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ARSON AND SABOTAGE

JOSEPH E. LOCKWOOD

This paper was presented at the Tenth (1954) Seminar in Arson Investigation, Purdue University. Its author, Joseph E. Lockwood, is District Fire Marshal, Eighth Naval District, New Orleans. Since 1924 he has been continuously active in the fields of fire fighting, fire protection, and arson investigation. In 1942 after 18 years service with the Plainfield, N. J., Fire Department, he was assigned duty with the U. S. Naval Intelligence as an arson investigator. After the war (1946) he assumed civilian status as Fire Marshal, U. S. Navy Amphibious Base, Little Creek, Va., and in 1950 was transferred to his present civilian assignment.—EDITOR.

Arson and sabotage are the result of conditions which all law enforcing agencies and those in the fire protection field are dedicated against in our efforts to prevent damage to and loss of property by fire. This discussion covers a general review of relative subject matter. The words "arson" and "sabotage" are appearing in our newspapers with increased frequency. We read of catastrophies stating that arson is suspected or that the possibility of sabotage is being investigated. Are these articles in the newspapers cause for alarm or an indication that arson and sabotage are on the increase? No, the consensus of opinion seems to be that there are no such increases, but that more cases are being brought to light primarily as a result of advancements in investigative procedures which are made possible to a great extent by the arson seminars such as are being held at Purdue University and by several of our State Fire Marshals. We would be remiss if tribute was not also paid to our good friends representing the insurance interests for their contributions to the advancements in the field of arson investigation.

"Sabotage," mere mention of the word and the mind associates it with the military and acts of destruction by enemy agents as during time of war. That is correct to a certain extent as sabotage is a strong weapon used in espionage or spying during wars. However, sabotage also deals with other than warfare or spying and a different perspective may be presented by a brief explanation. The word "sabotage" is from the French word "sabot," a type of wooden shoe worn by French peasants, who, in the middle of the nineteenth century became obsessed with the belief that machinery would replace them in the factory. It is said that the French workers used their sabots to wreck the machinery. The word "sabotage" thus came to describe destruction of property by persons who wilfully and deliberately commit such acts.

Sabotage is more appropriately defined as the malicious destruction of an employer's property by workmen as sometimes during labor troubles, or by enemy agents or sympathizers. Concerning the relationship of sabotage with arson: Just as arson, the wilful and malicious setting of fires, is only one of many ways in which fires are caused, arson used as a means of sabotage is only one of many ways the saboteur employs in committing his acts of destruction. It is fully realized that arson and sabotage are recognized as highly important and present an urgent need for maximum coordination and cooperation between civil and military investigative

authorities engaged in handling these type cases. Therefore, the object of this discussion is to review arson and sabotage and the applicable federal and military laws concerned in order that a better understanding may achieve the maximum in mutual aid between the investigative branches.

SABOTAGE—AIMS AND METHODS

Sabotage may be attempted in numerous ways including direct acts of violence and indirect acts to create employee disturbances resulting in work stoppage to lower production and to demoralize the minds of workers. Among aims of the saboteur are: Damage to natural resources, raw materials, buildings, machinery, tools, equipment, and supplies. Methods to accomplish these aims include use of chemicals, abrasives, or other foreign materials to damage supplies and machinery. Time bombs or gas explosions may be the means used to accomplish the purpose. Other methods of sabotage include damage to products in transit or storage, such as damage to trains, trucks, ships, and destruction of warehouses and such. Faulty assembly, excessive spoilage, theft are still other methods as are damage to utilities such as power stations, water supply, and communication systems. Injury to personnel or poisoning may be attempted.

As pointed out, although sabotage may be attempted in numerous ways other than by the use of fire, it does not require any great stretch of imagination to recognize that most of the above described aims of the saboteur may be accomplished by means of arson.

SABOTAGE TARGETS

Following this reasoning as to methods used by the saboteur to accomplish his aims, it is most likely that his targets, in their order of importance, would be large and small industrial plants, warehouses, transportation facilities and shipping centers, military establishments, and ships. Military authorities are alert to the possibilities of sabotage. Security requirements in force, particularly at industrial plants engaged in production of defense material, were promulgated with arson in mind as a strong weapon of the saboteur.

