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WH/C 67-54

4 FEB 1967

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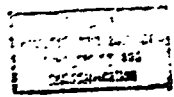
MEMORANDUM FOR: Deputy Director for Plans

SUBJECT: MASFERRER Prosecution, Miami, Florida

REFERENCE: Office of General Counsel Memorandum 67-0181 dated 2 February 1967.

1. This memorandum is for your information.
2. In response to paragraph 2 of reference, WH Division has made a review of our Miami Station and Headquarters files to determine those persons listed in paragraph 4 and all persons listed in the FBI report attached to reference with whom there has been any Agency association.
3. Of the persons listed in paragraph 4 of reference the following have had some association with the Agency:
 - a. David Cabeza
 - b. Father Diego Madrigal
 - c. Julio Cesar Mornilla
4. Listed below are the persons cited in the FBI report attached to reference who have been associated with the Agency. Of these, only two, Jesus Rodriguez and Arturo Mayans-Alvarez are currently employed. None of the remainder have any current relationship. Members of the 2506 Brigade are shown as such in parantheses after their names:
 - a. Rolando Masferrer Rojas (Informant Havana Station-1948)
 - b. Reinaldo Rogelio Rodriguez Perez (member of 2506 Brigade)
 - c. Jose Manuel Macias, Jr. (member of 2506 Brigade)
 - d. Ramiro Gonzalez Infante (member of 2506 Brigade)
 - e. Adolfo Bartolome Jimenez Aquiles
 - f. Eric Arias (member of 2506 Brigade)
 - g. Alfredo Ruiz
 - h. Rafael Torres (member of 2506 Brigade)

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- i. Pablo Morejon-Figueroa (member of 2506 Brigade)
- j. Arturo Mayans-Alvarez
- k. Manuel Jose Leon-Fernandez (member of 2506 Brigade)
 - l. Francisco Varona Varona-Soto
 - m. Jesus Rodriguez
 - n. Luis Alberto Olivera (member of 2506 Brigade)
 - o. Carlos Luis Soto Borges (member of 2506 Brigade)

5. It is believed that the trial of Masferrer or any of his colleagues could damage Agency interests in one or all of the following sectors:

a. Unfavorable publicity concerning Agency operations against the Cuban target, notably maritime infiltration operations based in southern Florida.

b. The exposure of current Agency (primarily JMWAVE) agents, operational facilities, covers and operations, notably those in the maritime infiltration field.

c. The creation of a climate which in the long run could lead to continuing damage to Agency interests and which would render the execution of operations against Cuba and certain other targets, especially the Caribbean countries, more difficult and more costly (by virtue of the necessity of creating new or more complex cover mechanisms).

6. The appearance of certain individuals at the trial could lead to the revelation of information concerning a wide variety of operational matters—using the term "operational" in its broadest sense. Of the personnel listed in the OGC memorandum of 2 February 1967 (OGC 67-C161) David Cabeza was employed by the Agency in agent status. Cabeza was a key figure in the AMFAUMA operation, at one time an important JMWAVE operation. Cabeza's brother is currently employed by JMWAVE; for some time it has been planned to terminate him—at an appropriate time. Cabeza is in a position of being able to reveal considerable information concerning certain

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operational techniques and facilities employed by JMWAVE in the past, as well as the identity of a number of former agents of the JMWAVE Station. Although, by extrapolation and by embroidering on information and rumors circulating in the Cuban exile community Cabeza probably could present a picture of JMWAVE activity which might appear exciting to the layman, it seems unlikely that he has access to any significant amount of information concerning sensitive current activities. While to the knowledgeable person, within the Agency or within the federal community in Miami, Cabeza's information is likely to be unimpressive, there seems to be little doubt that he could--as he has done on a number of occasions during the past two years--present a picture of JMWAVE activity which might intrigue the general public. It is impossible to predict whether Cabeza would present the Agency in a unfavorable light or whether he would choose to concentrate his criticism against other federal agencies.

7. A number of the other persons listed in the reference also are in a position to make allegations concerning various Agency activities, including JMWAVE operations in the maritime infiltration and propaganda fields, and Agency operations against the Haitian target. It is impossible to state how much accurate information concerning these topics is possessed by the group, or to predict the slant which might be taken by them in presenting their stories. In the opinion of JMWAVE, on the basis of the information available to the Station, none of these individuals possesses a significant amount of sensitive information concerning current or important past activities. However, as in the case of Cabeza, the claims made by these individuals re Agency activities might appear impressive to the general public, especially if spiced with tidbits of accurate information.

8. Attachment details the past relationship of certain individuals in the FBI report to the Agency, notably JMWAVE. Two of these individuals are currently employed by JMWAVE. Should certain of the other individuals be summoned to testify, they could present a certain amount of information concerning past practices, personnel and facilities used by JMWAVE.

