

1 On June 5, 1940, in accordance with the Presidential Directive of
2 June 26, 1939, the three agencies charged with the investigation of espionage
3 and sabotage activities entered into the "Delimitation Agreement." (Exhib-
4 it 95, Tab 2). This Agreement spelled out the basic working relationship
5 between the agencies. The FBI was given primary responsibility for investi-
6 gating all domestic and civilian matters related to espionage and sabotage in
7 the continental United States and in certain of its territories.

8 For many years prior to this Agreement, ONI had been keeping a
9 particularly close watch on the activities of Japan since Japan was an
10 unfriendly major naval power. The ONI had already established an extensive
11 investigatory network related to Japanese activities. Because the FBI would
12 have had to establish a whole new network, it was agreed that ONI would
13 continue to conduct investigations on Japanese espionage activities. (See
14 Exhibit 133, Admission No. 24, p. 32). This arrangement was later formally
15 recognized by a revised Delimitation Agreement dated February 9, 1942, in
16 which it was agreed that ONI would be responsible for "jointly with FBI, the
17 coverage of Japanese activities in the categories enumerated in Paragraph I
18 [espionage, counterespionage, subversion and sabotage]." (Exhibit 96, Tab 3,
19 p. 4)

20 2. The Ringle Report. After Pearl Harbor, the Navy reviewed
21 the investigative reports which had been done on the Japanese American and
22 Japanese resident alien population. In reviewing one such report, the Chief
23 of Naval Operations noted in a memo of December 30, 1941 (Exhibit 46, Tab 6),
24 that Curtis Munson reported that,

25 Ninety-nine per cent of the most intelligent views on the
26 Japanese by military, official and civil contacts in
Honolulu and the mainland, was best crystallized by two

27 ////

28 POST-HEARING MEMO - 6

RODNEY L. KAWAKAMI
ATTORNEY AT LAW
T & C BLDG., SUITE 201
671 SOUTH JACKSON ST.
SEATTLE, WA 98104
206/682-9932

1 intelligence men before the outbreak of the war. These two
2 men are Lieutenant Commander K. D. Ringle of the 11th Naval
3 District in Los Angeles and Mr. Shivers, in Honolulu, of the
4 FBI.

5 The Chief of Naval Operations (CNO) ordered that Lt. Com. Ringle submit to
6 him a report "on the Japanese referred to in Mr. Munson's report." Lt. Com.
7 Ringle was thereafter relieved of all other responsibilities so that he
8 devote full time to Japanese issues. (Exhibit 148)

9 Four other exhibits submitted herein establish the point that
10 Lt. Com. Ringle was widely considered to be an expert on Japanese issues:
11 (1) a letter from John Franklin Carter, Presidential consultant, advised
12 Roosevelt that Munson's general recommendations for allaying racial antago-
13 nism be acted upon. Carter stated "[t]he best qualified officer to handle
14 this work, in Munson's opinion, is Lieutenant Commander K. D. Ringle . . ."
15 (Exhibit 45, Tab 7); (2) a letter from McCloy to Biddle, dated March 21, 1942
16 (Exhibit 34, Tab 8), in which McCloy thanks Biddle for sending him the Ringle
17 Report. In the letter McCloy states that,

18 . . . while out there [West Coast], I talked at some length
19 with Commander Ringle and other officials of the Office of
20 Naval Intelligence, 12th Naval District. I was greatly
21 impressed with Commander Ringle's knowledge of the Japanese
22 problem along the Coast.

