

1944

## Specific War Crimes

Lowell S. Selling

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

---

### Recommended Citation

Lowell S. Selling, Specific War Crimes, 34 J. Crim. L. & Criminology 303 (1943-1944)

This Article is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

## SPECIFIC WAR CRIMES<sup>1</sup>

Lowell S. Selling

The whole body politic is completely disrupted when wars suddenly arise. In those nations where aggressive war has been a goal for some years previous to its actual outbreak the transition is not sudden and the population learns to adapt itself to war conditions before war actually occurs. In the case of the United States, until the announcement actually was made of the raid on Pearl Harbor, the majority of citizens were fantasy-ridden with the idea that perhaps war could be avoided.

Preparation for war required a depth of thinking, even among administrators, to which the body politic as a whole was not prepared to respond. For this reason blackouts, rationing, conscription, anti-sabotage and anti-espionage methods were inadequately comprehended by a majority of our people and, to some extent, many of our administrators. While we have had the example of England to follow, and though to a less extent some of the smaller countries of Europe have given us some ideas on the subject of rationing and some aspects of wartime administration, we had little to go on. Our crime problems as contrasted to those of the British Isles have always been more vast and more loosely knit because of the size of our country and the over-lapping jurisdictions and regional limitations of enforcement. In addition, in European countries everybody is registered. While it is true that in the British Isles this registration is not carried to the extreme that has prevailed on the continent, nevertheless the British Government knows the approximate ages of its people, their geographical distribution, their food absorption, unemployment, and other sociological facts.

We, in contrast, have no idea as to the actual distribution of our population. We have gross figures, it is true, which come from a census already three years old. Migration is uncontrolled and not even accurately observed. We have no idea of the amount of literacy or illiteracy in specific and careful figures and there are many other facts that we would need to know to administer a war properly from a psychologic and criminologic standpoint. How much study is being made of wartime offenders from a psychologic standpoint by the Federal Courts where the majority of these cases are arraigned, I do not know. Since many of them are brought only before quasi-judicial tribunals, the number may be quite small. Many of them have been dealt with by military

---

<sup>1</sup>From the Psychopathic Clinic of the Recorder's Court, Detroit, Michigan, Series C, No. 21. Dr. Selling is the Director of the Clinic and a member of the Advisory Editorial Board of this Journal.

courts so that no record could be kept to compare them with others of similar ilk brought before civil tribunals.

However, through fortunate circumstances, the Psychopathic Clinic of the Recorder's Court has had an opportunity to examine a few of these individuals. During the first three blackouts in the Detroit community when enforcement was very careful and where the officials were trying to educate the citizenry to obey blackout precautions properly, we were able to observe ninety-seven of such cases through the courtesy of Judges Thomas F. Maher and George T. Murphy of the Traffic and Ordinance Division of this Court, who had the trying of the blackout cases. Of these twenty-nine were referred to the Clinic for more careful examination and review. In addition, three cases which had previously come through the Clinic and had been thoroughly examined were arrested on charges of espionage or sabotage and the Clinic has had sundry contacts with violators of various rationing orders. We have also had three conscientious objectors and thirty-one cases of individuals who have failed to register for the draft and who were coming through the Recorder's Court for other reasons.

#### *Blackout Violators*

The psychologist or psychiatrist who is interested in criminology, and who finds himself in the position where he can make a study of blackout violators, finds that this study is an engrossing one because, for the first time in the experience of criminologic psychologists, here is a group of individuals who are violating a new social code, in fact, a social code which is an artifact and which has been laid down from above and which for its justification has only the dicta of government officials to justify its existence.

This is not true of the older offenses. Robbery has a tradition stretching back to pre-Biblical times. Those who commit this offense must be punished therefor. Generation after generation has looked at it with more or less serious eyes but never have been willing to ignore its seriousness.