MODUS OPERANDI

It may be expected that arson committed by the trained saboteur will be handled in a clever manner with self-assurance that his mission will be successful. He will give careful thought to have his fire appear accidental and will rarely be in the vicinity of fires when they occur. For other than acts committed during time of war, such simple devices as placing a burning cigarette in a package of matches would likely be used. The slow burning cigarette and matches placed in a waste basket or near oily rags would give the saboteur ample time to escape before the matches would ignite. Sabotage by arson may or may not follow any particular methods of operation. However, an outbreak of fires with circumstances following a similar pattern would be given immediate attention by investigative forces.

Individuals committing acts of sabotage by arson are not in the same category as pathological fire-setters or those with motives to defraud, cover a crime, or those

with hate as their reason. During time of war the trained saboteur will be provided with or design various type igniting devices, generally employing chemicals for delayed action such as the so-called incendiary pencil or cigar. These could be hollowed magnesium and thermit containing a partition or copper disc separating compartments containing non-compatible acids (picric and sulphuric) that, upon eating through the disc, would result in chemical action to ignite the magnesium and thermit. Thickness of the copper disc determines the time lapse before ignition. The device or devices may be inserted in stored goods for ignition days or a week hence. There are reports of sabotage fires that, when attempts were made to fight them, it was found that the fire extinguishers were filled with gasoline. In cases of sabotage fires in buildings protected with sprinkler or automatic fire detecting systems, it may be expected that such systems would be made inoperative. Sabotage was heavily employed in all forms by enemy agents during pre-occupation of seized areas in Europe during World War II.

On record are other incidents with the appearance of child's play that could very well have been carefully planned attempts at sabotage. On separate occasions, when loading large numbers of vehicles aboard ship for transportation to war areas, it was necessary to drain all gasoline from the vehicle tanks. Extensive precautions were taken against gasoline vapors igniting. During two such occasions with large areas heavy with gasoline vapors, large paper balloons were sent aloft containing fire on oil soaked asbestos wicks which created lighter than air gases to carry the balloons aloft. On each occasion the balloons descended and missed, by a small margin, landing in the gas area. Was this the play of children late at night? If so, it was quite coincidental that these balloons should have been sent aloft from a point that the wind carried them in the general direction of these hazardous operations and that they landed in the general vicinity. One within 500 feet of the gas area. The balloons, although different in size and material, were not the manufactured type. The workmanship was similar and more than outstanding for that of a boy. Balloons with igniting devices known as "zeplinettes" were used to start fires in industrial plants during World War I.

This is not so ingenuous when we recall the incendiary balloons which set a number of forest fires in this country during World War II. It is said that these balloons were the brain child of a high ranking officer in the Japanese military service. With weather conditions carefully calculated the balloons were equipped with altitude valves and supply of gas to keep them aloft until well within our border. Upon landing, the incendiary device would activate to ignite nearby combustible material. It was later learned that his project was abandoned when the enemy was sure the balloons were not reaching our shores because our newspapers did not carry stories about them. This is an example how rigid security serves its purpose.

To cite another example: During the height of the Korean conflict a fire that occurred among finished stock in an aircraft plant warehouse did extensive damage and reduced the output of that plant for some time. Was it sabotage or just an employee sneaking a smoke in a restricted area who, upon hearing someone approaching, tossed his cigarette among packing crates containing magnesium parts packed in excelsior? If not sabotage, it had the same effect.

These few cases are cited to point out possible methods that may be used by the saboteur but that no particular method may be pin pointed except to bear in mind that one of the most common forms of sabotage is incendiarism.

Sabotage is recognized as a real threat. Recently newspapers carried the story that the nation's police forces had been alerted by the FBI to watch for midget atomic bombs which might be smuggled into the United States for sabotage. The April 2 issue of the *U. S. News and World Report* had this to say:

"The midget bomb may be brought into this country in a suitcase or in component parts by different agents to be assembled when ready to be used. Such bombs have no ticking sound and may be detonated in widely separated cities by a single short wave radio transmitter. With a planted midget bomb there would be no warning of any impending attack." The article continues by stating "that the blast effect of these midget bombs could be greater than that of A-bombs used against Hiroshima and Nagasaki in World War II. Police departments all over the country now are alerted to watch for exceptionally heavy luggage and to recognize the unusual component parts of midget A-bombs whether carried separately or assembled. None has been spotted to date."

