

MIRANDA TAFOYA\*

# A Shameful Legacy:

Tracing the Japanese American Experience of Police  
Violence and Racism from the Late 19th Century  
Through the Aftermath of World War II

*Law enforcement agencies are allegedly meant “to protect and serve” and yet there are numerous examples of state violence and brutality against citizens, especially because of racial profiling and racist stereotypes. One often ignored blight on American history is Executive Order 9066. Law enforcement agencies played an integral part in the round up of Japanese American families and the implementation of President Franklin Delano Roosevelt’s infamous wartime executive order. This paper argues that the actions of law enforcement in the lead-up to the forced removal of Japanese Americans, in the operation of the prison camps, and in the aftermath of Japanese Internment demonstrate how deeply rooted nativism coupled with wartime hysteria resulted in racialized violence against Japanese immigrants and Japanese American citizens. Law enforcement did not protect and serve Japanese Americans and this paper examines how this state violence is part of a shameful legacy that must be part of discussions about policing and race in America. Moreover, this paper shines a light on the policing of everyday life for Japanese Americans during this historical period.*

*This project arises out of my family history. My great-great-grandfather, a leader in the San Francisco Japanese community, fought for his civil rights all the way to the U.S. Supreme*

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*Court in a case against the San Francisco Sheriff in 1902. My grandmother was born after World War II, but her two older siblings, her parents, grandfather, and extended family were imprisoned at Topaz War Relocation Center in rural Utah. In this telling of my family's story, I offer a heretofore underexamined aspect of the criminalization of Japanese Americans' everyday life and the ways that government action and law enforcement controlled this community. I also subvert the dominant narrative of silence and shame about pre-war Japanese exclusion and Executive Order 9066 by turning this shame squarely onto the state to encourage accountability and aid future discussions of policing and race in America.*

## INTRODUCTION

“December 7, 1941, a date which will live in infamy.”<sup>1</sup> The American President who uttered these famous words not only plunged the country into World War II, but also derailed the lives of approximately 120,000 people with a staggering executive order.<sup>2</sup> Wartime hysteria and pre-existing anti-Asian sentiments collided with devastating results. For nearly a century prior, many Californians viewed Asian immigrants and Asian American citizens as an economic threat.<sup>3</sup> White America considered Asian Americans perpetual foreigners whose loyalties were in question, a stereotype of Orientalism that remains pervasive today.<sup>4</sup> The bombing of Pearl Harbor was the impetus for legitimizing this pre-existing xenophobia into official government policy as the U.S. government and many of its citizens perceived anyone of Japanese descent residing in the West Coast as a “menacing fifth column” that could thwart the American war effort.<sup>5</sup> In the name of national security, local police and FBI forces teamed up to conduct warrantless raids of Japanese American homes, confiscating “contraband” and arresting community leaders.<sup>6</sup> Then—upon intense petitioning by lobbyists from

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<sup>1</sup> Speech by Franklin D. Roosevelt, New York (Transcript), Library of Congress. Available at [https://www.loc.gov/resource/afc1986022.afc1986022\\_ms2201/?st=text](https://www.loc.gov/resource/afc1986022.afc1986022_ms2201/?st=text).

<sup>2</sup> Roger Daniels, *The Japanese American Incarceration Revisited: 1941-2010*, 18 *ASIAN AM. L.J.* 133, 134 (2011).

<sup>3</sup> See generally ROGER DANIELS, *THE POLITICS OF PREJUDICE: THE ANTI-JAPANESE MOVEMENT IN CALIFORNIA AND THE STRUGGLE FOR JAPANESE EXCLUSION* (University of California Press, 1977). See also Chinese Immigration and the Chinese Exclusion Acts, U.S. DEPT OF STATE, OFFICE OF THE HISTORIAN. Available at <https://history.state.gov/milestones/1866-1898/chinese-immigration>.

<sup>4</sup> *Combatting the AAPI Perpetual Foreigner Stereotype*, New American Economy Research Fund, <https://research.newamericaneconomy.org/report/aapi-perpetual-foreigner-stereotype/>.

<sup>5</sup> Quote from the Office of the Attorney General (1941). Investigation of Un-American Propaganda Activities in the United States: Hearings Before a Special Committee on Un-American Activities. H. Res. 282, 72nd Cong. (1942). Available at [http://www.mansell.com/co9066/1942/ROJA/Report\\_on\\_Japanese\\_Activities\\_1942.html](http://www.mansell.com/co9066/1942/ROJA/Report_on_Japanese_Activities_1942.html).

<sup>6</sup> NATIONAL ARCHIVES, *Japanese-American Incarceration During World War II*, Jan. 24, 2022. Available at <https://www.archives.gov/education/lessons/japanese-relocation>.

nativist groups, military officials, politicians, and police—on February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066.<sup>7</sup>

Shame is a strong value in Japanese culture. For many families—my own included—feelings of shame about Japanese incarceration and pre-war exclusion led to this history being swept under the rug for generations. Shame is about taking personal responsibility for failure. Many Japanese Americans silently carried this burden to save face and *gaman* (我慢): persevere. Through this paper highlighting the shameful legacy of state violence against Japanese Americans, and the telling of my own family’s story, I hope to turn this shame squarely onto the U.S. government to encourage accountability and aid future discussions of policing and race in America. Japanese Americans faced a broad range of state violence and policing before, during, and after Executive Order 9066.

This paper demonstrates how police agencies deeply rooted in nativism and exacerbated by wartime hysteria played an integral role in racialized violence against Japanese immigrants and Japanese American citizens. Local and military police participated in the forced removal of Japanese Americans, the operations of the prison camps, and the continued surveillance and control in the aftermath of Japanese incarceration. The analysis for this paper follows in three parts.

Part I describes the historical backdrop to the extreme policing of the Japanese American community post-Pearl Harbor. Nativist responses to Japanese immigration in the late nineteenth century laid the groundwork for President Roosevelt’s infamous Executive Order 9066. Included in this history is the story of my great-great-grandfather, Matsunosuke “George” Tsukamoto. In his pursuit of the American Dream, my great-great-grandfather faced intense discrimination from the San Francisco Sheriff and the Anti-Jap Laundry League. He took his case all the way to the U.S. Supreme Court in 1902. His story is an example of how competing entrepreneurs and disgruntled neighbors used law enforcement to hold Asian immigrants back, enforcing the status quo both economically and racially. His story is also an example of how government action and law enforcement officers shaped and controlled the everyday lives of Japanese Americans. Xenophobia and fearmongering about Asian immigrant communities set the stage for Executive Order 9066.

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<sup>7</sup> Executive Order 9066, February 19, 1942; General Records of the United States Government; Record Group 11; NATIONAL ARCHIVES. See “Executive Order 9066: Resulting in Japanese-American Incarceration (1942), NATIONAL ARCHIVES. Available at <https://www.archives.gov/milestone-documents/executive-order-9066>.

Part II analyzes the police aggression against the Japanese community in the wake of the Pearl Harbor attack, inside the prison camps, and upon returning from the prison camps. In the aftermath of Pearl Harbor, law enforcement officials raided Japanese American neighborhoods along the West Coast to seize items considered contraband.<sup>8</sup> Local police departments, including the Los Angeles Police Department (“LAPD”), patrolled Japanese American neighborhoods, and accompanied FBI agents to raid Japanese American homes and arrest community leaders.<sup>9</sup> This Part also investigates the violence in the prison camps and the ways that the Military Police, the uniformed law enforcement branch of the U.S. Army, operated with impunity. This Part will conclude with a summary of the hostile actions of law enforcement, specifically the LAPD, upon the return of the imprisoned Japanese Americans. The LAPD made it only more difficult for returning Japanese Americans to pick up the pieces of their shattered lives and try to find normalcy again.

Part III critiques the policing of Japanese Americans during World War II as an outgrowth of decades of xenophobia and nativism, ultimately asserting that the shame Japanese Americans have felt about their wartime incarceration should be foisted on the state instead. This Part inverts the dominant narrative of shame and silence by highlighting how the U.S. government failed to protect Japanese American citizens and the Japanese immigrants who had long been denied citizenship.