Homicide has for many centuries been an important matter. Laws about homicide exist in practically every code book from those of the early Assyrians and the Egyptians to the present day. On the other hand, until the current struggle there was never any need for blackouts. In fact, if by some governmental authority in peace time, whether it were in this country or in some other, a community had been told to turn out the lights when a certain whistle blew and to turn them on at another sound, the resistance would have been terrific. Those negativistic people who never cooperate in anything would have found the situation intolerable. Indifferent people would have found that there were good reasons

for not putting themselves out to turn off their lights; while the mental defectives, invalids, and others would have been in such a situation that they would not have cooperated, for their neighbors, friends, and acquaintances would have found good reason not to look into their houses to see that these poor unfortunates were properly aided.

While it was an open question whether the City of Detroit would ever be bombed, there were various good reasons for the enforcement of the blackout regulation. First of all, we had no idea as to the actual range of Axis planes nor had we any official information as to the activity of any aircraft spotting arrangements to protect the city. There were no large numbers of aircraft spotters enrolled by the Offices of Civilian Defense as there had been in the East. We heard vague arguments, some of which seemed to lack any suggestion of reasonableness, to the effect that the Axis was establishing air bases along the shore of Hudson Bay to raid Detroit, but nevertheless, as the center of defense, the city homogeneously showed a willingness to cooperate.

It is an interesting fact that for each blackout less than two hundred cases were arrested and arraigned for blackout violation—this in a community of almost two millions of various races and various cultural backgrounds, of various ages, and of different economic standards.

It is true that there were violations during the first blackout and a smaller number in the second who were not actually brought to court — countless persons who failed to check on the efficacy of their blackout equipment were sometimes warned — but observers who were able to look over the city were satisfied that, except for war factories which could not be shut down during the period of the test blackout, the city was in darkness and no other clues, except those which could not be avoided, such as the river, were presented to enemy aircraft.

It is interesting to note that out of the whole group of ninety-seven violators studied by the Clinic, only eleven were deliberate. These I would call either egocentric psychopathic personalities or inadequate personalities, who resent being told to do anything. I do not attribute to them the trait which we hear so often among correction experts today: "They come from the younger generation who have never been taught to mind." Indeed, it is untrue in this particular group because none was under twenty-one and four were over forty-five.

In going over their work records, their past histories, their attitudes toward their problems, and their attitudes toward society, we found that all of them have a greater or less arrest or prison record, and that they had previously shown a disregard for the law and matters of longer standing time than the blackout.

In three cases, alcohol was added to this egocentric or inadequate personality. One particular case stands out, of an individual who when told by the woman air raid warden to put out his cigarette cursed her and absolutely refused to cooperate. In other instances, there was a greater attempt to rationalize. Some contempt was shown toward the air raid wardens where the offenders often asked them what authority they had and told them that arm bands and helmets "didn't make policement out of them." that arm bands and helmets "didn't make policemen out of them." These individuals could be spotted right in the courtroom. In spotting these cases I was assisted by Mr. Alan Canty, the clinic's administrative psychotechnologist.

The majority of cases of blackout violators we selected were later thoroughly examined in the Clinic. They proved to be a scattering of various types of psychopathic individuals.

It is surprising that when the air raid precautions were originally laid out, provision was made for invalids, for the blind, for the deaf, and for young children. People in the community, neighbors, air raid wardens, and others were given special responsibility in dealing with this specific group, but no provision was made for the mild psychopath or the mild mental case who is still in the community but needed some care.

There were in our group three poor old senile individuals, old people who were getting along all right socially, were able to do simple marketing, prepare food, and live comfortably on pensions or aid from their children. In one case particularly, the old man, when examined, said to us: "I knew when the whistle blew there was something that I should do with the lights, so I went and turned them on." There was no reason why this man should be committed to a mental hospital; he was a harmless individual, was no menace to public health or safety, but he was just as much in need of sympathetic care as the blind and the deaf who could not see whether the lights were on or off or who could not hear the siren.