23 (3) the transcript of a telephone conversation of August 3, 1942 (Exhibit 80,
24 Tab 10), between Colonel Bendetsen and Colonel Tate in which they discussed
25 the problem of transferring Ishimaru, a Japanese American internee, from one
26 internment camp to another. Bendetsen stated: "Ishimaru [the internee] is
27 one of the people by the way whom Commander Ringold [sic] seemed to feel was
28 all right, and he told me that he considered Ishimaru to be pretty reliable,"
(p. 2). Bendetsen thereby acknowledged Lt. Com. Ringle's expertise regarding

////

1 the Japanese Americans; (4) a letter dated May 6, 1942 (Exhibit 100, Tab 69),
2 after the evacuation in the Los Angeles area had commenced, Milton Eisen-
3 hower, then director of the War Relocation Authority (WRA) put in a special
4 request to Rear Admiral Wilkinson, Director of Naval Intelligence, specifi-
5 cally requesting the services of Lt. Com. Ringle to assist the WRA in devel-
6 oping a program for evacuation and relocation. Eisenhower stated in part,

7 Many of us in the War Relocation Authority have conferred
8 from time to time with Commander K. D. Ringle because we
9 have found that he has a deep understanding of the problem
 we are now facing in evacuating and relocating the Japanese
 . . . He has been extremely helpful.

10 Lt. Com. Ringle was subsequently assigned to assist the WRA and wrote a
11 report for them which was essentially an expansion of his original views in
12 his January 26, 1942 report to the Chief of Naval Operations. This second
13 report to WRA was later excerpted and published anonymously in the Harpers
14 magazine article of October 1942.²

15 In terms of distribution of the Ringle Report to ONI (Exhibit 32,
16 Tab 4), the Chief of Naval Operations received this report on or about
17 January 29, 1942 (Exhibit 47, Tab 5). The Department of Justice had the
18 Report prior to March 9, 1942, when it was transmitted by the Attorney
19 General to the Department of War (Exhibit 33, Tab 11).

20 The Ringle Report to ONI is significant for several reasons. It was
21 written by an expert on the Japanese American population (Ringle) in his
22 capacity as a Naval Intelligence Officer at the direct order of the Chief of

23
24 ²See Exhibit 35, Tab 36, p. 2, where Ennis states that, "A com-
25 parison of this memorandum with the article leaves no doubt that the author
26 of the Harpers article is Lt. Com. K. D. Ringle." Ennis went on to state
27 that he was unofficially advised that Lt. Com. Ringle was, "lent to the War
Relocation Authority to prepare a manual on the background of the Japanese
who were being evacuated from an Intelligence or security viewpoint, for the
use of the WRA personnel. After this memorandum was prepared permission was
obtained to abstract it and publish it anonymously in Harpers."

1 Naval Operations. As previously discussed, ONI was primarily responsible for
2 investigation of the ethnic Japanese population. The Report dated January 26,
3 1942, was written before the issuance of Executive Order 9066, February 19,
4 1942, and before DeWitt's military curfew and exclusion orders went into
5 effect.

6 Salient points of the Ringle Report to ONI can be summarized as
7 follows:

- 8 a. . . . within the last eight to ten years the entire
9 'Japanese question' in the United States has reversed
10 itself. The alien menace is no longer paramount, and is
11 becoming of less importance almost daily . . . (p. 1)
- 12 b. . . . of the Japanese-born alien residents, the large
13 majority are at least passively loyal to the United
14 States. (p. 2)
- 15 c. . . . however, there are among the Japanese both alien
16 and United States citizens . . . who would act as
17 saboteurs or agents. This number is estimated to be
18 less than three percent of the total, or about 3,500 in
19 the entire United States. (p. 2)
- 20 d. . . . of the persons mentioned in 'c' above, the most
21 dangerous are either already in custodial detention or
22 are members of organizations . . . The membership of
23 these groups is already fairly well known to Naval
24 Intelligence service or the Federal Bureau of Inves-
25 tigation . . . (p. 2)
- 26 e. . . . as a basic policy tending toward the permanent
27 solution of this problem, the American citizens of
28 Japanese ancestry should be officially encouraged in
their efforts toward loyalty and acceptance as bona fide
citizens . . . (p. 2)
- 29 f. . . . the most potentially dangerous element of all are
those American citizens of Japanese ancestry who have
spent the formative years of their lives, from 10 to 20,
in Japan . . . [Kibei] (p. 2)
- 30 g. . . . the writer heartily agrees with the reports sub-
mitted by Mr. Munson . . . (p. 3)

31 ////

32 ////

h. . . . in short, the entire 'Japanese Problem' has been magnified out of its true proportion, largely because of the physical characteristics of the people; that it is no more serious than the problems of the German, Italian and Communistic portions of the United States population, and, finally it should be handled on the basis of the individual, regardless of citizenship, and not on a racial basis. (p. 3, emphasis original).

