

1945

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### Recommended Citation

Benjamin B. Ferencz, Hostile French Civilians, 35 J. Crim. L. & Criminology 228 (1944-1945)

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## HOSTILE FRENCH CIVILIANS

Benjamin B. Ferencz

The author of this article is a member of the New York Bar. At present he is "somewhere in France." He is the author of "Army Offenders" as published in this JOURNAL XXXIV, 4. The article in these pages gives a clear picture of some of the penological problems that confront an army of invasion.—Editor.

As the Germans retreated from French cities they left behind them a considerable number of spies and snipers to hamper the advance of the Allied armies. Though these enemy agents wore civilian clothes and generally spoke fluent French they were part of the regular German army, and could be treated by our military authorities in accordance with well-established military precedent. French nationals believed to be in the pay of the Germans were turned over to the Fighting French forces of General De Gaulle for trial and punishment by courts martial. Whenever spies or snipers who were not French nationals were apprehended by Allied Intelligence officers, military police, soldiers, or by French civilian patriots, they were turned over to British or American military tribunals. The initial place of confinement depended upon the site of apprehension, and transfer was made to regular Prisoner of War camps as soon as the military situation permitted. At the Prisoner of War camps segregation was immediately instituted, and the prisoner committed to regular legal process in accordance with military law. This procedure was not novel, and did not in any way differ from similar situations in previous wars or in other theatres of operation. However there were many individuals of French nationality who were not in the pay of the Nazi military machine yet who committed acts which injured the Allied cause. These hostile French civilians, whether motivated by fear, finance, or Fascist belief, presented a new problem for Allied law-enforcement authorities.

Collaborating with the Germans was not a crime. French civilians who obeyed German orders and complied with German demands could not be regarded as violators of any legal precept, even though they collaborated without reluctance. However in very many cases of collaboration there were additional acts which made the transgression more than morally reprehensible, and these illegalities brought the arrest of the responsible individuals.

Among the political crimes committed by the French against their own administration "Denunciation" was the most common. It was a method of intimidation. A letter addressed to the local Gestapo chief naming certain persons as members of the underground, as owners of secret radios, or as being the perpetrators of certain acts of sabotage, brought immediate reprisals. The

Gestapo was not interested in rules of law, and even slight circumstances of suspicion would often result in tragic penalties.

While the Berlin-controlled Vichy government was in existence Denunciation could not be considered a crime,—as long as the facts stated in the charge were accurate. However a false charge was punishable under the French Penal Code, similar to causing a false arrest under American law. Because the possibility was always present that an informer might be motivated by revenge or spite, and the denunciation might be false, local District Attorneys who received reports of a denunciation made a complete record of the case. Two dossiers were prepared; one concerning the accused, and one concerning the accuser. The Gestapo made no effort to suppress these dossiers for they were considered part of a District Attorney's regular duties. Whenever the denunciation was proved to be false legal action was taken against the guilty accuser. Imprisonment was made by the French national authorities, and the trial was in conformity with pre-war French legal standards. Wherever the denunciation was accurate no legal action was immediately taken, but the records were kept by patriotic French prosecutors to be used against the collaborators when the day of liberation arrived.

Comparatively few hostile criminal acts were committed by those Fascist-minded Frenchmen who were not in the pay of the Germans as spies or snipers. In most cases little time elapsed between the German flight from a city or town and the entrance of the Allied armies. The retreating Germans took such military steps as they could before leaving, and there was not much opportunity for sabotage by the hostile French. For the few cases of arson, pillage, and destruction of military installations that were committed by French civilians proper complaints were often registered with the Gendarmerie and the Agents de Police, who treated them as ordinary civilian crimes. The action of the French civil authorities in causing the arrest of hostile French civilians was limited by the fact that they waited for formal complaints. They made no special effort to prevent such crimes and did not institute any special procedures for the apprehension of such criminals. For the most part they lacked the facilities for instigating any broad changes during the period of turbulence. However there was another group of French patriots who sought more militant action. The members of the French Resistance forces made very many arrests, and their actions and techniques are of particular interest to law-enforcement agencies.

French resistance movements took many forms. In addition to the passive resistance of the majority of the population there were the Refractors, or the young men who evaded forced labor in Germany by fleeing to neighboring farms, the members of the

French Forces of the Interior, and the Maquis. The last two groups constituted the French underground, and as soon as the liberation began they became The Law in France.