Alcoholics were another problem. Five of this group were too befuddled at the time that the sirens blew to be able to make a reasonable adjustment. One individual who was accustomed to do some drinking at night did it in bars all over the town, as a general rule. He had kept fairly well out of the hands of the law according to his arrest record, and so far as we have been able to find out, did no drinking when at work. After leaving his daily work he began to drink and spent every spare moment until he was put to bed carrying out this type of recreation. Habits like his are not easily broken, so that, when he decided to stay home in order to be available to turn off the lights when the pre-arranged

siren was to blow, he whiled away his time by drinking a nip or two. Unfortunately when the siren blew at ten o'clock that night he had had three hours to take his series of nips and, as he admitted and as the air raid warden testified, he was so completely anesthetized that the loud shriek of the siren rather close to his open window failed to arouse him and to bring to his mind any need to carry out procedures demanded for air raid precautions.

### *Spies and Saboteurs*

It is my hope that spies and saboteurs as they have been picked up by the F. B. I. have been subjected to psychologic study. If they have been, we can look forward with a great deal of interest to a large number of stimulating findings in this type of individual. We have had three cases which represent a sample of unusual and usual offenders.

Strangely enough, the two cases that we saw who were later alleged to be spies, were almost identical types. They were German born engineers, definitely Aryan in ancestry, who were released by the German Government to work in a large automobile factory in the City of Detroit. They were blond, slightly effeminate in their build, and claimed that they did not previously know each other. They were arrested about a year apart. The Clinic suspected that their presence in the United States was not simply due to a disagreement with the political situation for they were acquiescent when the Nazis were condemned but added nothing spontaneously themselves. They did not appear to be fugitives from persecution but rather persons who had left Germany more or less as did the old-fashioned immigrants who came to us before the first World War. We suspected they might have been placed under our quota at the suggestion of the German Government. The fact that they were in a key industry in the automotive field and one which had already been slated to produce war material seemed to us to be significant. Both men, strangely enough, were arrested for indecent exposure. Although the two cases differed as to genesis — one was a matter of sexual rejection, the other a compensation for a basic sexual inadequacy and homosexuality — the fact that there was an abnormal sexuality in the one individual made me suspect a tie-up with the Nazi regime. I suggested to the Judge that they be sentenced not because their psychosexual deviation required institutional correction but because they needed to be observed in view of the possibility that they might be subversive. It was reported to us that both of these people were later picked up by the F. B. I. and one of them was arraigned in Brooklyn and the other in New York as individuals who were definitely involved in plans to work against the United States.

The third case is not so unusual. This individual committed

the most serious act of sabotage that has come to my attention. It was found that the gasoline feed line in a Liberator bomber at the Ford Motor Company had been punctured with multiple punch marks, which would have meant an early crash of the plane, its destruction, with probably an accompanying loss of life. Careful inspection revealed this damage before the part had left the factory. An article in the paper gave us the name of the individual who committed the offense. He has not yet been sentenced in Federal Court but he has been convicted. We found that he had been examined in the Clinic some eight months previously. Even at that time he was an old case as he had been referred a year earlier for a traffic violation. These offenses were committed by an egocentric individual who considered the world "his apple" and he was going to eat it as he wanted to. He had already made up his mind that by getting a job in the bomber plant he could evade the draft, showing pathology, I believe, because I think most right-thinking boys of his age were anxious to get into the armed forces no matter how much they might cover up this feeling by muttering and by a show of indifference. He actively decided he would not do anything for the country and would conduct himself in the way that he wanted regardless of others.

He did so. He committed traffic violations hand-over-fist and he also committed robbery armed. Because of his youth he was put on probation and during this period of probation got a job at the bomber plant. His pathology apparently was due to a very elaborate series of friction-engendering personalities in the home, a rather abusive father, an inadequate mother. In addition to this, the home was in a high delinquency neighborhood and a number of his contacts were known to the Clinic and were known as individuals who were aggressive, dynamic, and antisocial. The patient, therefore, was subject to all of these influences than ran afoul of the law and had turned himself to an antisocial individual before the Juvenile Court had had very much time to do any therapeutic work with him. I saw him at the age of eighteen and he was no longer good material for therapy. He had the type of personality that we so frequently saw in delinquency-area hoodlums during the last part of the prohibition era in Chicago.