In his Report, Ringle supported his conclusions with the following:

1. The Japanese American Citizens League at their January 11, 1942 convention required that each member, as a prerequisite to membership, take a loyalty oath in support of the Constitution and the United States. (p. 5)
2. Many of the Nisei leaders have voluntarily contributed valuable anti-subversive information to this and other government agencies. (p. 5)
3. That the Japanese consular staff, leaders of the Central Japanese Association, and others who are known to have been sympathetic to the Japanese cause do not themselves trust the Nisei. (p. 5)
4. That a very great many of the Nisei have taken legal steps through the Japanese consulate and the Government of Japan to officially divest themselves of Japanese citizenship (dual citizenship), even though by so doing they become legally dead in the eyes of the Japanese law, and are no longer eligible to inherit any property which they or their family may have held in Japan. (p. 5)

Edward J. Ennis, Director, Alien Enemy Control Unit, Department of Justice, crystallized the significance of the Ringle Report in a memorandum to the Solicitor General, dated April 30, 1943 (Exhibit 35, Tab 36). In this memo, Ennis reviewed the Harpers magazine article (Exhibit 78, Tab 13) written by "an Intelligence Officer." Ennis later traced the authorship of this magazine article to Lt. Commander Ringle. He highlighted for the Solicitor General several key points extracted from the Harpers article, including:

////

////

1. The number of Japanese aliens and citizens who would act as saboteurs and enemy agents was less than 3,500 throughout the entire United States;
2. Of the Japanese aliens, "the large majority are at least passively loyal to the United States";
3. "The Americanization of Nisei (American-born Japanese) is far advanced";
4. "With the exception of a few identified persons who were prominent in pro-Japanese organizations, the only important group of dangerous Japanese were the Kibei (American-born Japanese predominantly educated in Japan)";
5. "The identity of Kibei can be readily ascertained from the United States Government records";
6. "Had this war not come along at this time, in another ten or fifteen years there would have been no Japanese problem, for the Issei would have passed on, and the Nisei taken their place naturally in the American communities and national life."

Ennis also highlighted the article's conclusion:

To sum up: The 'Japanese Problem' has been magnified out of its true proportion largely because of the physical characteristics of the Japanese people. It should be handled on the basis of individual, regardless of citizenship and not on a racial basis. (Emphasis in original.)

Having determined that the anonymous magazine article was written by Ringle, Ennis in his April 30th memo stated, "I now attach more significance to it [the magazine article] because a memorandum prepared by Lt. Com. K. D. Ringle . . . has come to my attention." (pp. 1-2) He later stated that,

I have furthermore been most informally, but altogether reliably, advised that both the article and the WRA memorandum prepared by Lt. Com. Ringle represent the views, if not of the Navy, at least of those Naval Intelligence officers in charge of Japanese counterintelligence work. It has been suggested to me quite clearly that it is the view of these officers that the whole evacuation scheme was carried on very badly and that it would have been sufficient to evacuate the following three groups: (1) Kibei; (2) the parents of Kibei; and, (3) a known group of aliens and citizens who were active members of pro-Japanese societies such

1 as the Japanese Navy League, Military Virtue Society, etc.
2 Since the Naval officers believe that it was necessary to
3 evacuate only about 10,000 people, they could have identi-
fied by name, they did not feel it was necessary to evacuate
all the Japanese. (p. 2)

4 Ennis understood that under the Delimitation Agreement it was agreed
5 that Naval Intelligence should specialize on the Japanese, while Army Intel-
6 ligence occupied other fields, Ennis stated that,

