

Meeting 8. AEC 293 - Foreign Travel by Personnel Who Have Had Access to
Highly Classified Information

2-2-50

Under consideration was a report (AEC 293) on the above subject, submitted by the Division of Security in response to a Commission request at Meeting 355 on January 18, 1950. Mr. Rolander reviewed briefly the activities of the Division of Security in connection with foreign travel by personnel who have had access to highly classified information.

Mr. Smyth said that it was his understanding that individuals were not informed that, as a result of their connection with the atomic energy project, their names would be placed on a card index used for control of their future foreign travel. He summarized the reasons which persuaded him that the security risks attendant on travel by the bulk of those individuals thus indexed were too slight to justify such review and control of their movements. He suggested that the interests of security might be served if the names only of the few score individuals concerning whom there was derogatory information or reason to doubt their discretion were indexed at the State Department. Mr. Dean and Mr. Rolander pointed out that the present extensive card index of names served other useful purposes besides control of issuance of passports: it made it possible to brief individuals going abroad on their security responsibilities, provided an opportunity to request assistance for intelligence units, and enabled the Commission to know where key individuals were in the case of emergency. Mr. Strauss observed that problems in connection with the granting of passports appeared to be rare, and proposed that the procedures with regard to foreign travel described in AEC 293 be continued, with individual problem cases to be referred to the Commission if necessary when they arose. Mr. Smyth proposed that, in addition, procedures be worked out to make sure that individuals recruited into the atomic energy program were aware that their future foreign travel would be subject to control.

The Commission then turned to the two cases involving passport applications which had been discussed previously at Meeting 355. Mr. Rolander said that according to an unconfirmed report, the case of Bernard Peters had already been disposed of. In the case of Frank Oppenheimer, Commission views were still desired by

DEPARTMENT OF ENERGY DECLASSIFICATION REVIEW	
SINGLE REVIEW AUTHORIZED BY: <i>AA Smyth 2-2-50</i>	
REVIEWER NAME: <i>AA Smyth</i>	
DATE: <i>2-2-50</i>	
1. DETERMINATION (CIRCLE NUMBER):	
2. CLASSIFICATION RETAINED	
3. CONTAINS NO DOE CLASSIFIED INFO	
4. COORDINATE WITH:	
5. CLASSIFICATION CANCELLED	
6. CLASSIFIED INFO BRACKETED	
7. OTHER (SPECIFY):	

the Passport Division of the State Department. In answer to a question, Mr. Rolander said that Mr. Frank Oppenheimer had been present at Los Alamos during May to September, 1945, and had assisted in the preparation and conduct of Frinity Test.

Mr. Smyth said that it appeared to him that the reason advanced by Mr. Frank Oppenheimer for his proposed travel to India was a plausible scientific project. Doctor Bhabha was a recognized authority on cosmic rays and Mr. Frank Oppenheimer had worked in the field for the past two or three years. Since Mr. Frank Oppenheimer presumably had no recent information concerning the United States atomic energy project, it appeared to Mr. Smyth that the security risk attendant on his presence in India would be slight and would be no greater than the risk while he remained in this country, particularly if embittered by refusal of a passport. Accordingly, Mr. Smyth felt that Commission objection to granting of a passport to Mr. Frank Oppenheimer was not justified.

Mr. Strauss said that there appeared to him to be an element of security risk in Mr. Frank Oppenheimer's proposed visit to India, that the doubt in such a case should be resolved in favor of the government, and that he felt the Commission should object to the granting of a passport. Mr. Dean said that he could not agree to granting a passport to Mr. Frank Oppenheimer. Mr. Pike indicated that he thought that the Commission should not object; he suggested that, since the Commissioners present seemed to be evenly divided, action be deferred to give the Chairman an opportunity to state his views. After further discussion, the Commission:

a. AGREED that the program and procedures with regard to foreign travel of personnel who have had access to highly classified information set forth in AEC 293-9 should be continued;

b. REQUESTED the General Manager to recommend procedures for making clear to individuals accepting employment with the Commission that their future foreign travel might be controlled; and

c. DEFERRED action on the request from the State Department for comment on the passport application of Mr. Frank Oppenheimer.

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3. Foreign Travel of Frank Oppenheimer

Mr. Lillienthal referred to the Commission discussion, at Meeting 363, of the State Department request for the Commission's views on the proposed foreign travel of Mr. Frank Oppenheimer. Mr. Wilson explained that the request from the State Department had been received in accordance with the routine arrangements with regard to foreign travel by atomic energy personnel described in AEC 293. He recalled that on July 30, 1947, the Chairman had sent a letter to the Department of State concerning an earlier passport application by Mr. Frank Oppenheimer, stating the Commission's objections to Mr. Oppenheimer being granted a passport at that time.

Mr. Lillienthal observed that the present matter was not simply a question of transit or exit from the country but appeared to involve a question of livelihood. Under these circumstances the action of denying a passport or participating in its denial became, in his opinion, very drastic. He expressed his shock at the absence of procedural safeguards and of provision for hearings or appeal of any adverse decision. Mr. Smyth pointed out that Mr. Oppenheimer's inability to find employment in his profession in the United States was the result, not of his political beliefs, but of his having made false statements under oath. Mr. Lillienthal said that, in view of the 1947 action regarding Frank Oppenheimer alluded to by the General Manager and in view of the special circumstance of his own friendship and close official relationship with Dr. J. Robert Oppenheimer, brother of Mr. Frank Oppenheimer, he would vote against the granting of the passport in order to exclude any possibility of personal prejudice in the case. He stated that it was unfortunate that no procedure was available whereby under these circumstances he could recuse himself and abstain from voting in a matter where he felt he might not be able to act in strict impartiality. He expressed the hope that it would be found

possible to set up an improved procedure which would allow an applicant for a passport to be heard and to appeal any adverse decision. Mr. Smyth remarked that he had felt, because of the inadequate procedures followed in review of passport applications that the benefit of any doubt should be given to the applicant; this had been his reason for not opposing granting of a passport to Mr. Oppenheimer.

Mr. Pike observed that further cases of this sort would probably come to the Commission. He suggested that the advice of the Personnel Security Review Board be obtained as to the Commission's procedures for determining its response to future State Department requests for comment. He suggested that the files on the two cases recently coming to the Commission's attention (those of Dr. Peters and Mr. Oppenheimer) be transmitted to the Personnel Security Review Board as illustrations of the types of problems that arose. After further discussion, the Commission:

a. NOTED that Mr. Strauss, at Meeting 363 on February 2, had recorded his view that the Commission should not agree to granting a passport to Mr. Oppenheimer;

b. AGREED that Mr. Frank Oppenheimer ought not to be permitted to make the proposed trip to India (Commissioners Lilienthal, Strauss, and Dean voting in the affirmative and Commissioners Pike and Smyth voting in the negative);

c. REQUESTED that the State Department be informed by an appropriate letter of the Commission conclusion in b above;

d. REQUESTED the General Manager to recommend internal procedures for reviewing any similar future cases referred to the Commission for comment by the State Department; and

e. REQUESTED that the files in the cases of Mr. Oppenheimer and Dr. Peters be sent to the Personnel Security Review Board in order that the views of the board might be obtained as to procedures and related problems.