## I. NATIVISM, ANTI-JAPANESE SENTIMENT PRE-WORLD WAR II, AND THE CASE STUDY OF MATSUNOSUKE TSUKAMOTO

Even before the attack on Pearl Harbor, people of Japanese ancestry living in America faced discrimination. In some states, Japanese immigrants could not own land, become naturalized citizens, or vote.<sup>10</sup> These Japanese immigrants, also known as *Issei* (meaning “first generation” in Japanese), first arrived in the United States in the 1880s.<sup>11</sup> In the spring of 1882, Congress passed the

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<sup>8</sup> See generally ROGER DANIELS, *THE JAPANESE AMERICAN CASES: THE RULE OF LAW IN TIME OF WAR* (University of Kansas Press, 2013).

<sup>9</sup> *Id.*

<sup>10</sup> J. Burton, M. Farrell, F. Lord & R. Lord, Excerpts from “Confinement and Ethnicity: An Overview of World War II Japanese American Relocation Sites,” *The National Park Service: A Brief History of Japanese American Relocation During World War II*, <https://www.nps.gov/articles/historyinternment.htm>. For an exploration of how settlement was an important tool to maintain racial hierarchy, see generally GENEVIEVE CARPIO, *COLLISION AT THE CROSSROADS: HOW PLACE AND MOBILITY MAKE RACE* (University of California Press, 2019).

<sup>11</sup> See generally YUJI ICHIOKA, *THE ISSEI: THE WORLD OF THE FIRST GENERATION JAPANESE IMMIGRANTS, 1885-1924* (Free Press, 1988). The Naturalization Act of 1790 only allowed an immigrant to become a naturalized person if he was a “free white person.” Naturalization Act, 1 Stat. 103 (1790). In California, for example, lawmakers passed the 1913 Alien Land Law and voters passed the California Alien Land Law of 1920. The first act prohibited “aliens ineligible for citizenship” from owning or taking on long-term leases of agricultural property; the second prohibited aliens from owning stock in companies holding agricultural land. *Alien Land Laws in California (1913 & 1920)*, Immigration History, <https://immigrationhistory.org/item/alien-land-laws-in-california-1913-1920/>.

Chinese Exclusion Act, perhaps one of the most prominent and effective nativist responses to Asian immigration at that time.<sup>12</sup> The Chinese Exclusion Act created a demand for new immigrant labor. As a result, Japanese began to come to America, chasing the American Dream.

Japanese immigration threatened the racial and economic status quo in America and from this xenophobia, the anti-Japanese exclusion movement was born. The anti-Japanese exclusion movement was the combined endeavor of politicians, intellectuals, and community leaders to label Japanese an undesirable race.<sup>13</sup> These efforts ranged from introducing discriminatory legislation to discourage Japanese immigration, encouraging and enforcing boycotts of Japanese businesses, and spreading propaganda about reasons to exclude Japanese from America.<sup>14</sup> This movement paved the way for the wartime incarceration of Japanese Americans by laying a groundwork of suspicion about Japanese loyalty.

In Japanese culture, there is a common saying “*shikata ga nai*” (仕方がない). “It can’t be helped.” “Nothing can be done about it.” “It is what it is.” My great-great-grandfather, a first-generation Japanese immigrant, threw “*shikata ga nai*” to the wind and persistently fought for his rights. My great-great-grandfather’s story illustrates the nativism and xenophobia that Japanese immigrants to California faced in their pursuit of the American Dream. Furthermore, his story is an example of how government action and law enforcement shaped and controlled the everyday lives of a marginalized group.



15

*Matsunosuke Tsukamoto (1857–1958) was a civil rights pioneer and a leader in the San Francisco Japanese community. In his pursuit of the American Dream, he faced many obstacles because of discriminatory policing and the anti-Japanese exclusion movement.*

<sup>12</sup> Chinese Exclusion Act, Pub. L. No. 47–126, 22 Stat. 58, Chap. 126 (1882).

<sup>13</sup> Raymond Leslie Buell, *The Development of the Anti-Japanese Agitation in the United States*, 37 POL. SCI. Q. 605, 608 (Dec. 1922).

<sup>14</sup> *Id.* at 618.

<sup>15</sup> THE JAPANTOWN TASK FORCE, INC., *IMAGES OF AMERICA: SAN FRANCISCO’S JAPANTOWN*, 11 (Arcadia Publishing, 2005).

My great-great-grandfather, Matsunosuke “George” Tsukamoto was one of the first Japanese to immigrate to America, arriving in California in the 1880s.<sup>16</sup> Sent by Fukuzawa Yukichi, “the great educator” of the Meiji era, to open new fields for agricultural development in America, Matsunosuke and a colleague purchased twenty acres of wasteland in Valley Springs, Calaveras County, California.<sup>17</sup> Their venture was unsuccessful because the seller did not actually own the land.<sup>18</sup> While his friend returned to Japan, Matsunosuke remained in California and opened a hand laundry in Tiburon in 1892.<sup>19</sup>

Seeing an opportunity to expand his successful business, Matsunosuke moved to San Francisco to open a steam-powered laundry.<sup>20</sup> He established Sunset Laundry, the first Japanese-owned automated laundry, in 1899.<sup>21</sup> At the time, there were many Chinese-owned hand laundries in San Francisco, but all the steam laundries were white-owned.<sup>22</sup>

Matsunosuke attempted to equip his laundromat with modern machinery and sought a permit to operate a steam boiler from the Board of Supervisors.<sup>23</sup> The Board denied his permit at the prompting of a petition circulated by disgruntled residents who claimed his steam laundry would be “an intolerable nuisance from a sanitary standpoint,” that it “[would] cause an increase in insurance rates, deteriorate the value of residents’ property, and materially interfere with the development of the neighborhood.”<sup>24</sup>

He filed a new petition with the Board of Supervisors, this time attaching a certificate signed by two competent boiler inspectors stating that the boiler was in good working order.<sup>25</sup> He also filed a paper from one of the inspectors that certified him as competent to operate the boiler safely.<sup>26</sup> At the hearing on his second application, many property owners near the laundromat protested his license application.<sup>27</sup> The Board once again denied his petition.<sup>28</sup>

<sup>16</sup> *Id.*

<sup>17</sup> Hiroshi Ushimaru, *Japanese Immigrants in the North Bay Region: Their Movements, Achievements and Settlements 1870-1930*, Sonoma State University, 1987.

<sup>18</sup> *Id.*

<sup>19</sup> IKURO TORIMOTO, OKINA KYŪIN AND THE POLITICS OF EARLY JAPANESE IMMIGRATION TO THE UNITED STATES 1868-1924, 122 (MacFarland & Company, Inc., Publishers, 2017).

<sup>20</sup> David E. Bernstein, *Two Asian Laundry Cases*, 24 J. SUP. CT. HIST. 95, 102 (1999).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 103.

<sup>24</sup> *Id.* See also U.S. Supreme Court Transcript of Record *Tsukamoto v. Lackmann*, 187 U.S. 635 (1902), THE MAKING OF MODERN LAW: U.S. SUPREME COURT RECORDS AND BRIEFS, 1832-1978.

<sup>25</sup> Bernstein, *supra* note 20, at 103.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

Matsunosuke realized the Board was discriminating against him, so he practiced civil disobedience and operated his steam boiler without the permit.<sup>29</sup> The San Francisco Sheriff arrested him later that month for violating the fire ordinance.<sup>30</sup> The court convicted Matsunosuke and sentenced him to pay a \$20 fine or serve a 20-day jail term.<sup>31</sup> He appealed to the California Superior Court, which affirmed the conviction and held the fire ordinance constitutional.<sup>32</sup>

Then he filed for a writ of habeas corpus in the U.S. District Court for the Northern District of California.<sup>33</sup> The named defendant was John Lackmann, the Sheriff of the City and County of San Francisco.<sup>34</sup> Matsunosuke argued that the Board had granted non-Japanese people permits and the refusal of the Board to grant him a permit was “an unjust, arbitrary, and unreasonable discrimination against him prompted solely by prejudice” because of his Japanese ancestry.<sup>35</sup> He also asserted a Fourteenth Amendment argument and an argument about a violation of a treaty between the United States and Japan.<sup>36</sup> The City of San Francisco intervened and hired a private attorney as special counsel to work with the District Attorney.<sup>37</sup>

Matsunosuke lost and appealed to the U.S. Court of Appeals for the Ninth Circuit.<sup>38</sup> He took his case all the way to the U.S. Supreme Court in 1902.<sup>39</sup> Unfortunately, he lost there too in a one-sentence ruling that a writ of habeas corpus was an improper remedy.<sup>40</sup>

Matsunosuke did not take his case back to the California Supreme Court.<sup>41</sup> Instead, he continued practicing civil disobedience and was arrested over fifty times in a one-and-a-half-year period.<sup>42</sup> He spent three weeks in jail at one

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* Chinese laundry owners had successfully invalidated a San Francisco laundry ordinance that prohibited laundries in wooden structures. The U.S. Supreme Court ruled in 1886 that the ordinance was intended not for health and safety purposes but rather to discriminate against Chinese-owned laundries and therefore violated the Equal Protection clause of the Fourteenth Amendment. *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886).