7 Had we known that the Navy thought that 90% of the evacua-
8 tion was unnecessary, we could strongly have urged upon Gen.
DeWitt that he could not base a military judgment to the
contrary upon Intelligence reports, as he now claims to do.
9 (p. 3)

10 Ennis discussed the Government's position with respect to the
11 Hirabayashi case pending before the Supreme Court as follows:

12 In view of the fact that the Department of Justice is now
13 representing the Army in the Supreme Court of the United
States and is arguing that a partial, selective evacuation
14 was impracticable, we must consider most carefully what our
obligation to the Court is in view of the fact that the
responsible intelligence agency regarded a selective evacu-
15 ation as not only sufficient but preferable . . . Thus, in
one of the most crucial points of the case, the Government
16 is forced to argue that individual, selective evacuation
would have been impractical and insufficient when we have
17 positive knowledge that the only Intelligence agency respon-
sible for the advising Gen. DeWitt gave him advice directly
18 to the contrary. (p. 3)

19 He urged the Solicitor General to reveal the Ringle Report to the Court by
20 advising:

21 In view of this fact, I think we should consider very
22 carefully whether we do not have a duty to advise the Court
of the existence of the Ringle memorandum and of the fact
23 that this represents the view of the Office of Naval Intel-
ligence. It occurs to me that any other course of conduct
24 might approximate the suppression of evidence. (p. 4)

25 3. The Munson Reports.

26 Prior to the war, President Roosevelt had developed his own informal
27 intelligence system through John Franklin Carter, a journalist, who helped

28 PETITIONER'S POST-HEARING BRIEF - 12

RODNEY L. KAWAKAMI
ATTORNEY AT LAW
T & C BLDG., SUITE 201
671 SOUTH JACKSON ST.
SEATTLE, WA 98104
206/682-9932

1 Roosevelt obtain information and estimates by exploiting sources outside the
2 Government. One such source was Curtis B. Munson, a well-to-do Chicago
3 businessman who gathered intelligence for Carter under the guise of being a
4 Government official. Munson sent to Carter several reports based on his
5 investigation of the Japanese population on the West Coast. These reports,
6 in turn, were transmitted to Roosevelt. (Personal Justice Denied, p. 51,
7 52)

8 Munson's first report was dated November 7, 1941 (Tab 14). He
9 stated, "Our Navy has done by far the most work on this problem, having given
10 it intensive consideration for the last 10 or 15 years." (p. 2) Munson had
11 canvassed the entire West Coast and obtained opinions of the various services
12 and "also of business, employees, universities, fellow white workers, stu-
13 dents, fish packers, lettuce packers, farmers, religious groups, etc." (p. 2)
14 He reported the religious, family and cultural background of the Japanese on
15 pages 2 through 8. He went on in his report to describe the family set-up in
16 the United States and Japanese organizations and activities. On page 11 of
17 his report he stated,

18 There are still Japanese in the United States who will tie
19 dynamite around their waist and make a human bomb out of
20 themselves. We grant this, but today they are few. Many
21 things indicate that very many joints in the Japanese set-up
22 show age, and many elements are not what they used to be.
23 The weakest from a Japanese standpoint are the Nisei. They
24 are universally estimated from 90 to 98% loyal to the United
25 States if the Japanese element of the Kibei is excluded.
26 The Nisei are pathetically eager to show this loyalty. They
27 are not Japanese in culture. They are foreigners to Japan.
(p. 11)

28 As to potential sabotage, Munson stated that,

As interview after interview piled up, those bringing in re-
sults begin to call it the same old tune. Such it was with
only minor differences. These contacts ranged all the way
from two-day sessions with Intelligence services, through
businessmen, to Roman Catholic priests . . . The story was

