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**Toward Comprehensive  
Anti-Arson Programs**

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U.S. Department of Justice  
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# Toward Comprehensive Anti-Arson Programs

by

Theodore M. Hammett

June 1987

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*Issues and Practices in Criminal Justice* is a publication of the National Institute of Justice. Designed for the criminal justice professional, each *Issues and Practices* report presents the program options and management issues in a topic area, based on a review of research and evaluation findings, operational experience, and expert opinion in the subject. The intent is to provide criminal justice managers and administrators with the information to make informed choices in planning, implementing and improving programs and practice.

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## Acknowledgements

Thanks are due particularly to Kim Wylie who participated in all aspects of this project from site selection to report preparation. She was particularly instrumental in the conduct of the telephone survey on Arson Reporting-Immunity laws. Tom Albrecht, our NIJ monitor, provided support, guidance, and helpful comments on drafts of the document. Gail Goolkasian of Abt Associates offered a thorough and extremely helpful review of several drafts.

I would also like to thank the staffs of the anti-arson projects we visited. They were unfailingly gracious and cooperative. This report relies heavily on the creativity, persistence and cooperative spirit they have brought to the struggle against arson in their communities.

Theodore M. Hammett  
November 1986

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## Table of Contents

	<i>Page</i>
Acknowledgements .....	iii
Executive Summary .....	vii
Preface .....	xv
<b>Chapter One</b>	
<b>The Importance of Cooperative Approaches to Arson Control .....</b>	<b>1</b>
The Problem of Arson .....	1
The Importance of Comprehensive Approaches ..	4
Public-Private Partnerships and Inter-Agency Coordination .....	5
Difficulties in Achieving Comprehensive and Cooperative Programs .....	6
<b>Chapter Two</b>	
<b>Cooperation Between Community Organizations and Public Agencies .....</b>	<b>9</b>
Two Promising Programs .....	10
Common Problems .....	19
Ingredients for Enhancing Cooperation .....	20
Conclusion .....	34

<b>Chapter Three</b>	<b>Cooperation with Insurers: Programs and Legal Initiatives</b> .....	<b>39</b>
	Introduction to Programs and Legal Initiatives ..	41
	Legislative Initiatives .....	48
	Problem Areas Affecting Cooperation with Insurers .....	55
	Other Problems in Developing Cooperative Anti-Arson Programs with Insurance Companies .....	63
	Strategies for Enhancing Cooperation with Insurers .....	67
	Conclusion .....	79
<b>Chapter Four</b>	<b>Toward Comprehensive Anti-Arson Programs</b> .....	<b>83</b>
	The Arson Task Force Concept .....	83
	Major Task Force Models .....	84
	Problems in Implementing a Comprehensive Program .....	87
	Strategies for Implementing Comprehensive Anti-Arson Programs .....	90
	Conclusion .....	110
<b>Appendix A</b>	<b>Telephone Survey Methodology</b> .....	<b>113</b>
<b>Appendix B</b>	<b>Legislation</b> .....	<b>123</b>
<b>Appendix C</b>	<b>Boston Arson Prevention Commission Materials</b> .....	<b>133</b>

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## Executive Summary

### The Problem of Arson

Arson is a serious problem in the United States. An estimated 110,500 incendiary and suspicious building fires occurred in 1984, causing 545 deaths and \$1.4 billion in direct property loss. Arson affects all areas of the country and all types of neighborhoods, though poor and transitional neighborhoods still suffer the most.

Arson is also a very complex problem, for which no one agency or group can or should be solely responsible. Controlling arson requires cooperation among a wide range of public agencies, including fire, police, building, and tax departments, private entities such as community groups and insurance companies, and individual citizens. Efforts focusing on prosecution are especially important because of their potential deterrent value. However, arson enforcement results—as measured in arrest and conviction rates—have thus far been poor. Due to continuing resource constraints in public sector enforcement programs and the limited availability of significant commitment and resources of community groups and insurance companies, more comprehensive approaches to arson control are preferable. Comprehensive approaches encompass prevention as well as enforcement and deterrence, and attempt to involve the full range of public and private actors.