<sup>31</sup> Bernstein, *supra* note 20, at 103.

<sup>32</sup> *Id.*

<sup>33</sup> U.S. Supreme Court Transcript of Record *Tsukamoto v. Lackmann*, *supra* note 24.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Bernstein, *supra* note 20, at 104.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Tsukamoto v. Lackmann*, 187 U.S. 635 (1902).

<sup>41</sup> Bernstein, *supra* note 20, at 104.

<sup>42</sup> *Id.*

point.<sup>43</sup> San Francisco law enforcement and the Anti-Jap Laundry League constantly harassed him.<sup>44</sup> Later, he purchased an old masonry building and established a steam laundry there.<sup>45</sup> This evaded the fire ordinance because it was a stone building rather than a wood building.<sup>46</sup> He also incorporated his business under the name of a white ally to avoid further harassment.<sup>47</sup>

Despite hostile legislation, discriminatory enforcement of the rules and harassment by the Anti-Jap Laundry League, Matsunosuke became a great businessman and “a leader in the San Francisco Japanese-American community.”<sup>48</sup> He persisted in fighting for his constitutional rights. Unfortunately for Matsunosuke and his family, all the suspicion, hatred, and fear of Japanese Americans suddenly escalated when the Empire of Japan attacked Honolulu, Hawai’i in 1941.

Matsunosuke’s experience is especially relevant to this paper given the involvement of the local police. The San Francisco Sherriff discriminatorily enforced the law at the prompting of racist neighbors who wanted to keep Matsunosuke from having a steam boiler. This is one of the many examples from history of the shameful legacy of law enforcement discriminating against racial minorities in America, perpetuating white supremacy and the subjugation of racial minorities. It is also one of the many examples of the criminalization of routine life for members of marginalized groups.<sup>49</sup>

People of Asian descent have long faced bigotry in the United States. From the stereotype of the “perpetual foreigner” to the racist trope of “Asians coming to steal white jobs,” many generations of Asian Americans have been subject to discrimination, scapegoating, and violence.<sup>50</sup> While discrimination was rampant in this historical period, retellings of Japanese-Californian acts of resistance are less likely because Japanese culture greatly values conformity and the preservation of social harmony. It is notable that there has been a more documented history of Chinese-Californian resistance to injustice, such as the civil disobedience in the case of Yick Wo.<sup>51</sup> This landmark U.S.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> THE JAPANTOWN TASK FORCE, INC., *IMAGES OF AMERICA: SAN FRANCISCO’S JAPANTOWN*, 11 (Arcadia Publishing, 2005).

<sup>49</sup> For more examples of the criminalization of everyday activities for Asian Americans, see Gabriel J. Chin & John Ormond, *The War Against Chinese Restaurants*, 67 DUKE L.J. 681 (Jan. 2018). See also Joshua S. Yang, *The Anti-Chinese Cubic Air Ordinance*, 99 AM. J. PUB. HEALTH 440 (Mar. 2009).

<sup>50</sup> See Gillian Brockell, *The long, ugly history of anti-Asian racism and violence in the U.S.*, WASHINGTON POST (Mar. 18, 2021), <https://www.washingtonpost.com/history/2021/03/18/history-anti-asian-violence-racism/>.



Supreme Court case bears a surprising resemblance to my great-great-grandfather's story, but Matsunosuke's case was nearly two decades later and distinguished from *Yick Wo* because Matsunosuke was unable to prove that the ordinance discriminated against Japanese.<sup>52</sup> The *Yick Wo* ruling by the Supreme Court should have served as clear precedent. It appears, however, that prejudice against a new group of immigrants distracted judges from their duties to apply laws—and precedents—universally. Both cases are historical examples of Asian American civil disobedience that deserve recognition.

## II. POLICE ACTION AGAINST THE JAPANESE AMERICAN COMMUNITY IN THE AFTERMATH OF PEARL HARBOR

After the Empire of Japan brought World War II to America in 1941, shock, anger, and fear swept the States—a fear magnified by long-standing anti-Asian bigotry. Many suspected that Japanese Americans remained loyal to their ancestral homeland. As suspicions grew about Japanese Americans, Frank Knox, FDR's Secretary of the Navy blamed the Pearl Harbor sneak attack on Japanese espionage.<sup>53</sup> This led to talk of sabotage and an imminent Japanese invasion.<sup>54</sup>

Fueled by racial prejudice against the unpopular group, more rumors spread about a plot among the Japanese people living in America to sabotage the war effort.<sup>55</sup> Patriotism inflamed the country and racial tensions were high. Lieutenant General John L. DeWitt, head of the Western Defense Command wrote, "The Japanese race is an enemy race."<sup>56</sup> And Los Angeles representative Leland Ford insisted that "all Japanese, whether citizens or not, be placed in concentration camps."<sup>57</sup> *The Los Angeles Examiner* published the following, "A viper is nonetheless a viper no matter where the egg is hatched."<sup>58</sup> This quote supports the then-popular view that an American born of Japanese parents would grow up to be Japanese, not American. Theories about rampant

<sup>51</sup> *Yick Wo v. Hopkins*, 118 U.S. 356 (1886).

<sup>52</sup> U.S. Supreme Court Transcript of Record *Tsukamoto v. Lackmann*, *supra* note 24.

<sup>53</sup> Burton et al., *supra* note 10.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Stanford M. Lyman, *The "Yellow Peril" Mystique: Origins and Vicissitudes of a Racist Discourse*, 13 INT'L J. POL., CULTURE & Soc. 683, 707 (Summer 2000).

<sup>57</sup> *Japanese Americans, The War*, PBS.org, <https://www.pbs.org/kenburns/the-war/civil-rights-japanese-americans#:~:text=Los%20Angeles%20representative%20Leland%20Ford,posted%20on%20April%2030%2C%201942>.

<sup>58</sup> See Samantha Schmidt, *Migrant children: 'Lies just big enough to stick' are all too familiar to George Takei, who was interned in America during WWII*, WASHINGTON POST (June 20, 2018), <https://www.washingtonpost.com/news/morning-mix/wp/2018/06/20/lies-just-big-enough-to-stick-are-all-too-familiar-to-george-takei-who-was-interned-during-wwii-in-america/>.

espionage by Japanese living in Hawai'i and along the West Coast was “one way to save face . . . to explain the disaster at Pearl Harbor.”<sup>59</sup>

At the beginning of World War II, Matsunosuke's eldest son, Keitaro, and his family featured in a set of publicity photographs that attempted to sway public sentiment about Japanese American loyalty. Ultimately and unfortunately, public opinion was not on their side. According to a public opinion poll conducted by the American Institute of Public Opinion in March 1942, 93% of Americans surveyed agreed that the forced removal of “Japanese aliens” was “the right thing,” with 6% saying they do not know, and 1% saying no.<sup>60</sup> In addition, 59% of Americans surveyed thought that Japanese who were born in this country should be removed as well, with 25% saying no, and 16% saying they do not know.<sup>61</sup> The only national political figure to publicly denounce the wartime incarceration of Japanese Americans was Norman Thomas, a socialist leader, in 1942.<sup>62</sup> Even former chief justice of the U.S. Supreme Court, Earl Warren—considered by some to be “one of the most vigorous advocates of civil liberties in the history of the Supreme Court”—advocated and defended this racist policy that deprived the civil rights of Japanese Americans.<sup>63</sup>



64

<sup>59</sup> Fritz Snyder, *Overreaction Then (Korematsu) and Now (The Detainee Cases)*, 2 CRIT 80, 84 (2009).