1 all the same. There is no Japanese 'problem' on the West
2 Coast. There will be no armed uprising of the Japanese.
3 There will undoubtedly be some sabotage financed by Japan
4 and executed largely by imported agents or agents already
5 imported . . . In each Naval District there about 250 to
6 300 suspects under surveillance. It is easy to get on the
7 suspect list, merely a speech in favor of Japan at some
8 banquet, being sufficient to land one there . . . The
9 Japanese are hampered as saboteurs because of their easily-
10 recognized physical appearance. It will be hard for them
11 to get near anything to blow it up if it is guarded. There
12 is far more danger from Communists and people of the Bridges
13 type on the Coast than there is from Japanese. The Japanese
14 here is almost exclusively a farmer, a fisherman or a small
15 businessman. He has no entry to plants or intricate machin-
16 ery. (pp. 13-14)

17
18 As for espionage, Munson noted that, "a great part of this work
19 (espionage) was probably completed and forwarded to Tokio [sic] years ago,
20 such as soundings and photography of every inch of the Coast." (p. 14) He
21 noted that while Japanese would be effective as far as movement of supplies,
22 troops and ships are concerned,

23 They occupy only rarely positions where they can get to con-
24 fidential papers or plants. They are usually, when rarely
25 so placed, a subject of perpetual watch and suspicion by
26 their fellow workers. They would have to buy most of this
27 type of information from white people. (p. 15)

28 The next Munson report, entitled "Report on Hawaiian Islands by
Curtis B. Munson," was undated but was transmitted from Carter to Roosevelt
on December 8, 1941. (See cover letter, Tab 15.) After his investigation in
Hawaii, Munson concluded, as in his earlier report, that the second genera-
tion was estimated as approximately 98% loyal. He further stated:

However, the FBI state that there are about 400 suspects,
and the FBI's private estimate is that only 50 or 60 of
these are sinister. (In all figures given, only aliens are
considered. Should it be possible to pick up citizens, this
figure would have to be materially increased.) There are
also a few Germans and Italians in the Islands who should be
picked up . . . The Army Intelligence showed this reporter
a secret map with pins of different colors to denote first
generation, second generation and other nationalists who are

1 suspect, and their distribution in the Islands. Each one of
2 these men's address is known and they showed me that it
3 would be a comparatively easy job to pick them up almost in
4 a few hours, should the necessity arise . . . (p. 2-3)

5 In his report dated December 20, 1941, (Exhibit 5, Tab 16), Munson
6 stated on page 1 that this report should be read in conjunction with his
7 other reports: "Japanese on the West Coast" (Exhibit 139, Tab 14) and "Re-
8 port on the Hawaiian Islands" (Exhibit 140, Tab 15). He noted, "We did not
9 repeat many basic statements originally embodied in the earlier reports as
10 these statements had already been made and held good in both cases." He
11 emphasized that, "An attack is the proof of the pudding." (p. 3)

12 In the latter report (Exhibit 5, Tab 16), Munson discussed a state-
13 ment made by Secretary of Navy Knox, who had said, "I think the most effec-
14 tive fifth column work of the entire war was done in Hawaii, with the pos-
15 sible exception of Norway." (p. 1) Munson commented that,

16 We suggest this paragraph creates the wrong impression and
17 that it uses the term 'fifth column'. This term is loose
18 and has been widely abused. Should not the term 'complete
19 physical espionage' have been used instead? 'Physical
20 espionage' is supplied unwittingly by the gabble of Navy
21 wives, by the gabble of loyal second generation Japanese, by
22 the gabble of the postmen and the milkmen and classified by
23 definite agents of a foreign government . . . Fifth column
24 activities, such as in Norway, impugns the loyalty of a
25 certain large portion of a population. Your observer still
26 doubts that this was the case in Honolulu. He doubts, for
27 instance, that outside of sabotage, organized and paid for
28 by the Imperial Japanese government beforehand (i.e. pro-
fessional work), that there was any large disloyal element
of the Japanese population which went into action as a Fifth
Column running around and intentionally disrupting things on
their own hook. (pp. 1-2)

Also as to Secretary Knox's statement, Munson further stated: "It is not the
measured judgement of 98% of the Intelligence services or the knowing citi-
zenry on the mainland or in Honolulu." (p. 2)