SABOTAGE—OTHER THAN ARSON

Sabotage may take the form of intimidations against merchants in the so-called protective rackets. In these cases fire, explosions, water damage, or acids may be used. Riots may be started to incite mob violence in racial or religious disputes. During a war or as a prelude to war the enemy agent, professionally trained or equipped by a hostile country, would spread terror as previously mentioned by crippling machinery, causing excessive work spoilage, slow down production, damage utilities, shipping, and storage facilities. In short, sabotage would be aimed at any and all steps of producing war materials from the sources of raw material to the making and delivery of the finished product.

Then we would have the traitor or persons sympathetic to the cause of a hostile country, who would attempt acts of destruction. Also, the irresponsible persons who through ignorance or for some personal motive, commit acts of carelessness. At the same time we must not overlook the fact that certain acts may have all the earmarks and effect of sabotage and be the result of an honest mistake or ignorance. Recalled is an incident when valves controlling the flow of water to all hydrants in a large warehouse area on a naval base were found by an inspector to be closed. Investigation disclosed that an elderly employee in poor health was given a water valve key and told to go out and operate each of the valves. Normal practice requires semi-annual inspections to assure that such valves are in an open position. Misunderstanding his assignment and appreciating the easy job because of his poor health, the old fellow would not think of questioning why or what he was told to do. In this case a fire starting in any of the warehouses in the area, whether by intention or accidental means, would likely have resulted in a major loss estimated to be in the millions.

INTERNAL SECURITY

From the foregoing remarks the need for rigid inspections to ensure internal security within components of the military establishment and at industrial plants

engaged in the production of defense materials is quite evident in order to cope with damage from possible sabotage, careless, or accidental means. To these ends the government requires security measures by plants engaged in the production of war material. When a manufacturer is awarded a contract by the Department of Defense or its components, security measures are stipulated in the contract. An inspection team of the military component concerned, consisting of personnel qualified in security, police, and fire matters, report on inadequacies with recommendations for correction. Follow up inspections are made to insure compliance with recommended measures and to assist management to attain maximum security. Failure to comply with security requirements results in cancellation of the contract. Any act of sabotage or an act that may be sabotage is reported immediately to the area inspectors with whom management maintains a close liaison. Plant protection in general covers perimeter security, fire protection, guard force, personnel screening and identification, lighting, communications, and an educational program.

LIAISONS WITH CIVIL AUTHORITIES

Investigation of fires at such plants and within military establishments entail close cooperation between civil and military investigative authorities, including the Intelligence branch of the military agency concerned, the facilities of the FBI, local and state authorities, and arson agents representing insurance interests.

Investigators working on arson cases under military jurisdiction maintain close liaison with civil authorities in communities adjacent to military establishments. These liaisons are of exceptional value in checking on locally known suspects and the possibility of other similar fires. Cases involving military personnel as suspects require contacting other civil and military investigative authorities many miles apart, at communities adjacent to military establishments where suspected personnel had previously been assigned and at home towns of such personnel. These liaisons are well established in most areas. The military or other federal agencies are generally represented by their respective Intelligence branches and the FBI.

Although liaisons may be firmly established and excellent cooperation exists between agencies handling criminal investigations, there is an urgent need for closer cooperation among those primarily concerned with arson and to effect a better exchange of information.

ARSON WITHIN MILITARY ESTABLISHMENTS

The overall number of arson fires within military establishments are very few and mainly result from persons who are emotionally or mentally unstable and from vandalism. Many of the motives for arson encountered by civilian investigators would not be found within the military establishment. None of the government occupied buildings or equipment are covered by insurance. However, post exchange stores and recreational facilities which are not operated by federal funds are covered by insurance. It must be realized that the problem of arson on military establishments is not limited to military personnel but extends to the many thousands of civilians employed. Although investigated, occasionally one involving an employment risk gets by. In a recent case, following three fires in a Navy supply center, a

aborer who confessed to setting the fires had been released only two weeks from an institution where he had been confined for setting previous fires.

USE OF INVESTIGATIVE DATA

Fire investigations within the military establishments are carried on in the interest of determining the cause of fires whether from intentional or accidental means. The end results are the same. The only difference being that the person or persons guilty of the intentional fires must be apprehended and the information learned from the accidental fire, in order to be of value, must be used to the best advantage to prevent occurrence of other fires from similar causes.

JURISDICTION

Concerning jurisdiction, much would have to be written to cover federal laws dealing with sabotage and arson. A brief discussion of these laws will be of particular value to those with investigative duties who are employed by the federal government and to other investigators as helpful information when assisting in or working on cases within jurisdiction of the federal government.

