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Administrative Order No. 5 : Liaison with the Department of Justice regarding Enforcement under Public Law 503.

1. The attention of all staff members is directed to the attached memorandum specifying procedures to be followed in effecting liaison with the Department of Justice regarding enforcement under Public Law 503.
2. All procedures of this Division will conform thereto until further notice.

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April 20, 1942

Memorandum for: the Assistant Secretary of War
Subject: Liaison with the Department of Justice regarding enforcement under Public Law 503.

At a conference in my office during the afternoon of April 20, 1942, attended by Mr. Tom C. Clark, Special Assistant to the Attorney General, Mr. Nat L. Pieper, Special Agent in Charge, San Francisco office, Federal Bureau of Investigation, Brigadier-General J.L. Bradley, Chief of Staff, Colonel Joel F. Watson, Judge Advocate, Colonel Karl R. Bendetsen, Assistant Chief of Staff, the following procedure, predicated upon correspondence exchanged between your office and the Assistant to the Attorney General, governing procedure and liaison between the War Department, The Commanding General, Western Defense Command and Fourth Army, and the Department of Justice was agreed upon.

1. (a) All orders and proclamations issued by me pursuant to the provisions of Executive Order of the President, No. 9066, dated February 19, 1942, as the Military Commander designated by the Secretary of War by letter dated March 20, 1942, to carry out the provisions of the cited Executive Order, involving enforcement of the penalties provided by Public Law No. 503, 77th Congress, approved March 20, 1942, will be transmitted to the Assistant ~~to the Attorney General, Mr. James Rowe, Jr.~~ Secretary of War by telephone or telegraph for clearance with the Assistant to the Attorney General, Mr. James Rowe, Jr. The Department of Justice has indicated that it will respond with all practicable dispatch and that upon clearance of such orders and proclamations it will undertake enforcement of the penalties provided by the cited Law. Thereafter, in the case of any such approved proclamation or order, direct communication between the local Department of Justice representative, viz. Mr. Tom C. Clark (or whomever may be so designated by the Justice Department) for the several United States District Attorneys, will be authorized.

(b) The present form of general exclusion order and general Supporting instructions employed in effectuating the evacuation of persons of Japanese ancestry having been approved will not be so submitted. Any necessary enforcement of the penalties provided

by the cited Statute in connection with evacuation of persons of Japanese ancestry under such exclusion orders and supporting instructions will be undertaken by the Department of Justice. For local operational purposes, Sector Commanders are authorized to communicate directly with the Federal Bureau of Investigation, Special Agent in Charge, for the District in which evacuation projects are entrained. Similar direct communication with the appropriate District Attorney is also authorized. Warning notices of impending exclusion orders and copies of the exclusion order will, in each case, be transmitted to Mr. Nat L. Pieper, Special Agent in Charge, San Francisco office, for communication to other Federal Bureau of Investigation Special Agents in Charge and to local police. Similar material will be furnished Mr Tom C. Clark for transmission by his office to the appropriate District Attorneys and the United States Marshalls. Mr. Clark will also continue to undertake to keep the Department of Justice fully informed as to progress of evacuation as reflected by the copies of warning memoranda and exclusion orders furnished him.

c) The form of individual exclusion order is currently being submitted to your office for transmission to Mr. Rowe in accordance with the arrangement. Upon approval of the form and substance of the individual exclusion order, it is the understanding that the Department of Justice will undertake any necessary enforcement of the penalties provided by Public Law No. 503, supra. Once the form and substance of the individual exclusion order has been approved it is understood that no further clearance with the Department of Justice will be necessary, and that individual exclusion orders may be issued without further reference to the Department of Justice. Communication to arrange the necessary enforcement of such individual exclusion orders, as presently understood, will be through Mr. Mat L. Pieper, Special Agent in Charge, but should any Court Proceedings develop, local liaison will be through Mr. Tom C. Clark, Special Assistant to the Attorney General.

2. On the basis of current understandings the procedure outlined above will be followed. It is requested, however, that confirmation of the Department of Justice be obtained as soon as practicable.

J.L. DeWitt

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~~CONFIDENTIAL~~
Western Defense Command and Fourth Army

B2.07

April 1, 1942

...DeWitt

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My dear General:

I am enclosing a memorandum which I regret to have to send to you. However, I know you want the true facts and hence my investigation extended to the Federal Bureau of Investigation, the Judge Advocate, Lieut. Col. Boekel, and Mr. Howland.

You need not worry about the matter at all because I have taken the steps necessary to secure complete cooperation on the part of the Federal Bureau of Investigation.