////

4. The Final Report.

The Final Report (Exhibit 4, Tab 17) represented General DeWitt's
3
military justification for the military orders issued. This report was sup-
pressed by the War Department not only from the Supreme Court in Hirabayashi,
but from the Department of Justice as well. After the Justice Department
obtained copies of the Final Report, Edward Ennis, in a memo to the Attorney
General, dated February 26, 1944 (Exhibit 93, Tab 18), revealed:

We learned of the existence of General Dewitt's report last Spring when we were trying to get some information for the Hirabayashi brief in the Supreme Court and we were refused a copy of the printed report . . . but we were given a few pages torn out of a copy merely because they wanted us to have selected facts to support the evacuation . . .

It is perfectly clear from the course of events that the War Department deliberately evaded submitting this report, discussing our mutual activities, to us before publication.
(p. 1, 2)

5. FCC Reports.

As early as January 1, 1942 , the Federal Communications Commission (FCC) advised DeWitt in a letter (Exhibit 102, Tab 20) that as of that date, it had no active cases on file indicating the possession of radio transmitters by any alien enemies. In this letter to DeWitt, V. Ford Greaves, Chief Inspector, Western Area of the FCC, described the FCC monitoring operations and advised DeWitt:

These stations maintain a continuous radio intercept watch, and their normal duty is the detection and location of subversive and fifth-column radio activities, and the collection of evidence in cooperation with the FBI for court action. (p. 2)

³ See Exhibit 98, Tab 19, where Solicitor General Fahy argued to the Supreme Court in Korematsu: "We say that the report proves the basis for the exclusion orders. There is not a line in it that can be taken in any other way. It is a complete justification and explanation of the reasons which led to his [DeWitt's] judgement." (pp. 9-10)

1 On January 9, 1942, George E. Sterling, of the FCC, and a few mem-
2 bers of his staff met with General DeWitt and Western Defense Command (WDC)
3 staff to review and discuss transmission monitoring operations (Exhibit 107,
4 Tab 21). During this conference it was proposed that a joint FCC and mili-
5 tary center be established to facilitate the reporting and monitoring of
6 suspected illegal transmissions. (p. 4) By agreement, the operating person-
7 nel were all to be from the FCC and that Army and Navy representatives were
8 merely to help in identifying their stations and traffic. (p. 4) On Janu-
9 ary 13, 1942, Lt. Col. Smith of the Signal Corps sent to General DeWitt a
10 report and recommendation for the establishment of a Radio Intelligence Cen-
11 ter (RIC) to be operated and controlled by the FCC. (Exhibit 106, Tab 22,
12 p. 2) The report recommended that the equipment and personnel be supplied
13 by the FCC (p. 2). On January 15, 1942, General DeWitt requested funding
14 for the RIC. (Exhibit 104, Tab 23) In a letter from General DeWitt to
15 Mr. Greaves of the FCC, dated April 9, 1942 (Exhibit 103, Tab 24), DeWitt
16 acknowledged receipt of a report covering the first month's operation of the
17 Radio Intelligence Center and stated he appreciated being kept informed of
18 the activities at the Center. He also stated in the letter, "I am very much
19 pleased over the results so far achieved and am grateful to you and your
20 splendid organization for your invaluable assistance."

21 The Radio Intelligence Division (RID) of the FCC summarized its work
22 performed for other agencies in a report dated March 10, 1943 (Exhibit 88,
23 Tab 26). This report acknowledged that the RIC was set up at the request of
24 General DeWitt and further detailed tracking and monitoring procedures. The
25 report also stated:

26 ////

27 ////

28 PETITIONER'S POST-HEARING BRIEF - 17

RODNEY L. KAWAKAMI
ATTORNEY AT LAW
T & C BLDG., SUITE 201
671 SOUTH JACKSON ST.
SEATTLE, WA 98104
206/682-9932

1 As a result of a conference, February 17, 1942, arrangements
2 were completed for furnishing to the Office of the Chief
3 Signal Officer, War Department, copies of all messages in-
4 tercepted from clandestine radio stations under surveillance
5 by the Radio Intelligence Division. (p. 1)

