

160

OFFICE OF THE ATTORNEY GENERAL

Washington, D. C.

December 12, 1963

MEMORANDUM FOR HONORABLE DEAN RUSK
THE SECRETARY OF STATE

RE: TRAVEL TO CUBA

A number of student trips to Cuba are being organized over the Christmas holidays and some of these at least will be attempted soon. The Permanent Student Committee for Travel to Cuba has been active on a number of campuses. In addition, at least one pacifist organization is contemplating a trip in the immediate future. It is also predictable that the problem will become more acute over the coming months and we can expect major efforts to organize a number of student trips during the summer. There is already indication that this has been planned.

The last student trip to Cuba resulted in a good deal of publicity and four indictments in New York brought against leaders of the group. The grand jury which voted those indictments is still sitting and it would probably be possible to bring more indictments, although I am opposed to doing so.

There are realistically only two courses open to us in these circumstances: first, to make every effort to curtail trips to Cuba; two, to withdraw the existing regulation prohibiting such trips. The first is unlikely to meet the problem and I favor the second.

I. Prevention of travel to Cuba

Efforts to prohibit future travel to Cuba would take the following form:

(1) Publicity that travel to Cuba is prohibited by the government and will result in criminal prosecution.

(2) Notification of all carriers and customs officials that travel to Cuba is prohibited and that they should take measures to bring to the government's attention any attempts to violate the law.

(3) An effort to remove passports of persons wherever we have reasonable ground that they may be headed for Cuba. This presents some legal and practical difficulties. The right to physically seize passports has never been tested; it would be difficult in many instances to go to Cuba; and passports would not be needed for travel to Cuba from Canada or Mexico, and perhaps some other countries.

(4) Prosecution of all persons traveling to Cuba in violation of law. This is contrary to the steps we took in the first instance to prosecute leaders only; would require us to indict all or most of the students who made the prior trip; and could result in literally hundreds of indictments if present plans for travel to Cuba are carried through.

(5) Seek an injunction with respect to any group where we have reason to believe they are headed to Cuba. There are legal difficulties in securing such an injunction in view of the fact that criminal remedies exist. We could improve our chances for injunctive relief only by promptly bringing more indictments against students who went to Cuba last summer. If we fail to secure an injunction I think we would be obligated to seek future legislation restricting travel at the earliest point possible in the new session of Congress. This will be controversial and harmful to our image abroad in many countries.

II. Removing present restrictions in travel to Cuba

Removal of present restrictions on travel to Cuba (and probably on travel to other countries as well) would obviate the legal and political question of multiple prosecutions and injunctions. It would probably do a great deal to remove existing pressure from students and pacifist groups to travel to Cuba since a major appeal to students of such travel lies in the fact that the government prohibits it.

The major arguments against permitting travel to Cuba are:

- (1) It would be interpreted by some groups as a "softening" of our policy toward Cuba;
- (2) We cannot provide protection for persons travelling there through normal diplomatic channels; and
- (3) It makes more difficult our position with respect to the Central American countries, having agreed with them to take efforts to curtail travel to Cuba.

The principal arguments for removing the present restrictions are:

- (1) It is going to be extremely difficult under the best of conditions to prevent travel to Cuba and this problem is likely to be increasingly embarrassing to us this summer;
- (2) It is more consistent with our views of a free society and would contrast with such things as the Berlin Wall and Communist controls on such travel. When these two are put together, they form a powerful argument in terms of both domestic and international politics (except for Central America) for taking such a step. And I believe it likely that there would be less travel to Cuba if restrictions were removed than there will be if they are maintained. Further, those who travel would be less likely to be organized by, influenced by and, to a degree, controlled by the left-wing movements which have presently taken over much of this agitation. The chances for Castro to get advantage from our permitting travel are far less than from our prohibition coupled with the immense and distasteful prosecutions which it will probably require.

It would be much easier to remove restrictions on travel to Cuba now than it would be after the completion of several of the contemplated trips and when the matter is in the public eye. While there would be criticism, I believe that it would be less criticized and more supported than the position we are likely to find ourselves in upon the return of large numbers of students from Cuba when we will be faced with the alternatives of wholesale prosecution or being accused of declining to enforce the law.

While I believe that removal of restrictions would be somewhat embarrassing to the Central American countries and the Managua agreement, I do not think this is too serious a price to pay. We are anxious to control travel in those countries because it is realistically related to revolution, sabotage, etc., a problem which we do not face. And we would be able to point to various measures we had taken to discourage such travel; for example, cautioning persons going that they cannot be provided diplomatic protection and discouraging carriers from direct travel between the United States and Cuba.

For all these reasons I believe it would be wise to remove restrictions on travel to Cuba before we are faced with the problems which are likely to be created in the immediate future.

I think, however, that it would be desirable to issue special regulations for such travel in view of the special conditions prevailing there. This would require a passport validated for Cuba which would ordinarily be given but which would permit the Department of State to exercise some controls (for example, suspected saboteurs) as well as to inform and warn travelers of the lack of effective diplomatic protection. Such a requirement would also help to answer the questions which Central American countries would raise and ease our explanations to them.

(Signed) Robert F. Kennedy



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