As example, prosecution of an arson case committed on a military establishment may be under jurisdiction of the state and in certain cases prosecution for arson at certain industrial plants may be the responsibility of the federal government, depending in most cases upon conditions in original lease agreements for use of land. It may be determined from conditions set forth in the individual lease agreements whether the state has "exclusive jurisdiction" for criminal prosecution or whether the federal government has accepted the exclusive jurisdiction.

FEDERAL ARSON LAW

Prosecution of arson under federal law follows the pattern of model arson laws adopted by most of the states and includes as an offense attempts to set fire or burn. The law is covered in *U. S. Code*, Title 18, Chapter 5, Section 81, and provides as punishment for violation, a fine of not more than \$1000 or imprisonment of not more than five years or both; except, that if the building be a dwelling or if the life of any person be placed in jeopardy, the fine shall be not more than \$5000 or imprisonment of not more than 20 years or both.

MILITARY ARSON LAW—UCMJ

The Uniform Code of Military Justice, primarily applicable to military personnel, was enacted by the eighty-first Congress as Public Law 506 and adequately covers the offense of arson and attempts. Article 126 of the Code defines aggravated and simple arson with provision that punishment shall be as a military court martial may direct.

Penalties contained in the Table of Maximum Punishment, MCM 1951, are as follows: Aggravated arson—twenty years confinement; Simple arson of property of a value of \$50 or less—one year confinement. Simple arson of property of a value of more than \$50—ten years confinement. Each of the above penalties of confinement carry provisions for dishonorable discharge and total forfeiture of pay and all other rights and privileges.

Article 80 of the Code provides that any person subject to this Code who *attempts* to commit any offense punishable by this Code shall be punished as a court martial may direct. "Attempt" is defined as an act done with specific intent to commit an offense amounting to more than mere preparation and tending but failing to effect its commission.

It is pointed out that a person subject to the Uniform Code of Military Justice whose act in violation of the Code is also a violation of state or federal laws may be prosecuted in state or federal courts as well as punished under the Code by military court martial. This does not violate any constitutional rights under the double jeopardy law as the acts are in violation of laws under separate jurisdictions and subject to punishment under each jurisdiction.

A further brief discussion concerning the Code is in order for the benefit of those directly subject to its provisions and for the benefit of those who are not subject to its provisions but may be called upon to assist during investigations involving persons who are subject.

COMPULSORY INCRIMINATION

Attention is directed to Article 31 of the Code concerning compulsory incrimination. This article is highly important and must be followed to the letter from the very outset of an investigation involving military personnel. Too little is known of this article by those concerned with the preliminary stages of an arson investigation within a military establishment. Article 31 requires that prior to questioning a military man concerning a crime he is suspected of, he must be informed of his rights in accordance with the article, told of what he is suspected of, and warned that any statement made by him may be used as evidence against him in a trial by court martial.

In civilian justice it is usual to give similar warning, however, certain states do not require any such warning. In military cases where the accused had not been warned prior to being interrogated into verbal admissions amounting to a confession, the charges were set aside on the grounds that it was too late for any warning as to his rights to have any tangible benefit to him. (U.S. vs Noel 8 CMR 572)

There has been a lot of conjecture that a Civil Service investigator not being subject to the Code was not required to warn the accused in accordance with Article 31. The above cited case had this to say:

"A confession obtained by a Civil Service investigator, not acting for any civil power or jurisdiction but working for Naval authority under supervision of a military officer and acting for and as the agent of that officer in the investigation of an offense must conform to the provisions of the Uniform Code of Military Justice, Article 31, as fully as though it were obtained directly by the person subject to the Code for whom he was performing the investigation."

At approximately the same time that the opinion in the Noel case was released, an oral confession was obtained from a military man in another case admitting he set eight fires. In this case it was considered that Article 31 did not fully apply inasmuch as the investigator, a civilian employed by the Navy, and not a person subject to the Code, could proceed to interrogate the man. This was done and after obtaining the

oral confession a military officer brought into the room warned the accused in accordance with the Code and obtained a signed written statement. As in the Noel case the warning was given too late to have any tangible benefit to the man. This case did not reach the trial stage. The accused was committed for mental treatment.