9. Probably the greatest danger to the Agency lies in the possibility that the circle of testimony might be expanded by the defense through the subpoenaing of persons who are not on the list or mentioned in the FBI report but who are known to the listed personnel as being currently employed by JMWAVE or as having been employed in the recent past. Given the legal precedents established in other cases, it appears

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likely that these current employees (agents) of JMWAVE would have to provide true and correct answers in response to questioning in court. Such testimony could cause major damage to the current operations, personnel and facilities of the JMWAVE Station. Although it appears that a number of facilities which have not been exposed to agents (e.g., the principal cover unit, JMOCEAN) would not be compromised through the testimony of current agents, there is no doubt that the danger to JMWAVE activities, notably but not exclusively to maritime infiltration operations, would be severe. Possibly more damaging in the long run would be the surfacing of questions concerning the "right" of the Agency to engage in "illegal" activities from U.S. soil. Conceivably the defense would present the picture of an official U.S. Government agency, the Department of Justice, prosecuting hapless Cuban and Haitian exiles (Negroes) for conducting activity of "the same type" as that conducted by the Agency with the blessing of the U.S. Government. An imaginative defense counsel might even go so far as to accuse the U.S. Customs Service and the Agency of conspiring to "stop the competition" by the exiles with the activities conducted by the Agency.

10. JMWAVE believes that there is no question that the trial of the Masferrer group would bring to the surface--in southern Florida and elsewhere in the U.S.--the latent curiosity and in some cases animosity concerning Agency operations against Cuba from bases in the U.S. While the Florida public in general is highly sympathetic towards the Agency with respect to its activities against the Castro regime, there are a small number of highly vocal persons who would use the trial revelations as the basis for a renewed attack against the "invisible government" operating in Florida. JMWAVE judges that it would take very little publicity to lead to the surfacing of the JMOCEAN complex as the successor to the "notorious Zenith Technical Enterprises, Inc.". The care which has been given to the establishment and the consolidation of the JMOCEAN cover is not likely to avail against a concerted investigation by publicity media or aggressively snoopy private parties. Too, the fact that JMOCEAN is located in an area administered by the University of Miami could lead to charges of Agency "corruption of academic institutions." The fact that the University of Miami leadership would, as it has in the past, cooperate closely with JMWAVE and the Agency would not erase the publicity, and conceivably could lead to enough pressure on the University that it indeed would be forced to re-examine its relationship to the U.S. Government concerning the South Campus area, or its relationship to

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JMWAVE/JMOCLAN. In summary it is most unlikely that any future good would result from a trial of Masferrer and/or any of his associates, and it is highly probable that there would be created a climate which would make JMWAVE operations--of all types--more difficult to carry out in a secure and economical manner. This is not to say that JMWAVE would have to go out of business. This was not the case in the "Zenith" flap, nor is it likely to be the case with Masferrer. However, there appears to be little doubt that the threshold of sensitivity to Agency activities on the part of the general public and of those persons who, from whatever motives, question the advisability of the Agency "operating" within the U.S. would be raised.

11. The question of using Cesar Diosdado as a prosecution witness presents additional problems. Diosdado has been retained as the Customs officer at Key West at the request of the Agency. The Agency reimburses Customs for Diosdado's salary. Because of his encyclopedic knowledge of Cuba and the Florida Keys area and because of his long involvement in "operational activities" by the Agency, and by ACSI on occasion, Diosdado is considered by many exiles--and some officials--as being "a Company (Agency) man." If questioned under oath Diosdado presumably would have to reveal details of his association with the Agency, actions taken on behalf of the Agency, and conceivably details of JMWAVE operations. In certain instances, notably regarding current operations and several highly sensitive past operations, the revelation of detailed information, especially concerning agent identities and operational techniques, could be quite damaging. Possibly Diosdado could be carefully briefed concerning the nature of his testimony so as to avoid perjury while not giving sensitive data. However, his nature is such that a reasonably clever defense counsel could provoke him into either indiscretions or contradictions which would present him, the U.S. Customs and the Agency in an unfavorable light. The fact that Diosdado has been repeatedly commended by Customs and exiles for his efficient and humane handling of refugees and escapees would count for little in a courtroom where the emotions of the Masferrer fiasco would be running high.

12. A further problem could arise from the fact that Diosdado played a leading role in the investigation of the Masferrer affair, including previous abortive attempts by the Masferrer and Haitian exiles to launch operations from Florida, and the fact that Diosdado personally (acting in his official capacity as Customs Agent resident at Key West) led the raid against the house at which the exiles were

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Weapons and the arms confiscated. The defense might well accuse Diosdado of having acted not only for the U.S. Customs but also on behalf of the Agency.

13. In addition to the foregoing points it should be noted that historically the similarity of this operation and the "Bay of Pigs" could reopen the whole question and offer a new discussion of the prisoner exchange question. The racial issue also might arise because many of the persons involved with Masferrer and potential defendants are of the Negro race. If Masferrer is brought to trial, the public sympathy, which will probably be reflected in the jury's verdict would undoubtedly rest with the defendant not the prosecution. A large percentage of the people undoubtedly view Masferrer's activities as efforts to rid the Western Hemisphere of an abominable black dictator with the further intention of using Haitian territory as a base to remove another dictator neither of whom are friendly to the U.S.

Jacob D. Esterline
Acting Chief
Western Hemisphere Division

Attachment

OGC memo 2 Feb 67 (67-0181)
DDS/WH/COG [L. J. Williams] new
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