceeds the cost of air travel." (7 FAM 423.3-3)

Oswald's loan was sufficient to cover only the least expensive transportation from Moscow to New York.

Repatriation loans are also authorized (and were granted in the Oswald case) for the alien wife and children of a United States national receiving a repatriation loan, in order to avoid division of families. (7 FAM 423.3-5)

Each applicant for a repatriation loan is required to sign an application setting forth his name and date and place of birth and other information.

Oswald was also required to sign the following affirmation:

"I solemnly declare that I am a loyal United States national, that I have not lost my citizenship and that all the statements in this application are true. I hereby apply for a loan of the United States Government funds for repatriation for myself and my dependents herein named. I promise to repay all funds that may be advanced to me, and to keep all funds that may be advanced to me, and to keep the Department of State, Washington, D. C., informed of my address after my arrival in the United States until such time as the loan is repaid in full."

The current form of this affirmation states in addition that the

applicant is destitute

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applicant is destitute and will not be furnished a passport until his loan is repaid. (7 FAM 423.5-2)

Each recipient of a repatriation loan is required to sign a promissory note by which he promises to repay without interest, to the Treasurer of the United States, upon demand, the amount of his repatriation loan. The note also states:

"I further understand and agree that after my repatriation I will not be furnished a passport for travel abroad until my obligation to reimburse the Treasurer of the United States is liquidated." (7 FAM 423.6-5)

All passports of persons receiving repatriation loans are required to be stamped as valid only for return to the United States. (7 FAM 423.7-1)

c) General Procedures

United States nationals such as Oswald who ~~request~~ request repatriation assistance abroad apply for such assistance to consular officers at American Embassies or Consulates. A consular officer interviews each applicant to insure that the applicant is a United States citizen and is destitute. The applicant must execute the application form referred to above before the consular officer. The original application is then normally forwarded to the Department by pouch and is processed by the Office of Special Consular Services (SCS) in the Bureau of Security and Consular Affairs (SCA). The Department may authorize a loan in advance of receipt of the executed application form, as in the Oswald case, when the facts are already known to the Department.

Each case is reviewed in the Protection and Welfare Division of SCS to insure compliance with the regulations referred to above and determine whether funds are available from any other sources, such as relatives, friends, employers, or other interested organizations.

In cases in which political questions are involved, such as when a foreign government has requested the removal of the applicant, and in all cases such as Oswald's which involve repatriation from the U.S.S.R. or Bloc countries, clearance by the political desk involved is obtained. In the Oswald case, the Office of Soviet Affairs supported the grant of a loan.

If funds are not available from other sources, the Department acts on the application for the repatriation loan, and informs any other agency which may be concerned or have evidenced interest. In the Oswald case, the Department informed the FBI on March 27, 1962, that Oswald had applied for a repatriation loan and that the loan had been authorized.

When a post

When a post receives approval of a loan, it obtains a promissory note from the applicant in the form referred to above and makes the funds or transportation tickets available. The promissory note is sent by the post to the Department for collection. The Department's Office of Finance thereafter undertakes to obtain repayment of the loan. These procedures were followed in the Oswald case.

d) Changes Since the Oswald Case

So far as the dissemination of information on the issuance of a repatriation loan is concerned, the procedures currently being observed by SCA are described in Part I of this memorandum.

With respect to the policy question of whether and under what circumstances repatriation loans to "disaffected" or "previously disaffected" Americans should be granted, the regulations quoted above from 7 FAM 423.1-2 and 423.2-1 remain in effect. That is, a loan may be granted only if the recipient is unquestionably loyal to the United States or "is in or is the cause of a situation which is damaging to the prestige of the United States Government or which constitutes a compelling reason for extending assistance to effect his return." These regulations, of course, only authorize the granting of a loan when the specified conditions are met; they do not require it. Thus the question of whether to grant the loan in a particular case remains.

The Department, through SCA, has recently taken two steps in the direction of a stricter policy on repatriation loans to defectors and the like, or at least in the direction of a more careful examination of each case. Even before the assassination, in August of 1963, the Administrator of SCA decided, with the approval of the Secretary, that the Department would not grant repatriation loans to any turncoats coming out of Communist China. The policy is still undetermined, however, with respect to persons other than turncoats who have voluntarily resided in Communist China or in other Communist-dominated areas to which travel of United States citizens is restricted, and with respect to persons like Oswald, who have defected to Communist-dominated countries or have otherwise evidenced disaffection with the United States. In June of 1964, the Administrator of SCA directed that no repatriation loans were to be made to any individual being repatriated from any Communist-dominated country without the express approval of the Administrator or Deputy Administrator of SCA.

SCA has considered whether the policy on repatriation loans should be laid out more explicitly than it is at present. SCA believes, however, that it is better to wait for a specific case to arise, and perhaps even then to decide the case on an ad hoc basis, than it would be to formulate in the abstract a policy designed to

designed to determine any case that might come up.

2. Other Means of Encouragement or Discouragement

The granting or denying of a repatriation loan is not the only means of encouraging or discouraging a disaffected American to return to this country. The Department might direct its consular officials to attempt oral persuasion one way or the other, and it might, in order to encourage the person's return, give him some sort of guarantee that he would not be prosecuted in this country for any crimes that he may have committed by his defection or other conduct. Such a guarantee could presumably be implemented by asking the Justice Department not to prosecute. Oswald in fact asked for such assurance from the consular officer in Moscow, but did not receive it.

SCA believes that the status quo should be left undisturbed so far as this aspect of the problem is concerned. Consular officers at present have no authority to promise immunity from prosecution, and they should have none. A defector who is willing to return to this country only if given such a guarantee is probably not one whose return the Department wants to encourage; moreover, it does not appear that the Department has a sound legal basis for offering such guarantees, and furthermore they would, as a matter of policy, have the undesirable effect of possibly encouraging defection. In general, SCA believes that consular officers should not be instructed either to encourage or discourage the return of disaffected persons, except by such authorized means as the granting or denial of repatriation loans.

C. Repatriation of Persons Who Have Renounced or Otherwise Lost Their American Citizenship

A final policy question that might arise concerns the case of a "disaffected" person who has renounced or otherwise lost his American citizenship but who wishes to return to this country as an alien. Such a person would not be entitled to a repatriation loan, and his admissibility would be governed by the alien-exclusion provisions of the Immigration and Nationality Act of 1952. His former Communist inclination might well make him ineligible for admission under sec. 212(a)(28) of the Act, and the Department could then decide whether to recommend to the Attorney General that such ineligibility be waived under sec. 212(d)(3). In any event, he could be excluded on the basis of a finding that his presence here "would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States," under 212(a)(27), or that he would probably engage in espionage or other subversive activities, under 212(a)(29).