<sup>60</sup> Survey from the American Institute of Public Opinion, “Public Opinion Poll on Japanese Internment,” United States Holocaust Memorial Museum, <https://exhibitions.ushmm.org/americans-and-the-holocaust/main/us-public-opinion-on-japanese-internment-1942>.

<sup>61</sup> *Id.*

<sup>62</sup> See generally NORMAN THOMAS, *DEMOCRACY AND JAPANESE AMERICANS* (1942) (criticizing the incarceration of Japanese Americans as unconstitutional and immoral).

<sup>63</sup> G. Edward White, *The Unacknowledged Lesson: Earl Warren and the Japanese Relocation Controversy*, 55 VA Q. REV. 4 (Autumn 1979). Available at <https://www.vqronline.org/essay/unacknowledged-lesson-earl-warren-and-japanese-relocation-controversy> (Dec. 12, 2003). In 1942, Warren referred to the presence of Japanese Americans in California as “the Achilles’ heel of the entire civilian defense effort.” *Id.* He felt that “when we are dealing with the Caucasian race we have methods that will test [their] loyalty,” but “when we deal with the Japanese we are in an entirely different field” because of “their method of living.” *Id.* In Warren’s posthumously published memoirs, he later repudiated his role in bringing about Executive Order 9066. *Id.*

<sup>64</sup> The Tsukamoto Family featured in a set of publicity photos attempting to convince the American public that Japanese Americans are loyal and not a threat to national security. Image source: USC Digital Library, “Japanese American Incarceration Images, 1941–1946,” <https://doi.org/10.25549/jarda-m73>, <https://doi.org/10.25549/jarda-m71>. AP Photos. Used with permission from the Associated Press.

### *A. Searches and Seizures in Japanese American Neighborhoods Post-Pearl Harbor*

In the aftermath of the attack on Pearl Harbor, the policing of Japanese Americans went as far as policing homes, the area considered most sacrosanct under the Fourth Amendment.<sup>65</sup> The FBI searched the private homes of thousands of Japanese American residents on the West Coast, seizing items considered to be contraband.<sup>66</sup> As a response to these rampant warrantless searches in the hysteria that followed the events of December 7, 1941, Japanese Americans burned family photos, destroyed precious wall hangings, and buried their cultural heritage in their backyards.<sup>67</sup> Many families destroyed or hid anything that might make them appear loyal to Japan.

No Japanese household was safe from the aggressive policing tactics that law enforcement agencies employed post-Pearl Harbor. Police came to Fred Korematsu's house in Oakland and confiscated all his family's flashlights and cameras without a search warrant.<sup>68</sup> Korematsu recounted the experience saying, "[the police] confiscated everything that they thought we might use for signaling."<sup>69</sup> My great-aunt was a seven-year-old Japanese American in West Oakland at the time. She told me that she remembers *Ojii-san* (her grandfather, Matsunosuke) burying the family's shortwave radios and camera in the backyard, hiding the contraband items so the authorities would not confiscate them.

In addition to warrantless searches, immediately after the bombing of Pearl Harbor, the FBI issued orders "to arrest enemy aliens based on pre-drafted watch lists."<sup>70</sup> The FBI rounded up 1,291 Japanese American community and religious leaders, arresting them without evidence and freezing their assets.<sup>71</sup>

In Los Angeles, for example, on the night of December 7, 1941, the FBI and local law enforcement arrested eighty-six *Issei* leaders and held them at the LA County Jail.<sup>72</sup> For the next two months, FBI agents, LA Sheriffs, and

<sup>65</sup> U.S. Const. amend. IV. See also *Payton v. New York*, 445 U.S. 573 (1980) (holding that searches and seizures inside a home without a warrant are presumptively unreasonable).

<sup>66</sup> Burton et al., *supra* note 10.

<sup>67</sup> Annelise Finney, *How Japanese Americans in the Bay Area Are Carrying Forward the Legacy of Reparations*, KQED, Feb. 23, 2022, <https://www.kqed.org/news/11906015/how-japanese-americans-in-the-bay-area-are-carrying-forward-the-legacy-of-reparations>.

<sup>68</sup> See generally Lorraine K. Bannai, *Taking the Stand: The Lessons of Three Men Who Took the Japanese American Internment to Court*, 4 SEATTLE J. SOC. JUST. 1 (2005).

<sup>69</sup> *Id.* at 6.

<sup>70</sup> Jonathan Van Harmelen, *Los Angeles County Jail (detention facility)*, DENSHO ENCYCLOPEDIA, [https://encyclopedia.densho.org/Los%20Angeles%20County%20Jail%20\(detention%20facility\)](https://encyclopedia.densho.org/Los%20Angeles%20County%20Jail%20(detention%20facility)).

<sup>71</sup> PBS.org, *WWII Internment Timeline*, <https://www.pbs.org/childofcamp/history/timeline.html> (excerpted from the Japanese American National Museum).

<sup>72</sup> Van Harmelen, *supra* note 70.

LA policemen conducted mass arrests and raids in the Japanese American community.<sup>73</sup> Although FBI records showed there were 300 “Japanese enemy aliens classified for arrest” in Los Angeles, by late December, there were over 400 Japanese held in the LA County Jail.<sup>74</sup> The police departments of other counties in Southern California, such as Ventura, Santa Barbara, and San Luis Obispo brought their arrested *Issei* to the LA County Jail.<sup>75</sup>

Many local jails across the West Coast and in Hawai‘i were used as temporary holding centers for Japanese Americans in the aftermath of Pearl Harbor.<sup>76</sup> As described in the previous section, the Los Angeles County Jail served as a temporary holding area for Japanese arrested by the FBI following the Pearl Harbor attack.<sup>77</sup> Holding periods ranged from one day to multiple weeks in the jail.<sup>78</sup> The police limited visits between inmates and their families.<sup>79</sup> In some instances, family members were told to wait hours for a meager minutes-long visit.<sup>80</sup>

Overcrowding and inadequate sanitation in the jails coupled with the stress and uncertainty of being arrested led to depression and, in some cases, suicide.<sup>81</sup> In the LA County Jail there were at least two documented cases of suicide among the incarcerated Japanese Americans in December 1941. On December 12, 1941, an *Issei* woman strangled herself in the LA County Jail after she was arrested for possession of a Japanese war bond.<sup>82</sup> And Dr. Rikita Honda died by suicide on December 14, 1941, in the LA County Jail.<sup>83</sup> His suicide note read: “I dedicated myself to Japanese-American friendship. Now Japan and America are at war. I could not prevent it. I wish to make amends by taking my own life.”<sup>84</sup> While the LA County Jail has the most records of specific examples of Japanese incarceration during this time, given the large number of Japanese Americans living on the West Coast and the racist

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> See DENSHO ENCYCLOPEDIA, <https://encyclopedia.densho.org/categories/> for a list of the detention facilities.

<sup>77</sup> Van Harmelen, *supra* note 70.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> DUNCAN RYŪKEN WILLIAMS, *AMERICAN SUTRA: A STORY OF FAITH AND FREEDOM IN THE SECOND WORLD WAR*, 19 (Belknap Press of Harvard University, 2019).

<sup>81</sup> Van Harmelen, *supra* note 70.

<sup>82</sup> *Japanese Alien Prays, Then Hangs Herself*, SAN FRANCISCO CHRONICLE, Dec. 13, 1941.

<sup>83</sup> Eiichiro Azuma, *Rikita Honda*, DENSHO ENCYCLOPEDIA, [https://encyclopedia.densho.org/Rikita\\_Honda/#cite\\_ref-fmt\\_ref5\\_5-0](https://encyclopedia.densho.org/Rikita_Honda/#cite_ref-fmt_ref5_5-0).

<sup>84</sup> YUJI ICHIOKA, Gordon H. Chang and Eiichiro Azuma, eds., *BEFORE INTERNMENT: ESSAYS IN PREWAR JAPANESE-AMERICAN HISTORY*, 264 (Stanford University Press, 2006).

hysteria in response to the attack on Pearl Harbor, it is likely that there were many other jails being used to imprison Japanese Americans without due process of law.

