

BRIEFING PAPER

Americans in Prison in, and
Missing in the Vicinity of, the PRC

There are three Americans, plus an apparent dual national, known to be in prison in the PRC:

1. John T. Downey, a CIA employee (whom we described officially until July, 1971 as a Department of the Army employee and after that date as a US Government employee), has been held since November 29, 1952. Downey was missing on an official flight during the Korean hostilities and listed as dead. His detention was concealed by the Chinese when the repatriation of Americans was discussed at Geneva in June, 1954. In November, 1954 the Chinese announced that Downey had been tried on charges of espionage and had received a life sentence. On December 13, 1971, when the PRC released Richard G. Fecteau, who had been arrested with Downey, it announced the commutation of Downey's sentence to five years from the date of commutation (unspecified). The US Government has not publicly admitted that Downey was a CIA employee, although there has been some public pressure on us to admit the circumstances of Downey's mission of 19 years ago and ask the Chinese to release him as a magnanimous gesture.

The US position has been that both Downey and Fecteau should have been released under the terms of the September 10, 1955 "Agreed Announcement of the Ambassadors" of the US and PRC concerning "return of civilians to their respective countries". The PRC position has been that both Downey and Fecteau were convicted "criminals" rather than "civilians" to be returned under the "Agreed Announcement". The PRC charged in the Ambassadorial talks in Geneva and Warsaw that the US was forcibly preventing Chinese citizens

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2. Major Philip E. Smith, USAF, has been held since September 20, 1965, when his plane came down on Hainan Island because of the malfunctioning of its navigational equipment over the Gulf of Tonkin. So far as we know no charges have been brought against him. Members of his family have not been allowed to visit him.

3. Lt. Robert J. Flynn, held since August 21, 1967, when his plane, which inadvertently strayed over the Kwangsi border, was shot down. To our knowledge no charges have been brought against him. Members of his family have not been allowed to visit him.

Out of deference to Hanoi, the PRC may be unwilling to release Smith and Flynn, who were captured in connection with the Viet-Nam hostilities, prior to a Viet-Nam prisoner settlement. There is some indication that the Chinese treat the case of military prisoners differently from that of civilians. For example, although relatives of Downey and Fecteau have been allowed to visit them, Smith and Flynn have been denied such visits. Smith and Flynn are reportedly in good health, but have complained in letters to relatives that they suffer from the cold in winter.

4. Mrs. Bertha-jee Liu, detained since December, 1970 for "investigation of charges" that she had "committed crimes against the state," is a US citizen unless she has expatriated herself. Born in Tientsin September 20, 1913 to American-born US citizens, she reportedly has never been outside of China, although at the end of December, 1970 she had a long-standing application to leave the PRC. She worked as a clerk for USIS in Peking in 1946, and then in the British legation for several years before her detention in 1970. In January, 1971 the British Head of Chancery there was informed of Mrs. Liu's detention by a Chinese official, who made it clear that the PRC authorities regarded Mrs. Liu as a US citizen of Chinese race. In view of her apparent dual nationality the British official made representations as her employer, rather than on grounds she was a US citizen. The British

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informed us of the detention and, in accordance with their suggestion that publicity would do Mrs. Liu no good, we have kept the matter confidential. We have not raised the subject with the Chinese.

We believe that under PRC law Mrs. Liu would be considered a PRC national. We would not be justified in making a strong appeal for her, although it is appropriate that we inquire about her and request her release.

5. Over the last few years there have been reports that the PRC has placed under detention such Americans as Sydney Rittenberg, who have worked for the PRC authorities for many years. We have had no way of confirming these reports, have not been asked to intervene on behalf of these individuals and have not done so.

6. The PRC may hold additional Americans, especially missing Navy men, and conceivably prisoners from the Korean hostilities. The PRC admission last December that it had been holding Mr. McLaughlin and Miss Harbert without our knowledge, in spite of our direct request at Warsaw on January 20, 1970, that it identify any Americans it held, justifies this feeling.

Department of State
January 1972

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