### Promising Approaches

In several jurisdictions across the country, the public and private sectors are joining forces in the fight against arson. The three major “building blocks” of cooperative anti-arson programs are: (1) linkages between community groups and public agencies; (2) linkages between community groups and insurance companies; and (3) linkages between public agencies and in-

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insurance companies. The experiences of programs that have worked to establish these building blocks and develop comprehensive anti-arson approaches can be instructive to other jurisdictions interested in developing similar programs. Examples from five programs are used to highlight the discussions throughout this report: Kensington Action Now/Kensington Arson Prevention Task Force in Philadelphia; Stop Wasting Abandoned Property/Providence Anti-Arson Coalition in Providence, Rhode Island; the Flatbush Development Corporation Arson Prevention Project in Brooklyn, New York; the San Francisco Fire Department Arson Early Warning System; and the Boston Arson Prevention Commission.

## Problems in Achieving Comprehensive Programs

Despite shared goals and common interests among key public agencies and private organizations, implementing cooperative and comprehensive anti-arson programs is not easy. A number of problems commonly arise. There are often disputes and "turf" battles among public agencies, particularly the fire and police departments. Moreover, resource constraints commonly limit what public and private entities can accomplish. In addition, suspicion and mistrust may persist between public agencies and community groups. Fire departments and other public agencies often resist community involvement and believe that community groups are only out to undermine their credibility. Community groups, in turn, may believe that public agencies are unwilling or incompetent to meet the real needs of the neighborhoods.

Insurance companies are often reluctant to share information with public agencies or private groups because they fear legal action by their policyholders. A series of cases seeking punitive damages for insurers' disclosure of information to public arson investigators has heightened insurers' concerns about "bad faith" suits. A survey of insurance companies undertaken for this study revealed that arson reporting-immunity laws have reduced, but by no means eliminated, these fears. Other reasons that insurance companies may resist involvement in cooperative arson prevention programs include lack of awareness of arson reporting-immunity laws, judgements that such efforts are not ultimately cost-effective, fears that information disclosed would fall into the hands of competitors, suspicion that participation in such programs will lead to requests for funding support, and simple industry privatism. Moreover, insurers often resent the lack of reciprocity in information exchange; indeed, public agencies appear to receive much more information from insurance companies than they provide in return.

## Strategies for Improving Cooperation Between Community Groups and Public Agencies

Developing cooperation among community groups and public agen-

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cies requires tenacity and political sophistication as well as mutual sensitivity and a willingness to compromise to achieve shared goals. The following elements are particularly important:

- **Shared objectives.** Community groups and public agencies, particularly fire departments, have powerful interests in the prevention and control of arson.
- **Realistic strategies.** Public agencies should not expect community groups to be sources of unlimited free labor, nor should community groups expect public agencies to devote inordinate resources to activities such as saturation patrolling of neighborhoods or surveillance of all high-risk properties. Both sides must have goals that are acceptable and achievable. Once such goals are developed, their achievement should be forcefully sought.
- **Credibility.** Community groups can establish credibility with public agencies by demonstrating in-depth knowledge of the arson problem in their area, by channeling credible information on at risk properties and ongoing investigations to the appropriate agencies, and by actively assisting public agencies in other ways (such as watching over at-risk properties and supporting the establishment of a joint fire-police arson investigation unit). Public agencies can build credibility with community groups by acknowledging the valuable contributions that citizens and groups can make to arson prevention, clearing away obstacles to prompt intervention in high-risk situations, and implementing their own innovative arson prevention strategies. Both public and community groups can gain favorable publicity and enhanced influence by being associated with a successful and cooperative anti-arson program.
- **Political power and influence.** Community groups can build invaluable community support for their arson prevention programs through outreach and education efforts, actively soliciting information and input from residents on high-risk properties, and involving residents in meaningful tasks that show concrete results, such as mobilizing residents to get extremely hazardous properties cleaned and sealed or demolished by the city. Community groups and public agencies can develop political influence by identifying and cultivating the support of key officials for their programs. Several existing anti-arson programs were established with critical support from powerful public officials. Coalitions of

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groups are often effective in building political support because each constituent group can mobilize its own contacts. Favorable media attention on a program can also be critical in winning the cooperation of public agencies.