Although local jails were not part of the larger carceral system operated by the War Relocation Authority or the Department of Justice and the Immigration and Naturalization Service, the willingness of these local jails to participate in the incarceration of Japanese Americans shows the true colors of the police departments. Carrying out these federal orders complemented their xenophobic and nativist beliefs, so law enforcement agencies were more than willing participants in carrying out the mass removal of Japanese Americans.

The xenophobia of local law enforcement at the time can be seen in the actions of then-LAPD-Commissioner Alfred Cohn. Commissioner Cohn was a longtime anti-Japanese advocate and “an important force in persuading Los Angeles Mayor Fletcher Bowron to support the forced removal of Japanese Americans.”<sup>85</sup> Commissioner Cohn demonstrates how a law enforcement leader can advise and influence politicians to advocate for change. In this case, Cohn presented a thirty-two-page report—among other memoranda<sup>86</sup>—to Mayor Bowron to convince him that Japanese incarceration was a good idea.<sup>87</sup>

Cohn was a public official, reporter, and screenwriter.<sup>88</sup> Mayor Bowron of Los Angeles appointed Cohn to the Board of Police Commissioners on February 9, 1940.<sup>89</sup> As LA Police Commissioner, Cohn initiated several procedural reforms.<sup>90</sup>

Commissioner Cohn’s paternalistic ideas about Japanese Americans were on display in his report to Mayor Bowron where he stated, “The Issei are so completely rattled that many of them welcome the thought of the security internment affords them.”<sup>91</sup> In that same report to Mayor Bowron, Cohn

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<sup>85</sup> Jonathan Van Harmelen, *The LAPD and Japanese Americans*, THE RAFU SHIMPO (July 18, 2020), <https://rafu.com/2020/07/the-lapd-and-japanese-americans/>.

<sup>86</sup> SCOTT KURASHIGE, *THE SHIFTING GROUNDS OF RACE: BLACK AND JAPANESE AMERICANS IN THE MAKING OF MULTIETHNIC LOS ANGELES*, 118 (Princeton University Press, 2010).

<sup>87</sup> See Report to Mayor Bowron by Alfred Cohn on several phases of the investigation into Japanese matters. Reproduced from the holdings at the Franklin D. Roosevelt Library, 3. Available at <https://www.archives.pref.okinawa.jp/wp-content/uploads/roosevelt.pdf>.

<sup>88</sup> Alfred A. Cohn, Prabook, <https://prabook.com/web/alfred.cohn/2566955>.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> Report to Mayor Bowron, *supra* note 87.

wrote, “when conditions become so aggravated that they become unbearable, [the Nisei (second-generation Japanese)] will surely be fit subjects for fifth-column propaganda and therefore potential sources of subversive acts.”<sup>92</sup>

Cohn emphasized that all Japanese must be removed from the West Coast: “Evacuation and/or internment of the Issei, therefore, necessarily must mean the evacuation and/or internment of these younger Nisei.”<sup>93</sup>

Mayor Bowron in turn “helped to escalate the magnitude of the ‘Japanese problem’ in public eyes.”<sup>94</sup> Japanese American scholar, Scott Kurashige wrote,

The mayor seems to have reacted quite strongly to internal reports he solicited from police commissioner Al Cohn. In memos dated January 10 and January 21, 1942, Cohn stated that there was “no doubt that in this horde of alien born Japanese, espionage activities have been in progress for several decades. Yet he argued that the Nisei posed the “greatest menace.” While the Nisei “outwardly” appeared to be “thoroughgoing Americans,” Cohn discerned that “it would be foolish to look for any great degree of loyalty among them.”<sup>95</sup>

Cohn also asserted to Togo Tanaka, an American newspaper journalist, in a City Hall meeting the month after the Pearl Harbor attacks that they both “knew [that] more planes [were] wrecked at Pearl Harbor” by *Nisei* driving trucks than by Japanese bombers.<sup>96</sup> His past writings and actions reflected his dangerous conspiracy theories. But his authority as a law enforcement leader made his ideas particularly influential. He used his authority as a law enforcement leader to spread his racist conspiracy theories, contributing in part to Mayor Bowron’s paranoia about Japanese Americans.

### ***B. A Community Incarcerated***

This section will examine the actions of the police following the enactment of Executive Order 9066. First, it will describe the forced removal of Japanese Americans. Second, it will investigate the brutality of the Military Police against Japanese Americans in the prison camps. Third, it will analyze the aggression from the LAPD in response to the return of the Japanese Americans.

On February 19, 1942, ten weeks after the Pearl Harbor attack, President Franklin Delano Roosevelt signed Executive Order 9066.<sup>97</sup> Executive

<sup>92</sup> *Id.*

<sup>93</sup> *Id.* at 4.

<sup>94</sup> KURASHIGE, *supra* note 86, at 118.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.* at 119.

<sup>97</sup> Albert H. Small Documents Gallery, *Righting A Wrong: Japanese Americans and World War II*, The National Museum of American History, Washington, D.C.

Order 9066 did not name a specific racial or ethnic group, but rather gave the military power to decide who was a threat to homeland security.<sup>98</sup> It authorized the Secretary of War, or any designated military commander to establish “military areas” and exclude from them, “any or all persons.”<sup>99</sup> In the event of a Japanese invasion of the U.S. mainland, many viewed the large Japanese American population on the West Coast as a security risk.

Under Executive Order 9066, nearly 75,000 American citizens of Japanese ancestry along with 45,000 Japanese nationals living in the United States (but long denied citizenship because of their race) were taken into custody.<sup>100</sup> The government told Japanese Americans to pack up their lives and evacuate their homes. They could only take what they could carry and had to arrange to store, sell, or give away everything else they owned on short notice.

Like many others, Matsunosuke’s second son, Joseph Tsukamoto, received information from the War Relocation Authority about where and when to report for “evacuation.”



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<sup>98</sup> *Id.*

<sup>99</sup> Washington, DC and American Lives II Film Project, LLC, “Civil Rights: Japanese Americans,” PBS, September 2007, [http://www.pbs.org/thewar/at\\_home\\_civil\\_rights\\_japanese\\_american.htm](http://www.pbs.org/thewar/at_home_civil_rights_japanese_american.htm).

<sup>100</sup> *Righting A Wrong: Japanese Americans and World War II*, *supra* note 97.

<sup>101</sup> Joseph Tsukamoto, Matsunosuke’s second-born son, was a priest at the Episcopal Christ Church in San Francisco’s Japanese District. Here, he receives information on the “evacuation” under Executive Order 9066, c. April 1942. Photo taken by Dorothea Lange. Image source: Library of Congress, [https://www.flickr.com/photos/library\\_of\\_congress/51691483560/](https://www.flickr.com/photos/library_of_congress/51691483560/). According to the Library of Congress, there are no known restrictions on publication.

Families had only a matter of days to gather their possessions, told to pack only what they could carry. They were not told where they were going or how long they would be gone. Since voluntarily leaving your home and possessions to live in a prison camp was “the truest sign of loyalty,”<sup>102</sup> Japanese Americans sold their homes, businesses, and other valuables for small sums of money. With their identification numbers pinned to their finest clothes, tens of thousands of Japanese Americans boarded trains to leave behind the only homes they ever knew. After six months living in manure-crusting horse stalls and other detention centers—including local jails<sup>103</sup>—while the prison camps were being built, they journeyed inland to live in dusty, hastily constructed barracks for three years. There they would meet unfamiliar desert flora and fauna, unfamiliar food, unforgiving weather, and even more unforgiving Military Police.

My great-aunt, Kazuko Rowe—who was seven years old at the time—remembers everyone “packing like crazy.” They each filled a laundry bag with all they could carry. Her family stored a few of their possessions in the basement of a sympathetic neighbor’s house and at their church. They did not have enough time to sell many of their possessions, but they did sell their grocery store to a Chinese American family for next to nothing.

When it came time to “evacuate,” my great-grandparents, Ima and Nobu Yasuda, dressed up their two young children, Kazuko and Hiroshi, age four, in their hats and coats because they had no idea where they would be going. They also placed paper luggage tags with their family number, 2407, on string hanging around their necks. In May of 1942, with one laundry bag apiece, the family departed on train cars with other Japanese American families. They were shipped thirty miles from their home in West Oakland to Tanforan Racetrack in San Bruno, California.