INDOCTRINATE CONCERNING WARNING OF RIGHTS

This case brought to light the fact that civilian fire fighters employed at military facilities in the area had very little, if any, knowledge concerning Article 31 of the Code. It should not be construed from this discussion that our fire fighters should be legal minds or investigators but, in view that they are on hand at arson fires prior to the investigator, it is considered essential that they be indoctrinated concerning Article 31 of the Code or that they be specifically instructed to detect and preserve evidence only, leaving all questioning and interrogation to the proper investigating authorities.

This goes beyond the civilian fire fighter and involves one of the objectives of this discussion, namely, cooperation between civilian and military investigating authorities. A civilian investigator who may obtain a confession while lending assistance to the military and not acting for any civil power or jurisdiction would technically be considered an agent of the military officer he was assisting and must conform to the provisions of the Uniform Code of Military Justice, Article 31, as fully as though the confession were obtained by the person subject to the Code for whom he was performing the investigation.

FEDERAL SABOTAGE LAW

It may be of interest to discuss briefly the federal laws applicable to sabotage as contained in the *U. S. Code*, Title 18, Chapter 105, dated June 25, 1948.

Section 2152 covers trespassing, injuring, destroying, and interfering with fortifications, harbor defenses, or defense areas and carries as a penalty for violations a fine not more than \$5000 or imprisonment for not more than five years or both.

Section 2153 covers the destruction of war material and is applicable when the United States is at war. This section states that:

(a) Whoever, when the United States is at war, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war, wilfully injures, or destroys, or attempts to so injure or destroy any war material, war premises, or war utilities, shall be fined not more than \$10,000 or imprisoned more than 30 years or both.

(b) If two or more persons conspire to violate this section and one or more such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

This law is based upon an act of 20 April 1918, 50 USCA, Sec. 102, which was used to convict a Nazi on charges of wilfully attempting to set fire to war premises. *Roedel vs U.S.C.C.A. CAL 1944, 145, F.2d 819.*

Section 2154 covers the production of defective war material. This section is applicable during time of war. Its provisions make it a violation for the wilful making, causing to be made, or attempting to make in a defective manner any war material, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such war material. The same fines for the destruction of war material apply, also, if two or more persons conspire to violate this Section.

Section 2155 covers destruction of national-defense materials or attempts and carries a fine of not more than \$10,000, or imprisonment of not more than ten years or both.

Section 2156 covers production of defective national-defense material or attempts with fines of not more than \$10,000, or imprisonment of not more than ten years or both. Sections of these federal sabotage laws that refer to war material, war premises, and war utilities are applicable to the United States and associate nations during time of war. Those sections referring to national defense premises and national defense utilities do not include associate nations and are applicable at times the country is not at war. Items protected as national defense premises and utilities include anything suitable for use in connection with the conduct of war.

SUMMARY

In summary of this discussion it is noted that sabotage is a real threat and that arson is a favorite tool of the saboteur. Further, that cooperation between civilian and military investigative authorities is firmly established in most areas, however, there is room for expansion of this cooperation as concerns arson through better exchange of information relative to suspects and those found guilty of fire setting. A central point of exchange or clearing house for this information would serve a highly useful purpose.

Federal and military laws concerned with arson were discussed, as were federal laws applicable to sabotage and espionage during time of war and those applicable during peace. A recent article in the newspapers stated that Attorney General Brownell has asked Congress to allow that peace time spies be given capital punishment. He stated, "I fail to perceive any justification for such a distinction inasmuch as the essence of this crime is the intent to breach the national security, which security is of paramount importance whether in war or peace." The request for a change in the law includes power to prosecute for espionage activities committed any time in the past which would remove the present ten year statute of limitation.¹

The Uniform Code of Military Justice was discussed with particular emphasis on the requirements in Article 31 to properly warn suspects who may be subject to the Code. On the possibility that the discussion concerning the warning not be entirely clear or cause confusion, it is pointed out that when military personnel are in the hands of civil or federal authorities for violations under these jurisdictions, they are subject to prosecution under state or federal laws, and the warning under Article 31 of the Code would not be applicable.

However, it is advised that those directly connected with the military should review the Uniform Code of Military Justice with your legal officers to assure proper conformance with Article 31 and that liaisons between civil and military authorities be renewed and strengthened to control and stamp out arson whether by sabotage or other means.

¹ The eighty-third Congress passed H. R. Bill 9580 on 16 August 1954, which provides the death penalty for peace time spying, requires registration of persons trained in espionage and sabotage, and removes protection of the statute of limitations for failure to so register.