- **Persistence.** The experiences of several programs underscore the need for community groups to be persistent in their dealings with city agencies. There are likely to be frustrations and obstacles, but groups must clearly demonstrate that they "aren't going away."
- **Compromise.** Groups and agencies should stand firmly for their basic goals and objectives, and identify others on which they can be more flexible. In addition, an ability to compromise on ways of achieving certain goals and objectives can significantly improve the atmosphere of cooperation. For example, programs might be able to compromise on seemingly noncritical matters, such as the location of task force meetings, and gain compromises from public agencies on matters such as factors used to designate high-risk properties.

## Strategies for Improving Cooperation with Insurance Companies

Insurance companies can be key participants in anti-arson programs. They often have information on policyholders and properties that can be invaluable to arson prevention and investigation efforts. Moreover, insurers have more latitude in obtaining information from policyholders than do public investigators, and can often commit expert scientific and investigative resources to cases that are unavailable to public agencies.

Public agencies and community groups must use salesmanship, political dexterity, and knowledge of law and legal precedent to obtain the cooperation of insurance companies. The following elements are of particular importance:

- **Shared interests.** Insurance companies suffer serious losses from arson-for-profit. Because this is a time of economic difficulty for the property-casualty insurance industry, companies may be particularly receptive to programs offering information and assistance in identifying high-risk properties. Agencies and groups seeking the cooperation of insurers should have a clear understanding of the current underwriting climate and tailor their approach accordingly.
- **Key contacts.** Agencies and groups should cultivate key contacts in insurance companies. Personal relationships may be

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more important than any formal commitment from the company. Programs should make contact with individuals who are interested and available to participate, and keep in touch with them on a regular basis, keeping them aware of the information and assistance that are available.

- **Selling participation in the program.** Insurance companies will be most interested in the probable “bottom line” result of participation in arson prevention or investigation efforts—that is, how much it will cost and how much it will save on claims payments. Programs should emphasize the amount of company business at stake in their target area, and the services that the company can receive in exchange for its cooperation. For example, some programs can provide insurers with computer “profiles” on individual buildings, or periodic lists of high-risk properties in certain target areas. Insurers should also be given clear explanations of how insurance information will be used by the program, as well as any available data on program impact or effectiveness.
- **Allaying fears of legal action.** Programs must demonstrate to insurers that the benefits of cooperating with anti-arson efforts outweigh the associated legal risks. In order to do this, programs need to familiarize themselves with the legal issues and precedents regarding action against insurers for releasing information on policyholders or insured properties. Many programs may find it useful to refer companies to the pioneering legal opinion of Liberty Mutual, which agreed to participate with the Flatbush Arson Prevention Project. (This opinion stresses the need to define carefully the types of information to be exchanged and the manner in which it will be used, and notes that it is difficult to prove malice in the provision of simple factual information on policies and policyholders.) In addition, programs should actively disseminate information on arson reporting immunity laws, particularly those that authorize pre-fire as well as post-fire information exchange.
- **Intervention strategies.** Insurance companies typically resist recommendations for specific intervention targeted at particular properties. Thus, it is usually better for programs simply to call insurers’ attention to at-risk properties and then follow up later to see what action was taken. Programs should bear in mind that policy cancellation is not always the strategy of choice since it may increase the immediate risk that the

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property would burn and ultimately contribute to *de facto* "red-lining" of an area.

- **Caution in funding requests.** Insurance companies are often suspicious that arson prevention programs will offer their services and assistance as a way to solicit funding support. Programs should be cautious in approaching companies for funding support and should probably make no requests until convincing evidence of program effectiveness can be presented.
- **Improved laws and regulations.** Programs should work for statutory improvements that benefit insurance companies (such as strong "reciprocity" provisions in arson reporting-immunity laws) and anti-arson programs (such as laws requiring property owners to disclose information on their fire insurance coverage).

## Toward Comprehensive Anti-Arson Programs

For effective arson control, it is important to develop individual linkages between public agencies, community groups, and insurance companies. Ideally, however, the linkages will create a comprehensive program involving *all* key actors. There are three basic models for comprehensive anti-arson programs. A "blue-ribbon" task force, which is composed of department heads and business executives, is potentially effective in reaching broad policy decisions but generally weak in implementing those decisions since the members are likely to be unable to participate regularly. A second model, a "working" task force, is composed of mid- to upper-level officials who usually can participate on a regular basis. This model is likely to be strong on implementation but weaker on broad policy decisions because its members lack the authority to make commitments, particularly where budgets and other tangible resources are involved. The third model is a program situated in a public agency with a full-time staff and overseen by a board composed of community representatives and city officials. This model may be the best, combining the ability to make broad policy decisions due to the involvement of department heads, with the ability to implement decisions through a full-time staff. It also offers strong community representation on the overseeing board and in the outreach program of the staff. The drawback of this approach is its high cost relative to the other two models. Therefore, it will probably be feasible only in relatively large cities experiencing serious arson problems.

