Subject: Policy on Repatriation  Date: 8 Aug 51
Origin: Bradley, Omar N.
of Chinese And North Korean Prisoners
MEMORANDUM FOR GENERAL SMITH:


Attached is a copy of a memorandum on the above subject which we have just forwarded to the Secretary of Defense. I am sending this copy to you because the subject is, I know, one of extreme interest to you, and, in addition, I believe that it should be handled by NSC as soon as practicable. A copy of the enclosure has been forwarded to Mr. Matthews.

/s/ Omar N. Bradley
OMAR N. BRADLEY,
Chairman,
Joint Chiefs of Staff.

Enc.

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 security classification removed
MEMORANDUM FOR THE SECRETARY OF DEFENSE

8 August 1951


1. The following proposed policy has been recommended to and considered
by the Joint Chiefs of Staff in connection with the repatriation of Chinese and
North Korean prisoners remaining under United Nations control after all ex-
changes agreed to during current armistice negotiations have been completed,
that:

 a. Subject to adequate safeguards for United Nations prisoners
in Communist hands, the United Nations Commander in Korea be
authorised, in his discretion, not to repatriate Chinese or North
Korean prisoners of war to Communist-controlled territory without
their full consent;

 b. Subject to adequate safeguards for United Nations prisoners
in Communist hands, the United Nations Commander in Korea be
authorised to repatriate to Formosa all Chinese prisoners of war
who are found to be acceptable to the Chinese Nationalist Govern-
ment and who claim to be ex-Nationalists or Nationalists at heart
and elect such repatriation; and

 g. Provision should be included in the safeguards mentioned
above for United Nations authorities to interview immediately all
prisoners remaining in Communist custody after initial agreed
exchanges are made. A like provision should be made applicable to
Communist prisoners in United Nations custody.

2. The following may be stated in justification of this policy:

 a. There is grave likelihood that those Chinese and North
Korean prisoners who are forcibly repatriated to the Communists will
be executed or condemned to slave labor. Humanitarian considerations
prompt that these prisoners not be forced to return;

 b. In the conduct of psychological warfare in Korea, the United
Nations Commander promised safety and asylum to those Chinese and
North Korean military personnel who would voluntarily surrender to
his forces. Forceful repatriation to the Communists of such individuals
will be in violation of his promise;

 g. In light of the ideological struggle throughout the world for
the minds of men and the despotic totalitarian methods employed by the Communists to force men to join with them, it would be of great value to establish in the free world not only the reliability of the promises of the United Nations Commander but also the principle of United Nations asylum from terrorism, and

g. The effectiveness of future United States psychological warfare programs would be enhanced by the adoption of this policy.

3. The disadvantages inherent in the policy are as follows:

a. It would establish a precedent for future wars which might prevent complete repatriation after the cessation of hostilities. Specifically, the Communists could claim justification for not returning United Nations armed forces personnel whom they now or may in the future hold as prisoners of war, and there would be no assurance that the retention of such personnel was in accordance with the freely expressed choice of the individual.

b. It would also establish a precedent contrary to Article 138 of the 1949 Geneva Convention to which, however, the United States is not a signatory. This article includes a provision that "prisoners of war shall be released and repatriated without delay after the cessation of active hostilities." The policy proposed in paragraph 1 above would, in effect, redefine "repatriation" by limiting it to those who voluntarily elect such repatriation;

c. It would provide the Communists with propaganda material inasmuch as the USSR undoubtedly would claim that the United States was forcibly holding prisoners who wished to return; and

d. Subsequent to agreement on an armistice in Korea, it might be used by the Communists as a reason for breaking off peace negotiations and for Communist renewal of hostilities in that country.

4. The Joint Chiefs of Staff, from the military point of view, have no objection to the adoption of the proposed policy expressed in paragraph 1 above. On balance, they are inclined to favor it because of its extreme importance to the effectiveness of psychological warfare. They recognize, however, that the matter transcends the military.

5. Accordingly, the Joint Chiefs of Staff recommend that the proposed policy be submitted to the National Security Council for consideration.

6. In view of the fact that CINCPAC may need guidance on this matter before the armistice negotiations in Korea reach the exchange of prisoners agenda item, copies of this memorandum are being handed informally to the State Department and the CIA in order that consideration by the National Security Council may be expedited.

For the Joint Chiefs of Staff

/s/ General Omar N. Bradley
Omar N. Bradley,
Chairman,
Joint Chiefs of Staff