I would have come out to see you personally but it is now 9:45 p.m. and it is necessary for me to be in Los Angeles in the morning to see some recalcitrant newspaper publishers, as well as make arrangements for guards at Santa Anita. As soon as I return I shall see you.

Yours very truly

Tom C. Clark

April, 1, 1942

2

Memorandum for: Commanding General, Western Defense Command and 4th Army

Subject: Coordination of the Federal Bureau of Investigation

1. Reference is made to the memorandum from Col. Karl R. Bendetsen dated March 29k 1942 to the commanding general regarding the above subject.
2. Evidently a careful investigation was not made of this matter for I have talked to Mr. Kennedy of the Federal Bureau of Investigation. He is not a bureau Inspector but is an assistant to the Mr. Pieper of the local office. He did not write the paragraph attributed to him in the memorandum. He states that he called up Lt. Col. Boekel about an alien matter and that while there Colonel Magill and Lt. Col. Boekel casually remarked that they were working on a curfew order and that they were going to have the local police officers enforce it. Whereupon Mr. Kennedy stated that, since the matter involved Federal jurisdiction, it might be best to enforce it through some Federal agency. No decision was reached, however, nor was Washington ever contacted about designating the Federal Bureau of Investigation as the enforcement agency. Mr. Kennedy tells me that he never saw the order in his life until after it was printed and in final form for publication, at which time he received a few copies. He says he has never met the Judge Advocate.
3. I have also talked to Mr. Howland and he confirms the statement of Mr. Kennedy and, likewise, says that he never saw the Proclamation until after it was in final print.
4. Mr. Kennedy further tells me that the first two orders issued were handled in such a way that he was able to look after the problem without any trouble whatever but that all orders since that time, except the one that I sent him myself last Saturday, to wit, Directive No. 1, have come to his attention through the newspapers.
5. Mr. Kennedy further advises me that numerous draft boards called the F. B. I. after the issuance of Proclamation No. 5 and stated that applicants were present at the draft board demanding action on exemption applications. Also, that the draft boards had never heard of their participation in the program and had not received advice from the state boards or any one else concerning it and that the applicants were being turned away after being told that the draft boards knew nothing of the program. Such action as this ruins morale, causes confusion, and subjects our whole program to ridicule and serious public criticism.
6. The local Federal Bureau of Investigation, of course, only has jurisdiction in Northern California and discussion of matters of this character with Messrs. Kennedy and Meyerson would, therefore, only affect the local Fed. Bureau. of I. office. The other Federal Bureau of Investigation offices in California, as well as in the

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other states of the Western Defense Command, would not know anything about the matter. Hence, you can see that this method of handling was not only insufficient but was also confusing.

7. I might add that, although you designated me as the person thru whom all civilian agencies should be coordinated and although you reiterated this on several occasions in the presence of representatives from the civilian organizations, my office has been wholly ignored, and that no one from it has been invited to conferences or asked for any suggestions or given any notice of proclamations, orders, press releases, memorandums or policies to be effective.

8. I, too, am submitting this memorandum for the purpose of "clearing up whatever misunderstanding may have existed." I stand ready, as I have in the past, to aid in every way possible but continual sniping, such as is evidenced by the memorandum of March 29 does nothing but create misunderstanding to an already troublesome problem.

Tom C. Clark.

3

~~SECRET~~
Proclamation No. 5 announced classes of German and Italian aliens and of Japanese who may be entitled to acquire exemption from exclusion orders and curfew regulations. States classes of aliens exempt (virtually no Japanese were) and described machinery : securing blanks for apply for exemption. The printed proclamation does not contain the following step but it is given in a press release and is what Clark is referring to:

"After exemption application forms are filled out, they must be submitted personally or by mail to the Selective Service Draft Board headquarters nearest to the applicant's residence. Should the draft board disapprove an application, it will be returned to the applicant. If the draft board approves an application, it will be forwarded to a designated military commander, with recommendation, for final action. If approved by the military commander, the draft board will issue the applicant a permit authorizing him to continue residence and employment in the prohibited or restricted district, exempt from curfew regulations."

