

~~ROUGH DRAFT~~

NOV 10 1942

A8-5/LL

MEMORANDUM FOR Commander W. S. Wharton.

SUBJECT: Proposed Executive Order entitled "Establishing Interdepartmental Board to Consider Cases of Subversive Activity on the Part of Federal Employees".

1. Attention is invited to the letter of the Attorney General dated October 26, 1942, accompanying the proposed Executive Order.

- (a) Justification for the establishment of the board swings on the experience of the Department of Justice in administering provisions of the appropriation acts which provide for funds for the Federal Bureau of Investigation - "to investigate employees of every department, agency, and independent establishment of the Federal Government who are members of subversive organizations or advocate the overthrow of the Federal Government by force" - and requires that the Bureau shall "report the findings forthwith to Congress."
- (b) The Board is to be advisory.
- (c) The Board proposes to assure fair consideration to Federal Employees and at the same time assure adequate protection to the Government of the United States.
- (d) The War and Navy Departments are excepted from the provisions of the proposed order.

2. Apparently the proposed order is aimed at regularizing and standardizing the procedure for the removal of Federal employees suspected of subversive activity, thereby improving security conditions, and at the same time assuring the employee fair consideration.

- (a) Membership on the board is not qualified. Thus, where a removal from an agency closely allied to the war effort should be effected, such as the War Production Board, for purposes of military security no consideration would be given such factors unless there was a representative of the Army or Navy, or both on the board. In any event the vote of the board for military reasons would be a minority, with the proposed five man committee.

3. Experience with other government departments has indicated that none of them have the least conception of what constitutes military security. Downright subversive disclosure of classified information and actions bordering on subversion have repeatedly taken place, cloaked under the guise of "progressiveness" or "liberality" or "new dealism". In war, ignorance of the requirements of military security is no excuse for the

FINISHED BY W. S. Wharton 3/24/44

justification of a national policy which protects elements who ought not to be employed in the Government. In other words, the requirements of military security in the War Production Board or for that matter in the Department of Justice are given no consideration in the proposed order less it be by negation.

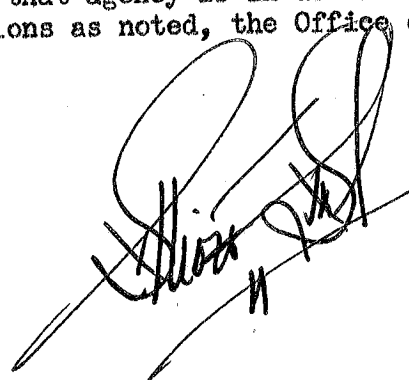
4. The Navy Department now relies on Rule 12 of the Civil Service Commission for the removal of persons suspected of subversive activity, since the lapse of Public #671 of the 76th Congress. The routines are well established and the mechanism operates satisfactorily.

5. This order has been discussed with Mr. Timms of the Federal Bureau of Investigation, who stated that it was the work of Dean Dickinson, a special assistant to the Attorney General.

6. This order is similar to a proposal of the Department of Justice in connection with the discharge of subversives in industry, and which was given full consideration during the summer and fall of 1941 and resulted in the agreement between War Department, Navy Department and labor representatives.

7. The undersigned is at loss to understand why the same Rule 12 will not apply equally well to removals in other government agencies.

8. However, this problem appears to be a concern of the Federal Bureau of Investigation and if that agency is in accord with this Executive Order, except for the objections as noted, the Office of Naval Intelligence ought not to object.



THE JUDGE ADVOCATE GENERAL OF THE NAVY  
AND REFER TO NO.

JAG:J:HJM:ac

DEPARTMENT OF THE NAVY

OFFICE OF THE JUDGE ADVOCATE GENERAL

WASHINGTON, D. C.

Nov 9 1 05 PM '74

OP 13

50-11-4-74

NOV 9 1942 50-11-4-7

1st Endorsement  
on ltr. from Bureau of the Budget,  
dated 11-3-42.

From: The Judge Advocate General.  
To: The Assistant Secretary of the Navy (Shore  
Establishments Division)  
→ Via: (1) The Vice Chief of Naval Operations.  
(2) The Director of Civil Personnel.

Subject: Proposed Executive Order entitled "Establish-  
ing the Interdepartmental Board to Consider  
Cases of Subversive Activity on the Part of  
Federal Employees."

1. Referred for comment.

W.B. WOODSON

*[Signature]*  
H.A. HOUSER  
By direction.



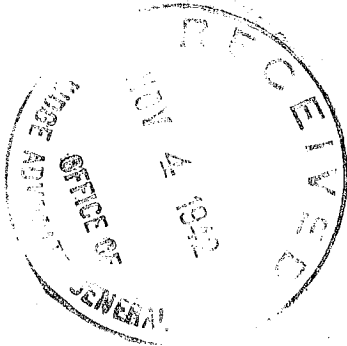
FINISHED FILE...w/...4/4/44

DECLASSIFIED  
Authority NND 907026

EXECUTIVE OFFICE OF THE PRESIDENT  
BUREAU OF THE BUDGET  
WASHINGTON, D. C.

NOV 4 8 51 AM '42  
*Jag*  
SO11 4 74

NOV 3 1942



My dear Mr. Secretary:

Herewith are copies of a letter of October 26, 1942, addressed to the President by the Attorney General, and of a proposed Executive Order entitled "Establishing the Interdepartmental Board to Consider Cases of Subversive Activity on the Part of Federal Employees".

The Director of the Bureau of the Budget will appreciate receiving an expression of your views in the premises.