6 Once the Final Report was released and available to the Department
7 of Justice, Justice Department attorneys began an investigation into the
8 accuracy of the factual statements made in the Final Report regarding the
9 reasons for the issuance of the military orders by General DeWitt. In a
10 letter dated February 26, 1944 (Exhibit 75, Tab 28), the Attorney General
11 specifically requested that the FCC respond to allegations made in the Final
12 Report regarding illicit radio transmissions and shore-to-ship signalling.
13 The Attorney General was also concerned about the allegation that authorities
14 would be unable to obtain a search warrant quickly enough for the full re-
15 moval of these unlawful transmitters. Biddle asked Fly to confirm the fol-
16 lowing:

17 The experience of the Department of Justice which, of
18 course, itself investigated great numbers of rumors concern-
19 ing signal lights and radio transmitters, was that without
20 exception the rumors proved to be baseless; and so far as
21 this Department is aware, there is no evidence of the exist-
22 ence of any illicit signaling by lights or by radio trans-
23 mitters . . .

24 Biddle also requested that he be informed of the extent to which General
25 DeWitt or his subordinates were kept advised regarding FCC findings.

26 Finally, the Attorney General noted:

27 This Department did not discover any unlawful radio signal-
28 ling or any unlawful shore-to-ship signalling with lights.
Great numbers of all kinds of reports from the public, how-
ever, were received but these did not diminish in number
following the evacuation. I would be interested in knowing
whether the number of reports of unlawful radio transmis-
sions received by the Commission varied in accordance with
the pattern suggested by General DeWitt or varied in accord-
ance with the experience of this Department. (p. 2)

////

1 In response to the Attorney General's requests, an internal FCC
2 memorandum was prepared identifying the tracking stations and equipment uti-
3 lized, and summarized the establishment of a joint Radio Intelligence Center
4 with the Army. (Exhibit 43, Tab 29) The FCC reported that from December
5 1941 to July 1, 1942, there were 760 reports of unidentified or unlawful
6 radio signals in areas evacuated. (p. 3) Each case was investigated and
7 there were no cases involving signals which could not be identified by the
8 FCC. (p. 4) The findings indicated that in 641 of the 760 cases the FCC
9 found no radio signalling involved at all. The remaining 119 cases in which
10 radio signalling was found all came from identified and lawful stations.
11 With respect to the alleged reduction in reported cases after the evacuation,
12 the FCC report indicated:

13 It will be seen that the number of complaints requiring
14 investigation received before and after July 1st are com-
15 parable. It is quite evident that these complaints were
influenced only to a small degree, if at all, by the evacu-
ation of the Japanese (p. 4)

16 In a letter from James Fly, Chairman of the FCC, to the Attorney
17 General, dated April 3, 1944 (Exhibit 76, Tab 30), regarding DeWitt's Final
18 Report on Japanese evacuation from the West Coast, Fly reported:

19 Time after time, the Army reported stations transmitting in
20 Kana code, a code used almost exclusively by Japanese
21 military stations, had been located at various points along
22 the West Coast by Army direction finders The Com-
23 mission's investigations disclosed that all such reports
were unfounded; that the transmissions involved were in each
case from a station outside the United States, usually in
Japan itself. (p. 1)

24 In a follow-up letter of April 4, 1944 (Exhibit 40, Tab 31), Fly
25 restated to Biddle that the reference in the Final Report to hundreds of
26 reports of signalling by means of signal lights and unlawful radio transmis-
27 sions proved after investigation, without exception, to be baseless. He

28 PETITIONER'S POST-HEARING BRIEF - 19

RODNEY L. KAWAKAMI
ATTORNEY AT LAW
T & C BLDG., SUITE 201
671 SOUTH JACKSON ST.
SEATTLE, WA 98104
206/682-9932

1 further reported to Biddle that from December of 1941 to July 1, 1942 the FCC
2 was engaged in monitoring and identifying signals reported to be from unlaw-
3 ful transmitters and in locating any such transmitters on the West Coast.
4 RID was engaged in a comprehensive 24-hour surveillance of the entire radio
5 spectrum to guard against any unlawful radio activities.

