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240a
cancellation
& removal

MEMO IRISH DEPORTEES

This memo attempts to lay out some of the issues involved with certain Irish nationals who are in this country illegally and facing deportation. It is an issue with both foreign and national legal and political implications, and one on which Chuck Ruff, the Justice Department, and NSC have serious equities.

BACKGROUND: There are a number of Irish nationals residing in this country who face possible deportation. All would like LPR status but all have some kind of conviction related to terrorist activities which would have made them ineligible to reside here permanently had they listed it on their application. These convictions range from murder, to making bombs, to IRA membership. There are others, in Philadelphia and possibly elsewhere, who were not part of the IRA but were part of other Irish para-military groups with similar excludable convictions. All have lived here for some time, most have American families. The overwhelming majority, but not all, are upstanding citizens - at least one came here after arrests in Canada for burglaries. The nine most often discussed can be fairly characterized as contributing members of society.

There are various Irish-American interest groups lobbying passionately and persistently on their behalf. Some observers note that the Irish feel such an affinity with America that they view it as their right to be able to come here whenever they wish no matter what the circumstances. And once here, their tendency is to think of themselves as "undocumented" rather than as illegal immigrants. Their two most effective lobbyists are former Congressman and now Clinton appointee Bruce Morrison and Brian O'Dwyer. Morrison is not Irish-American but has closely identified himself with their cause and is a critic of US immigration law. O'Dwyer comes from a long tradition of Irish-American civil rights and immigration activism.

In addition, the Irish press here has taken up the deportees cause, featuring them in stories with their families, evil treatment by the British, but no mention of the deeds for which they were convicted. With the Good Friday accord in effect, we can anticipate increased emphasis on the deportees in their specialty press.

Last fall, at the recommendation of the Secretary of State, the Attorney General ordered INS to suspend the pending deportations of six of these Irish nationals with IRA links. An additional three, who were on the verge of going into removal proceedings, were frozen. NSC and State advocated this step to build confidence in and support for the peace process at a pivotal moment.

CAVEATS: While there are various remedies proposed for their situation, there are real political costs which must also be considered.

Counter-terrorism: At a time when we are stepping up our efforts to fight international terrorism, any concession to people who have been tried and convicted of crimes associated with terrorist organizations would be inconsistent with our message. Many Irish Americans, not surprisingly, do not accept that these persons are guilty of terrorism.

Racial Discrimination: The Irish already have won certain concessions not available to other nationalities, and to make additional concessions would open the government to charges of discriminatory prosecution - a particular problem for African-Americans and Arabs.

INS: Despite the fact that most of the deportees have been model citizens once here, the INS's ability to enforce consistently immigration law would be negatively impacted by concessions to the deportees.

REMEDIES: That being said, however, there are a range of possible remedies ranging from prosecutorial discretion to a legislative fix.

Bail: For those in deportation proceedings, most, if not all, have had to post bail in order to stay out of INS custody. As there is little fear of them fleeing, it might be reasonable to suspend, reduce, or drop bail. As a law enforcement agency, INS is not inclined to be generous on this, but because the deportees have had to use their in-laws and other friends assets to reach bail, this is part of what is being raised in the Irish press.

Advance Parole: Some of the deportees would like to return to Ireland to visit ailing relatives, etc., but they want to be sure they can return to this country. There is a provision for advance parole, but DOJ would have problems with this.

Maintain And/Or Expand Current Suspensions: It could be argued that someone who has lived in this country for 10 years, is leading a productive life, and is/was part of a group which has signed onto the cease fire should have their deportation suspension maintained indefinitely as part of the effort to boost confidence in the process. In theory, suspension could also be expanded to cover some not currently covered, but that option would also probably not be welcomed by DOJ or Chuck Ruff.

Legislation: The Immigration and Naturalization Act as presently written does not give the Administration discretion to grant individuals legal permanent residents status. Presumably there could be a legislative fix drafted, but that would have to be crafted by our legislative and counsel staff in consultation with that of DOJ and INS. This option would require heavy political lift.

IRISH-AMERICAN POLITICS: Basically this is a domestic issue which is of less concern in Ireland. By finding some resolution, the peace process would be helped and anti-peace accord support would be diminished. The deportees have been strong advocates of the peace process and they are helpful in continuing to support it. The good will it would generate in the community would also be helpful. Again, however, those pluses must be weighed against the previously discussed concerns which potentially have both national and international repercussions.

huge concern

NO

NO

amplify for cancellation & removal
Will their criminal conviction & the box?
(YES)

If Ireland doesn't care, why does the US care? peace process? Irish-Americans?

plus, has some problems above.

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ONE FINAL ISSUE: It is unlikely Morrison and O'Dwyer will raise the issue of the extradition of the H Block 3 in California. This involves ongoing litigation and their silence to date indicates that they, too, understand, that this is a separate matter which we are not in a position to discuss.