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Department of Justice

Room 1602 United States Post Office & Courthouse
Los Angeles, California

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April 11, 1942

...DeWitt

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My dear General:

1. I returned from Washington this morning. After considerable difficulty, I persuaded them to let us proceed in the Portland case, and it will be heard by the Court Monday at 2.00 o'clock. I am preparing to leave for Portland and will participate. For the past week I have had my staff there, as well as the Criminal Division in Washington, assisting the United States Attorney in the preparation of the matter. I shall keep you advised as to the progress made.
2. Your attention is directed to te letter of March 25, 1942 forwarded you through Ninth Corps channels by Amos Thomas, Brigadier General, United States Army. The Department had advised me that no instructions have been issued directing the Federal Bureau of Investigation or the United States Attorney not to apprehend aliens even though they be without travel permits. While in Washington I prepared a directive to the United States Attorneys involved so that ~~xxx~~ in the future I am sure that those aliens traveling without permits will be apprehended and subjected to internment.
3. In accordance with your verbal instructions, I advised the Department that it would be agreeable with you for the alien enemies ordered paroled or released from Forts Missoula and Lincoln to return to their families, provided their families had not been evacuated from a prohibited area. In the event the families have been evacuated, then such alien enemies are to return to their families at such point as the families are now located. Mr. Ennis, the Director of the Alien Enemy Control Unit is to furnish us a list of the names and addresses of each of these alien enemies before they are released and I am to advise him of the facts concerning the location of their residences with reference to prohibited areas.
- ~~xx~~I advised Mr. Ennis that these alien enemies would have to evacuate themselves as soon as you issued orders covering the particular area into which they entered for the purpose of joining their families.
4. Your request concerning the internment of alien enemies found violating proclamations as well as the proposal to file complaints or informations against citizens of Japanese lineage found violating such proclamations was discussed with Messrs. Rowe and Ennis of the Department. Mr. Rowe was particularly disturbed ~~xxx~~ about Proclamation Nos. 3 which, as you know, contains the curfew regulations. He was disturbed principally, however, about the designation of the Federal Bureau of Investigation as the enforcement office of the order. You will remember I wrote a memorandum

Chick:

Public Proclamation No. 3 establishing the curfew for all Japanese and for alien Germans and Italians and contraband prohibition, instanced 503 as penalty for violation of the contraband:

"Any such person found in possession of any of the above named items in violation of the foregoing will be subject to the criminal penalties provided by Public Law No. 503 . .

~~Paragraph 8 reads: The regulations herein prescribed with reference~~

Paragraph 8 reads: "The Federal Bureau of Investigation is designated as the agency to enforce the foregoing provisions. It is requested that the civil police within the states affected by this proclamation assist the Federal Bureau of Investigation by reporting to it the names and addresses of all persons believed to have violated these regulations."

2. April 11, 1942 letter Clark to DeWitt

6

concerning this order a few days past. Upon arriving in Washington, I found that the Attorney General had taken the matter up with the Secretary of War and that the Secretary had requested that a liaison officer be appointed with whom you might confer regarding matters affecting the Department of Justice. As you know, the Department has been prevailing on me for some weeks to return to Washington and they are now becoming insistent. For this reason, it is impossible for me to act as this office; likewise, Mr. Howland will soon be on active duty, which prevents him from acting. Therefore, I recommended that special agent in charge Nat Peiper of the FBI at San Francisco be designated, and this was done. Your experience with Mr. Peiper has been most pleasant in the past and I am sure that you will find him most cooperative in the future.

As to the enforcement of proclamations, we had a conference with Secretary McCloy yesterday afternoon in Washington. I am sure that he has talked with you about it. Messrs. Rowe and Ennis feel that before the Department should be charged with enforcement of an order or proclamation, it should have a copy of the proposed order or proclamation before it is issued, thus affording the Department an opportunity to make suggestions as to its legality--for example it is pointed out to me that if the curfew order had followed this course, we would not be having the trouble with it today that we now experience. I do not know just how you could work out this suggested procedure from a practical standpoint. I pointed out to these gentlemen that sometimes you had to issue orders pretty quickly and that it would not be possible to submit them to Washington for approval as to legality. Their reply was that the only orders they wished to pass upon from a legal standpoint were those that you wished the Department to enforce. This being true, I doubt if it would be necessary to submit any orders other than the one concerning curfew, since you enforce all of the exclusion orders yourself. I suppose that you have discussed this with Mr. McCloy and that he has conveyed your reactions to Mr. Rowe.

I am to call the Department after the hearing Monday and, in the event the Government prevails, I understand the following procedure as to enforcement is to be followed:

- a.) all orders or proclamations which the War Department wishes the Department of Justice to enforce are to be passed upon as to legality by the Department of Justice prior to promulgation.
- b.) Enforcement of such approved orders would be under the supervision of the Federal Bureau of Investigation, this Bureau to have the assistance of such local constabularies as it selects;
- c.) Any alien enemy found violating any such approved order will be interned for the duration of the war, provided such violation is intentional;
- d.) Any citizen violating any such order would be prosecuted by Information under Public Act. #503.

Very truly yours

Tom C. Clark
Chief, Civilian Staff
W.C.C.A.