### ***C. The Brutality of the Military Police***

Not many know about the brutality that incarcerated Japanese Americans experienced at the hands of the Military Police during World War II. Military Police are the law enforcement arm of the U.S. Army. The Army website says that Military Police, “protect peoples’ lives and property on Army installations by enforcing military laws and regulations.”<sup>104</sup> They are supposed to “control traffic, prevent crime, and respond to all emergencies.”<sup>105</sup>

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<sup>102</sup> KURASHIGE, *supra* note 86, at 123.

<sup>103</sup> See *The LAPD and Japanese Americans*, *supra* note 85.

<sup>104</sup> *Military Police*, U.S. Army (April 16, 2020), <https://www.goarmy.com/careers-and-jobs/career-match/support-logistics/safety-order-legal/31b-military-police.html>.

<sup>105</sup> *Id.*



The Military Police effectively brought the war within the U.S. border by terrorizing citizens whose loyalties were in question due to racism and wartime hysteria. Nativism further propelled the war effort as state entities turned their attention to the Japanese American community.

The shootings and killings of unarmed Japanese Americans represent the most egregious use of force by law enforcement against the unjustly incarcerated Japanese Americans. This Military Police brutality against unarmed Japanese Americans contributes to the shameful legacy of law enforcement's complicity in the state violence of Executive Order 9066.<sup>106</sup>

There are several reported protests from the prison camps that the Military Police turned violent. One of the most violent and most well-known of these protests was a protest at Manzanar prison camp. The police feared a riot and tear-gassed the crowds that had gathered at the police station to demand the release of Harry Ueno, a man who had been arrested for allegedly assaulting Fred Tayama.<sup>107</sup> The Military Police fired into the crowd of protestors, killing two people and wounding ten others.<sup>108</sup> In the fallout of the violent conflict, a six-year-old tearfully told his mother, "Mommy, let's go back to America."<sup>109</sup>

In another case of Military Police violence against Japanese Americans, Shoichi James Okamoto from Garden Grove, California, was shot and killed by a sentry after a verbal altercation at Tule Lake prison camp.<sup>110</sup> Shoichi drove a construction truck between Tule Lake and a nearby worksite.<sup>111</sup> The sentry at the gate demanded that Shoichi step out of the truck and show his pass.<sup>112</sup> Shoichi stepped out of the construction truck but refused to show the sentry his pass.<sup>113</sup> The sentry responded by striking Shoichi on the shoulder with the butt of his rifle.<sup>114</sup> A verbal altercation ensued, and the

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<sup>106</sup> In Lordsburg, New Mexico, Japanese Americans were delivered by trains and forced to march two miles to the camp in the middle of the night. On July 27, 1942, during one of the night marches, two Japanese Americans, Toshio Kobata and Hirota Isomura, were shot and killed by a sentry who claimed they were attempting to escape. Witnesses testified that the two elderly men were disabled and had been struggling during the night march. However, the army court martial board found the sentry not guilty. See National Japanese American Historical Society (NJAHS) Digital Archives, *Lordsburg*, <https://njahs.org/confinementsites/lordsburg-internment-camp/>.

<sup>107</sup> Brian Niiya, *Manzanar riot/uprising*, DENSHO ENCYCLOPEDIA, [https://encyclopedia.densho.org/Manzanar\\_riot/uprising/](https://encyclopedia.densho.org/Manzanar_riot/uprising/).

<sup>108</sup> *Id.*

<sup>109</sup> Snyder, *supra* note 59, at 90.

<sup>110</sup> Tetsuden Kashima, *Homicide in Camp*, DENSHO ENCYCLOPEDIA, <https://encyclopedia.densho.org/Homicide%20in%20camp/>. See [https://digitalassets.lib.berkeley.edu/jarda/ucb/text/reduced/cubanc6714\\_b256r12\\_0050.pdf](https://digitalassets.lib.berkeley.edu/jarda/ucb/text/reduced/cubanc6714_b256r12_0050.pdf) for the Report of the Investigation Committee on the Shoichi Okamoto Incident (July 3, 1944).

<sup>111</sup> RICHARD REEVES, *INFAMY: THE SHOCKING STORY OF THE JAPANESE AMERICAN INTERNMENT IN WORLD WAR II*, 198 (Henry Holt and Company, 2015).

<sup>112</sup> *Id.*

<sup>113</sup> *Id.* at 199.

<sup>114</sup> *Id.*

sentry shot Shoichi, who was unarmed.<sup>115</sup> Shoichi died on May 25, 1944, when he was only thirty years old.<sup>116</sup> The court martial acquitted the sentry of the homicide.<sup>117</sup> The sentry was fined one dollar for the cost of firing the bullet that killed Shoichi since it was an “unauthorized use of government property.”<sup>118</sup>

My family was imprisoned at Topaz prison camp, where a Military Police sentry shot James Hatsuaki Wakasa on April 11, 1943.<sup>119</sup> My Great-Aunt Kazuko, who was a child at the time, told me that she had heard about Mr. Wakasa’s murder. The narrative that she heard was that he was walking his dog too close to the barbed-wire fence. She said her parents frequently warned her and her younger brother, Hiroshi, to stay far away from the camp perimeter.

Later in the day after the sentry shot James Wakasa, the U.S. State Department and the Spanish embassy sent representatives to investigate the shooting.<sup>120</sup> The representatives reported that James’s body was lying five feet inside the fence, and in such a way that he “had been facing the sentry tower and walking parallel to the fence; and the wind was from [his] back making it highly improbable that he could have heard [the sentry’s] challenge.”<sup>121</sup> The Spanish representative concluded that the shooting was “due to the hastiness on the part of the sentry, who, not receiving an immediate response to his challenge, ‘probably fired too quickly.’<sup>122</sup> The court martial charged the sentry with manslaughter but later acquitted him.<sup>123</sup> Below is a photograph of Mr. Wakasa’s funeral at Topaz.

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<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> Kashima, *supra* note 110.

<sup>120</sup> *Id.* In March 1942, the United States established an official “Exchange Process” for prisoner of war negotiations with Japan and Germany. Spain served as the Protectorate Nation for Japan and Switzerland served as the Protectorate Nation for Germany. Diplomats including consulate and embassy staff in America led this Exchange Process. Since the U.S. government likely viewed the Japanese Americans imprisoned in the concentration camps as a type of prisoner of war, it makes sense that the Spanish Embassy would come to investigate this shooting and represent Japan. See <https://www.the.texas.gov/preserve/projects-and-programs/military-history/texas-world-war-ii/japanese-german-and-italian>.

<sup>121</sup> Kashima, *supra* note 110.

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*



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With the end of World War II in 1945 and the closing of the incarceration camps shortly after, Japanese Americans were left to pick up the pieces of their shattered lives. Some went back to their hometowns while others scattered across the country in hope of finding a new home free from racial discrimination. They all faced financial ruin and many lost irreplaceable personal property because they were only allowed to take what they could carry. Assimilating to life after “camp” was a hardship for everyone.<sup>125</sup> Japanese Americans faced job scarcity and racism after World War II. Even the most highly educated of the former “evacuees”<sup>126</sup> had trouble finding work. As they tried to rebuild their lives, however, law enforcement hostility further stigmatized Japanese Americans and made it difficult for them to return to normalcy in the post-war period.

<sup>124</sup> “Topaz, Utah. James Wakasa funeral scene. (The man shot by military sentry)”, Records of the War Relocation Authority, 1941–1989, National Archives Catalog, <https://catalog.archives.gov/id/538190>. According to the National Archives website, “access unrestricted” and “use unrestricted.”