The F.F.I. consisted of a group of patriotic young men who banded together to fight the Nazis. They were motivated by love of country, hatred of Fascism, lust for revenge, search for adventure, or simply the desire to seek wealth in the pockets of German dead. There was no uniformity of political belief and no set ideal or goal except the destruction of German forces in France. The size of resistance groups varied from twenty to two-hundred, and the different groups were unknown to each other. They knew their own chief who contacted other chiefs. Though there were liaison officers to London through a central headquarters at Paris the organization of the F.F.I. was necessarily a loose one. During the day its members followed normal civilian pursuits, and it was only at night that they met secretly for an attack on some Nazi munitions convoy, camp, or depot. During the years of waiting for their liberation the members of the F.F.I. kept careful check on their fellow Frenchmen. They kept dossiers of their own and had a sharp eye on the collaborators. These dossiers were transmitted to a Committee of Liberation at higher headquarters, where they were checked, filed, and all evidence consolidated.

By the time of the Allied invasion of France the members of the underground had a very good idea as to which French civilians could be expected to commit acts hostile to the Allied cause.

In many cases the French underground captured a town or city days before the entrance of Allied armies. In other cases American or British columns pushed through a region and left the mopping-up to the Maquisards and F.F.I., who were given a free hand. In all instances the underground had sufficient strength to constitute a serious threat to any German pockets of resistance. Their strength could also be used for the establishment of a civil government in accordance with their own conceptions.

As soon as the underground entered a town or city they started arresting suspects. The little dossiers appeared and searches were instituted. No effort was made to use warrants of arrest and the regular civilian authorities were not consulted. Harlots who had cohabited with the Germans were seized, and their hair was clipped in the public square. They were paraded through the streets in open carts or trucks to receive the jeers of the populace. Other females who had had commercial dealings with the Nazis,—innkeepers, cafe owners, and merchants, were accorded similar treatment. In one city of 10,000 population over 200 women were subjected to such public shame. The normal law-enforcement authorities generally deplored this man-

ner of persecution, but there was nothing they could do about it. The regular prisons were taken over by the underground and filled with Frenchmen suspected of being too friendly with the Nazis. The underground waited for no complaints, and waited for no warrants. They acted as they considered best in the interests of France.

Against those who had accurately denounced loyal Frenchmen, and who therefore could not be prosecuted under the Vichy French Penal Code, the underground took drastic steps. Those few informers who were turned over to the military authorities for having given intelligence information to the enemy were comparatively fortunate. Others were treated as a group of armed and angry young men thought just.

Though the F.F.I. rendered great military assistance to the Allied armies it was inevitable that their method of dispensing justice would result in many abuses. The leaders of the underground recognized this danger, and tried to limit it wherever possible. The official policy of the F.F.I. was to turn all suspects over to the elected Prefecture for legal trial and punishment according to the accumulated evidence as soon as possible, but the looseness of the underground organization, the heterogeneous composition of its membership, and the confusion created by the military situation made it practically impossible to prevent injustices. Allied military police generally had no evidence against hostile Frenchmen, and such an arrest was considered beyond their jurisdiction. The F.F.I. did not have the time, personnel, or patience, for legal technicalities. Undoubtedly many Frenchmen who had not been demonstrative in their patriotism were illegally arrested and imprisoned.

Allied Civil Affairs officers, French law-enforcement authorities, and the leaders of the French underground recognized the deplorable state of affairs, and as soon as militarily feasible, steps were taken to remedy the situation. However in many cases weeks passed before a workable judicial system was instituted.

As soon as the Germans were routed from France the French authorities started organizing the underground and all of French youth into regular army units. Under the increased discipline of the De Gaulle military regime the period of disorder was terminated. All non-military arrests were left to the civil authorities, and all military offenses were handled in accordance with military law.

In every French city the situation varied, depending upon the time elapsing between the German retreat and the entrance of the Allied armies, the strength of the underground, and public sentiment, but the pattern was identical. The French civilians

who were considered hostile to the Allies did not escape punishment. Though the methods employed were not always in conformity with ideal patterns of legal procedure there is no doubt that they were effective and that very few hostile civilians went undetected. The abuses that existed could hardly have been prevented under the existing circumstances. They were immediately recognized as such by all competent officials and the speed with which they were corrected is a tribute to the efficiency of the American, British, and French military governments.

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