6 In the April 4th letter, Fly also reported:

7 The General and his staff were kept continuously informed of
8 the Commission's work, both through occasional conferences
9 and day-to-day liaison And as the result of a
10 request of General DeWitt in January 1942, the Commission
11 established a Radio Intelligence Center in San Francisco for
coordinating radio intelligence information collected by the
Army, Navy and the Commission As part of the plan
for coordinating activities, Army and Navy personnel main-
tained a liaison attendance at this Center. (p. 3)

12 Finally, in response to the inquiry from Biddle, Mr. Fly reported:

13 You note that the memorandum suggested that available means
14 were inadequate to locate and seize any such radio transmit-
15 ter, but state that if your understanding that equipment was
16 available for locating such a transmitter is correct, the
17 problem with which General DeWitt is concerned would not
18 arise in practice. Your understanding is correct. As noted
above, equipment developed by the Commission's engineers was
on and after December 7, 1941 in the hands of its personnel
on the West Coast, which enabled them easily to locate the
individual house and even the exact room containing a con-
cealed transmitter. (p. 4)

19 In fact, there is evidence as early as September 27, 1942, which
20 suggested that General DeWitt himself acknowledged that reports of illicit
21 transmissions were not well-founded. In a letter to Sterling, dated Septem-
22 ber 27, 1942 (Exhibit 81, Tab 25), DeWitt acknowledged:

23 It is true that during the months coastal patrols have oper-
24 ated in this area none of the reported suspicious stations
25 have proven to be enemy, clandestine, or illegal; however,
the work of the partols has been of considerable assistance
to this command in the prompt indentification of signals.

26 ////

27 ////

28 PETITIONER'S POST-HEARING BRIEF - 20

RODNEY L. KAWAKAMI
ATTORNEY AT LAW
T & C BLDG., SUITE 201
671 SOUTH JACKSON ST.
SEATTLE, WA 98104
206/682-9932

6. Department of Justice.

The Department of Justice had either information or reports that should have been provided to the Supreme Court. For example, the FBI's belief that the Japanese population did not constitute a threat on the West Coast was evidenced by an internal memo from J. Edgar Hoover to Tolson, Lamm, and Ladd, dated December 17, 1941 (Exhibit 38, Tab 32). In this memo, Hoover recognized that the by giving them a list, "we won't be giving them anything they don't already have, as we have given them two or three lists already."

(p. 1) Hoover further stated:

I thought the Army was getting a bit hysterical, and although I believe the condition is very critical and serious, I do not believe that they can put over any plan to clean people out of that area unless there is some very imminent prospect of attack. . . . [T]here was no sense in the Army losing their heads as they did in the Booneville Dam affair, where the power lines were sabotaged by cattle scratching their backs on the wires, or the 'arrows of fire' near Seattle, which was only a farmer burning brush as he had done for years. (p. 1)

[W]e must have proof not just allegations against these people . . . (p. 2)

[I]f the Army wanted to take in thousands predicated upon lists furnished by us we wanted to be very careful to have specific recommendations on every person on any of our lists so that if there is any howl afterwards, we will not be left holding the bag. (p. 3)

A letter from the Attorney General to Representative Leland Ford, dated January 27, 1942 (Exhibit 83, Tab 33), summarized the Department of Justice's early positions relative to evacuation. In that letter, Biddle stated:

As a result of these conferences, the decision of this Department that the program I have outlined above [which did not include wholesale evacuation], together with the extensive investigations which have been carried on by the Federal Bureau of Investigation, would adequately control the problem of the Japanese population of the Pacific coast.