<sup>125</sup> The federal government resettled families, moving many of them to the Midwest and East Coast. *See generally* GREG ROBINSON, *AFTER CAMP: PORTRAITS IN MIDCENTURY JAPANESE AMERICAN LIFE AND POLITICS* (University of California Press, 2012). The federal government also created the Japanese Evacuation Claims Act of 1948 to compensate interned families for property losses but, in the end, little money was distributed. Japanese-American Evacuation Claims Act, Pub. L. 80-886, 62 Stat. 1231 (1948) (establishing a system for examining the claims for compensation submitted by Japanese internees; monetary compensation was capped at \$2,500 per person). *See generally* FRANK F. CHUMAN, *THE BAMBOO PEOPLE: THE LAW AND JAPANESE-AMERICANS*, 235–45 (Publisher’s Inc., 1976); ROGER DANIELS, *PRISONERS WITHOUT TRIAL: JAPANESE AMERICANS IN WORLD WAR II*, 88–97 (Rev. ed., Hill & Wang, 2004).

<sup>126</sup> Even though the U.S. government forcibly removed Japanese Americans from their homes and made them prisoners, many called these incarcerated Japanese Americans “evacuees.”

### ***D. Picking Up the Pieces in the Post-War Period***

In *Ex parte Mitsuye Endo*, the U.S. Supreme Court ruled in favor of Mitsuye Endo who claimed that exclusion from the West Coast prevented her from continuing with her employment.<sup>127</sup> The Supreme Court's ruling led the War Department to issue a statement saying that people of Japanese ancestry "would be permitted the same freedom of movement throughout the United States as other loyal citizens and law-abiding aliens" effective January 2, 1945.<sup>128</sup> In postwar Los Angeles, where many Japanese Americans chose to reestablish themselves, "there were more Japanese . . . on government relief than there had been in the depths of the Great Depression."<sup>129</sup>

After being released from Topaz in October of 1945, my family chose to take the train back to San Francisco, where they lived in a flat in Chinatown with three other families. My great-grandfather, Nobu, worked as a dishwasher and my great-grandmother, Ima, cleaned apartments. Both were college educated—Ima was a graduate of the University of California, Berkeley, and Nobu graduated from a Japanese university—but those were the only jobs they could find. The hostile social climate, housing shortage, and limited job opportunities created arduous challenges for returning Japanese Americans to overcome.

My family experienced economic hardship in San Francisco and decided to move to Oakland, where my grandmother, Amy, was born in November 1946. Under pressure to assimilate and prove their American-ness, Ima and Nobu gave their youngest child an American name. Both Ima and Nobu died from cancer when my grandmother was a child. They were fifty and fifty-three years old respectively. My Great-Aunt Kazuko, Ima and Nobu's first-born, turned down a college scholarship to raise her younger siblings. She worked as a grocery store cashier to provide for her family. My grandmother and her siblings suspect their parents' premature deaths had much to do with the stress and poor living conditions that they endured in Topaz and the upheaval that followed their years of incarceration.<sup>130</sup>

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<sup>127</sup> *Ex parte Mitsuye Endo*, 323 U.S. 283 (1944).

<sup>128</sup> *The Return of Japanese Americans to the West Coast in 1945*, The National WWII Museum (Mar. 26, 2021), <https://www.nationalww2museum.org/war/articles/return-japanese-americans-west-coast-1945>.

<sup>129</sup> Daniels, *supra* note 2.

<sup>130</sup> For an analysis of this incarceration trauma response, see Donna K. Nagata, Jackie H. J. Kim & Teresa U. Nguyen, *Processing Cultural Trauma: Intergenerational Effects of the Japanese American Incarceration*, 71 J. SOC. ISSUES 356 (2015). Available at <https://operations.du.edu/sites/default/files/2021-07/processing%20cultural%20trauma.pdf>.

The Tsukamoto family regained ownership of their laundry business in 1946.<sup>131</sup> The People's Laundry remained in the hands of the Tsukamoto family until 1973, when it was sold and converted into office space.<sup>132</sup> Today, the building is still privately owned.<sup>133</sup> It became San Francisco Designated Landmark number 246 in 2004.<sup>134</sup>



*San Francisco designated the Tsukamotos' People's Laundry as Landmark 246 in 2004. Image source: photograph taken by Andrew Ruppenstein, August, 23, 2020, and he granted permission to use here.*

<sup>131</sup> Sam Chase, James Lick Baths, Clio: Your Guide to History, Mar. 25, 2019, <https://theclio.com/entry/13227>. See also City of San Francisco, *Landmark Designation Report: James Lick Baths and People's Laundry*, 2004. Available at [http://ec2-50-17-237-182.compute-1.amazonaws.com/docs/landmarks\\_and\\_districts/LM246.pdf](http://ec2-50-17-237-182.compute-1.amazonaws.com/docs/landmarks_and_districts/LM246.pdf).

<sup>132</sup> Chase, *supra* note 131.

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

Hardship was a common experience for the returning Japanese Americans. While they faced prejudice and aggression, the former incarcerated were adamant about moving forward and deliberately decided not to dwell on the past. This mentality helped the community rebuild, but the silence delayed healing the trauma from the atrocities of Executive Order 9066 and the *Korematsu* Supreme Court decision.<sup>135</sup> Shame began to grow.

### ***E. The Case Study of the LAPD***

Although Japanese Americans were allowed to return to the West Coast, their arrival was slow at first.<sup>136</sup> Before Executive Order 9066, approximately 36,000 Japanese Americans lived in Los Angeles County.<sup>137</sup> Fewer than 300 Japanese Americans returned to the formerly restricted territory a month after they left the prison camps.<sup>138</sup> Many felt apprehensive about returning to the West Coast due to fears of violence and discrimination. For example, city councils in Atwater, Livingston, and Turlock all expressed that they did not want Japanese to return.<sup>139</sup>

Los Angeles police officials immediately protested the return of Japanese Americans to Los Angeles after the U.S. Supreme Court's *Ex Parte Endo* decision that revoked the West Coast exclusion.<sup>140</sup> The Police Commission, with support from LAPD Chief Clemence Horrall, passed a resolution on December 20, 1944, announcing their opposition to the return of Japanese American families, arguing that "it would be impossible to vet for loyalty" and that police officers "would be incapable of preventing riots caused by white mobs."<sup>141</sup> One of the two votes against the resolution was that of LAPD Commissioner Cohn, who opposed the resolution on the grounds that its language was not tough enough to protect the public from the returning Japanese Americans.<sup>142</sup>

Commissioner Cohn argued that returning Japanese Americans should be mandated to carry identification cards.<sup>143</sup> Dillon Myer of the War Relocation Authority rejected Cohn's idea.<sup>144</sup> The LAPD Police Chief urged the War

<sup>135</sup> *Korematsu v. United States*, 323 U.S. 214 (1944).

<sup>136</sup> *The Return of Japanese Americans to the West Coast in 1945*, The National WWII Museum (Mar. 26, 2021), <https://www.nationalww2museum.org/war/articles/return-japanese-americans-west-coast-1945>.

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> See The Mass Incarceration of Japanese Americans in WW2, Silent Sacrifice Part 2, Timeline – World History Documentaries, <https://www.youtube.com/watch?v=IhGcz0URFOk>.

<sup>140</sup> *The LAPD and Japanese Americans*, *supra* note 85.

<sup>141</sup> *Id.*

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

Relocation Authority to provide the LAPD with the names and addresses of all the Japanese Americans returning to Los Angeles so his forces could “better patrol” those areas.<sup>145</sup>

Even after Japanese Americans left the West Coast zone, the LAPD—propelled by nativism—remained active in enforcing racial exclusion.<sup>146</sup> The anti-Japanese *Los Angeles Examiner* reported on September 6, 1944, that LAPD officer, Sergeant Jack Sergel visited Manzanar concentration camp for judo tournaments.<sup>147</sup> *The Examiner* asserted that judo “instilled Japanese values” and that the judo lessons and tournaments were “a gross violation of official property.”<sup>148</sup> To appease the newspaper, the LA Police Commission announced a board inquiry into Sergel’s judo activities, but Sergel resigned from the LAPD in protest.<sup>149</sup>

From helping bring about Executive Order 9066 to sowing seeds of distrust about the Japanese American community once freed from the prison camps, the record shows that many LAPD leaders were relentless with their racist conspiracy theories and fearmongering.