Very truly yours,

*J. B. Bailey*  
Assistant Director  
Legislative Reference

The Honorable,

The Secretary of the Navy.

Enclosures.

OFFICE OF THE ATTORNEY GENERAL  
Washington, D.C.

October 26, 1942

Through the Bureau of the Budget,  
Through the Division of the Federal Register.

The President, similar appropriation act has indicated clearly the  
The White House. While the purpose of the proposed board

My dear Mr. President: It is believed that they are adequate to ap-  
I am transmitting herewith a draft of a proposed Executive  
order entitled "Establishing the Interdepartmental Board to  
Consider Cases of Subversive Activity on the Part of Federal Em-  
ployees."

The proposed order has been prepared in this Department  
with the cooperation of the Interdepartmental Committee on Investi-  
gations in order to give effect to recommendations incorporated in  
my letter to the Congress of September 1, 1942, transmitting a re-  
port of the Federal Bureau of Investigation made pursuant to the ap-  
propriation act of June 28, 1941 (Public Law 135, 77th Congress).

Public Law 644, 77th Congress, approved July 2, 1942, pro-  
vides that of the appropriation for the Federal Bureau of Investiga-  
tion "\$200,000 shall be available immediately to investigate the em-  
ployees of every department, agency, and independent establishment  
of the Federal Government who are members of subversive organizations

or advocate the overthrow of the Federal Government by force" and

requires that the Bureau shall "report the findings forthwith to Congress." Experience in administering a similar provision incorporated in the Revised Statutes of the United States, Title 5 of the First Statute at Large, 1800 (Public Law 38, 73rd Congress), and the need for a permanent board. While the powers of the proposed board will be advisory only, it is believed that they are adequate to assure fair consideration of the interests of Federal employees and to protect the interests of the Government of the United States.

I recommend that you issue the proposed order.

Respectfully,

The officers of the Board shall consist of a chairman, a vice-chairman, and an executive secretary. The executive secretary may be selected from the membership of the Board or otherwise as the Board in its discretion shall determine.

The Board shall serve as an advisory and coordinating agency in all matters pertaining to the investigation and disposition of complaints of subversive activity on the part of employees of the executive branch of the Federal Government and shall initiate such measures as are best suited in its judgment to secure fair and prompt disposition of complaints and to protect the interests of the Government.

**ESTABLISHING THE INTERDEPARTMENTAL BOARD TO CONSIDER CASES OF SUBVERSIVE ACTIVITY ON THE PART OF FEDERAL EMPLOYEES**

By virtue of the authority vested in me by section 1753 of and shall advise the Department, and the Revised Statutes of the United States, Title I of the First Subversive Activities Act, for determining and the War Powers Act, 1941 (Public Law 354, 77th Congress), and as

President of the United States, it is hereby ordered as follows:

1. There is hereby established the Interdepartmental Board to consider cases of subversive activity on the part of Federal employees, hereinafter referred to as the Board, to consist of five members appointed by the President.

2. The officers of the Board shall consist of a chairman, a vice-chairman, and an executive secretary. The executive secretary may be selected from the membership of the Board or otherwise as the Board in its discretion shall determine.

3. The Board shall serve as an advisory and coordinating agency in all matters pertaining to the investigation and disposition of complaints of subversive activity on the part of employees of the executive branch of the Federal Government and shall initiate such measures as are best suited in its judgment to assure fair and prompt disposition of complaints and to protect the interests of the Government of the United States. Provided, however, that the Board shall take no action concerning employees of the Department of Justice or the Department of War except upon request from the

FINISHED 11/1/74

5. Upon request from the Department of Justice, the Board shall consider particular complaints or classes of complaints and advise concerning the investigation of such complaints.

6. Upon reference from the Department of Justice, the Board shall receive all investigative reports on complaints and shall advise the departments, agencies, and independent establishments concerning procedures for determining action thereon.

7. Upon request from an employing department, agency, or independent establishment, or upon request from an employee with respect to whom disciplinary action is proposed, made before final disposition in any case, the Board shall review the record and transmit its recommendation to the employing department, agency, or independent establishment. In order that employees may have opportunity to file request for review, the departments, agencies, and independent establishments concerned are hereby directed to stay final disposition for a period to be fixed by the employing department, agency, or independent establishment, but in no case for less than ten days following the date on which the employee receives notice of the proposed disposition, and for such further period as the Board may require for review of the case after request therefor is filed.

8. Whenever the requirements of internal security appear to the Board to have been insufficiently considered in connection

FINISHED 11 23 1964



10. Nothing contained in this order shall be construed as limiting the authority of any department, agency, or independent establishment to suspend any employee as provided by law.

11. The Board is hereby authorized to employ such clerical, stenographic, and other assistance as it may deem necessary, to incur all necessary expenses for personal and other services, travel, and supplies, and to fix the salary of its executive secretary, if specially employed for that purpose, at a sum not to exceed \$7,500 per annum. Members of the Board and others detailed by the departments, agencies, or independent establishments to serve with the Board shall serve without compensation in such capacity. Employees of the Board shall receive such travel and other allowances as civilian employees of the United States receive generally by law.

12. All expenses of the Board shall be paid on vouchers approved by the chairman or, in his absence, by the vice-chairman, from allocations to be made to the Board for that purpose from the Emergency Fund for the President.

13. All executive officers and agencies of the United States are hereby authorized to furnish the Board with such personnel, facilities, services, supplies, and cooperation as it may request from time to time.

14. The Board shall report to the President annually regarding its activities and shall make such special reports as the President may request.

THE WHITE HOUSE,

, 1942.