### *Stealing*

There is no reason to believe that stealing would be any greater or any less in wartime except insofar as the upbringing of the individual who would be affected by war conditions would be changed, but we might expect that stealing in itself would diminish because of the fact that any willing individual could get a job which would pay a living wage and, in a community like Detroit, many boys who could never keep adequately employed before are

now earning what must seem to them to be fabulous sums. A very recent example of this as seen in the Clinic was that of a feeble-minded boy with an Intelligence Quotient of 54 who had got to the sixth year in special classes, yet who was earning one hundred dollars a week in a defense plant as runner in the drafting room. He had been on the job for three months—apparently had given satisfaction.

The feeble-minded and impulsive type of thief lacks the stimulation which he would have in harder times and a large number of neighborhood gangs have been broken up by employment and also by the drafting of members of the gang. Nevertheless, a large number of defectives who have migrated to Detroit and a large number of individuals whose background does not completely eliminate the attitude that pilfering and certain types of stealing are socially acceptable, have raised the figures on thievery to some extent in Detroit.

Their kind of crime is merely an outgrowth of change of conditions due to the war, but, more important, the crime of stealing in wartime comes primarily to the fore in the theft of rationed goods.

While the black market is a distinctly antisocial activity, it probably acts as a cushion against the theft of small amounts of rationed materials. If one badly wants a little extra meat, he can get it on the black market and does not have to steal it from his butcher, and boys between sixteen and twenty-two, the usual juvenile theft age group, do not have the responsibility of seeing that food stuffs are on the family table. The fact that restaurant foods are not rationed also acts as a cushion.

We have had very little stealing of this sort. There have been thefts of large amounts, like several thousand pounds of coffee, in which a truck was hijacked. But these offenders have not been brought before the Clinic and one might be entitled to speculate that they are commercial thieves of the type that made up the bootleggers during the prohibition era.

Tire thieves, however, have come before us. When the tire rationing program was first begun, fourteen boys were brought into the Clinic at various times. They were all delinquency-area types. They had never finished grammar school; their Intelligence Quotients ranged from 55 to 92. All had been in previous trouble. When the tire rationing came, it was only natural that they would steal tires and get high prices for them. The stealing of rationed tires, however, has dropped off so that in the last eight months I have had no cases referred to the Clinic of individuals who have committed this offense. It is obvious that the registering of the number of the tires, the monthly check-up, and the comparison of

the tire numbers on the gasoline coupon books has done a great deal to keep thieves from taking tires to be sold to persons who would like to buy an odd tire. The facts that rationing boards have been able to make some type of tire available in emergencies and that individual drivers have been educated up to having their tires re-treaded — a policy which was carried out by many taxi companies, but which the general public did not know about until the war — have aided in keeping this crime down.

Recently in the Detroit community, we have had a group of individuals who have operated a black market in tires. They have not yet been referred to the Clinic. I think, however, that stealing for the black market falls in line with ordinary types of anti-social activities. The boys and men who do this are offenders with a record, who have few scruples and who are not new types of criminals created by the war. At least, those cases which we have seen would lead us to this hypothesis.

In conclusion, we might say that: (1) Emergency conditions due to war secure a splendid amount of public cooperation, and evaders of regulations for health and safety, no matter how unreasonable they might seem, are few and far between. The general public, in Detroit at least, showed itself anxious and willing to be law abiding, even if the rationale was not obvious. (2) While the opportunity for crime may be greater, the fact that economic opportunities in turn are also greater has a mildly neutralizing effect on major crime. Crime itself probably increases in a community like Detroit because the population increases largely with inferior types, not because any group of individuals become more antisocial. (3) Wartime crimes, particularly such offenses as the black market, have, so far as we have been able to see, been committed by persons who were basically antisocial and only needed the extra stimulus of greater opportunity with a smaller chance of getting caught to turn toward antisocial activities.