### III. INVERTING SHAME

As a result of their mistreatment both during and after incarceration, silence and shame reigned supreme within the Japanese American community after the war. Even within families, no one discussed it. My grandmother said that on the rare occasion her parents and older siblings talked about their incarceration experience, they would refer to it as “camp.” For years, my grandmother thought that Topaz was like a summer camp. My family is not alone in this, as many Japanese American families refused to discuss the humiliation and hardship they endured.<sup>150</sup>

In the aftermath of Executive Order 9066, Japanese Americans came out of their desert prisons with a sense of shame and guilt, having been considered betrayers of their country. There were no complaints or rallies for justice because the Japanese way is to *shoganai* しょうがない (roughly translated as “it can’t be helped”). *Shoganai* is an acceptance of fate because some things are outside of our control. The Japanese mentality is to accept and move on.

<sup>145</sup> *Official Row Flares Up Over Freed Japs’ Return*, LOS ANGELES TIMES (Jan. 13, 1945).

<sup>146</sup> See *The LAPD and Japanese Americans*, *supra* note 85.

<sup>147</sup> *Ban on Judo Training in Police Department Ordered by Board*, LOS ANGELES EXAMINER (Sep. 6, 1944).

<sup>148</sup> *The LAPD and Japanese Americans*, *supra* note 85.

<sup>149</sup> *Id.*

<sup>150</sup> See generally Violet H. Harada, *Breaking the Silence: Sharing the Japanese American Internment Experience with Adolescent Readers*, 39 J. ADOLESCENT & ADULT LITERACY 630 (1996). Available at <http://www.jstor.org/stable/40015654>.

Shame is also a pervasive value in Japanese culture. Japanese people are generally very concerned about how their behavior appears to others. American police, on the other hand, seem to operate with zero accountability and with no shame. By highlighting the ways that law enforcement acted shamefully and in violation of their purported creed “to protect and serve,” I hope to expand the conversation on police accountability and highlight how racism infiltrates law enforcement and results in state violence. By sharing my family’s story, I hope to repudiate the silence and shame that has plagued generations of Japanese Americans.

In this paper, I used my family history to explain the terror and state violence that happened to the Japanese American community. This paper is about how nativism and white supremacist notions of race influence law enforcement agencies, resulting in state violence against minority groups. I am proud to be the descendant of a civil rights pioneer who was not afraid to rock the boat and stand up against discrimination. Matsunosuke Tsukamoto’s story deserves to be highlighted not only because of the historical lessons we can learn about discriminatory policing and nativism, but also because it is a rejection of the notion that Asians are docile, meek, and politically passive.

The state violence I describe in this paper is an example of a community at the mercy of state actors. Executive Order 9066 was part of a continuum of a long history of discrimination and prejudice against Japanese immigrants and their American-born children. While Japanese Americans lost billions of dollars in property and net income, the most damaging aspect was the loss of their personal liberty and dignity.<sup>151</sup> Despite the formal apology and reparations of the late 1980s, these government actions haunt the victims of Executive Order 9066 and their descendants.<sup>152</sup>

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<sup>151</sup> The Commission on Wartime Relocation and Internment of Civilians estimates that the total property lost was \$1.3 billion, and net income lost was \$2.7 billion (calculated in 1983 dollars). Allison Shephard, “*Pride and Shame: The Museum Exhibit that Helped Launch the Japanese American Redress Movement*,” The Seattle Civil Rights & Labor History Project at the University of Washington (2006), <https://depts.washington.edu/civilr/prideandshame.htm>.

<sup>152</sup> See Civil Liberties Act of 1988, Pub. L. No. 100–383, 102 Stat. 903 (1988) (offering a formal presidential apology and granting reparations “to discourage the occurrence of similar injustices and violations of civil liberties in the future”). The Act compensated 82,210 people of Japanese descent who were incarcerated during World War II (out of roughly 120,000) with a symbolic payment of \$20,000 to each. Tracy Jan, *Reparations mean more than money for a family who endured slavery and Japanese American internment*, WASHINGTON POST (Jan. 24, 2020), <https://www.washingtonpost.com/graphics/2020/business/reparations-slavery-japanese-american-internment/>. This came nearly four decades after their captivity. Many victims of Executive Order 9066 had already died by the time reparations came around—my great-grandparents included. While no amount of money could ever compensate for their losses, Mits Yamamoto, a Japanese American who was incarcerated at “Jerome Relocation Center” in Arkansas, told the *Washington Post* in an interview that cash compensation “[makes] the government apology feel more sincere.” *Id.* He added, “You should pay for your mistakes.” *Id.*



For generations, there have been overwhelming feelings of shame within Japanese American families for something that was not their fault. The state actors that terrorized Japanese Americans should be the ones that feel shame. Instead, the experiences of the Japanese American community have been cloaked in silence. Shame loves secrecy. In Japanese culture, it is common to avoid shame and to fear losing face. While one of the best ways to manage shame is to discuss it, in many Japanese American families this trauma has gone unspoken, providing an ideal breeding ground for shame. In recent years there has been an increase in scholarship about Japanese incarceration, especially as it relates to the War on Terror and the corrosive effects of state overreaction.<sup>153</sup> I hope that this paper will continue the work of making sure these stories are not forgotten. History has a terrible habit of repeating itself if we do not heed the warnings of those who came before us.

One of the most unsettling aspects of Japanese incarceration during World War II is how easily most Americans accepted it.<sup>154</sup> Many Americans, typically fueled by nativism and racist stereotypes, challenged Japanese loyalty and commitment to the war effort. Executive Order 9066 was the culmination of decades of racism and xenophobia. We must remain vigilant against racial profiling, civil rights abuses, discriminatory policing, and wartime panic. Executive Order 9066 proves the fragility of our constitutional rights. White America has a history of doing despicable things to people of color, and this could happen to any marginalized group.

While stories of the incarceration experience were not openly shared within the Japanese community or even within families, it is important to educate those who have never heard these stories. The stories of those who lived through this state violence must go on to prevent this injustice from happening again. Stories of pre-war Japanese exclusion and Executive Order 9066 are worth revisiting as the United States witnesses a spike in anti-Asian violence and confronts a racial reckoning, especially as it relates to discriminatory policing and police brutality.

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<sup>153</sup> See Eric K. Yamamoto & Rachel Oyama, *Masquerading behind a Façade of National Security*, 128 *YALE L.J.* F. 688 (2018); Evelyn Gong, *A Judicial Green Light for the Expansion of Executive Power: The Violation of Constitutional Rights and the Writ of Habeas Corpus in the Japanese American Internment and the Post-9/11 Detention of Muslim Americans*, 32 *T. MARSHALL L. REV.* 275 (2007); Harvey Gee, *Habeas Corpus, Civil Liberties, and Indefinite Detention during Wartime: From Ex Parte Endo and the Japanese American Internment to the War on Terrorism and Beyond*, 47 *U. PAC. L. REV.* 791 (2016).

<sup>154</sup> See Bill Ong Hing, *Lessons to Remember from Japanese Internment*, *HUFFPOST* (Feb. 21, 2012), [https://www.huffpost.com/entry/lessons-to-remember-from\\_b\\_1285303](https://www.huffpost.com/entry/lessons-to-remember-from_b_1285303).

## CONCLUSION

While December 7, 1941, is a dark day in our country's history, February 19, 1942, is also a day that will live in infamy. It was the day that 120,000 Japanese Americans were betrayed by their country. This piece of American history is rarely discussed, yet it is important that we learn about Executive Order 9066 and the nativism and hysteria that led to it. From the racist rhetoric of police leaders that helped bring about Executive Order 9066 to the violence in the prison camps and the continued fearmongering upon the return of the “evacuees,” the police actions during that time show how deeply rooted nativism and anti-Asian sentiment run through law enforcement and how that racism in turn can have devastating effects on the lives of ordinary people.

Executive Order 9066 stole the hopes and dreams of generations of Japanese Americans. The law enforcement role in bringing about and implementing Executive Order 9066 is a shameful legacy and should be part of the discussion about how to solve the problem of policing in America. This story of racial discrimination and policing is one that occurs over and over again in this country, especially as it relates to the criminalization of the routine activities of marginalized groups. Surfacing my family history and shifting the shame of Executive Order 9066 squarely on the U.S. government is especially important given the recent resurgence of anti-Asian sentiment stemming from the COVID-19 pandemic as our country continues to grapple with what safety and protection mean.

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Miranda Tafoya