Strategies for implementing comprehensive anti-arson programs, wherever situated, include the following:

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- **Clarifying responsibilities and legal status.** It is critical that the duties and powers of the program be clearly and formally enunciated and that the roles of the participating public agencies and private groups be specified. City ordinances and memoranda of understanding may be useful in this regard.
  - **Maximizing program efficiency and productivity.** Anti-arson program meetings are often relied upon to conduct a good deal of business, so it is important that meetings be as productive as possible. Some programs have found it useful to circulate agendas well in advance so agency representatives can prepare for the discussion. Other programs have established subcommittees to consider more detailed issues and report to the full board during regular meetings.
  - **Working effectively with government agencies.** All comprehensive anti-arson programs must work effectively with government agencies. This means structuring agency participation (e.g., designating the agencies that will be involved, their representatives, and their role), taking the initiative with agencies (e.g., presenting action plans to the task force rather than waiting for the agencies to develop plans of their own), and also assisting agencies whenever possible (e.g., channeling information from community residents).
  - **Working effectively with the general community.** Programs need to structure the manner in which community residents will participate in the program. For example, all residents may be permitted participation in all meetings, or community participation may be limited to representation in periodic open meetings. Staff in some programs also reach out to the neighborhoods on a regular basis. This can involve gathering information on properties, listening to residents' concerns, encouraging residents to participate in anti-arson activities, providing arson prevention training and technical assistance strategies to neighborhood groups, and conducting other educational programs on such topics as smoke detectors and the legal rights of fire victims.
  - **Working effectively with insurers and private investigators.** Comprehensive programs should include representatives of the insurance industry, and should encourage their active involvement in arson prevention and post-fire information exchange. Some programs routinely notify insurers of high-risk properties so they may take appropriate action on the policy,

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and reach out to private investigators working for insurance companies to offer information and assistance with cases.

- **Targeting anti-arson activities.** Because of resource limitations, programs generally must target particular neighborhoods for intensive arson prevention activity. Within these neighborhoods, programs identify high-risk properties through a combination of objective indicators (e.g., code violations, tax arrearages, vacancy/abandonment, fire history). Programs may also conduct special area studies or studies of particular aspects or patterns of the arson problem.
- **Implementing intervention strategies.** With the combined resources of public agencies and the communities, programs can implement a wide range of strategies to prevent arson in high-risk properties. These include: immediate actions such as surveillance, boarding/sealing, and demolition; contact with property owners and their insurers to notify them of the program's interest in the building and to offer assistance with risk abatement; enforcement or other legal action against the owner such as code enforcement, tax foreclosure, or civil actions for nuisance (always weighing the possibility that such strategies might drive an owner "over the edge" and thus increase the immediate arson risk); and transfer of the property to a new owner committed to risk abatement/rehabilitation.
- **Other anti-arson activities.** Programs may use their position and strategies to generate revenues through arson prevention activities. For example, programs may be able to assist cities in collecting back taxes from insurance proceeds on fire losses. Programs can also draw on agency and community information sources to develop data bases that are useful not only for arson prevention and investigation but for monitoring the city's housing stock and other important applications. Other useful program activities include monitoring legislation and regulations, and lobbying for passage of more effective measures related to arson prevention.

The strategies discussed in this document do not represent a formula that will guarantee success in the fight against arson. Each jurisdiction must tailor its strategies to its particular conditions and problems. However, this Issues and Practices report presents the methods of arson prevention program development that have produced promising results in some cities. We believe that there is much to learn from the ideas and experiences of the five programs.

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## Preface

This report focuses on developing cooperative anti-arson programs which bring together community groups, public agencies and insurance companies. Given its emphasis on establishing cooperation, the report does not provide full treatment of technical aspects of arson prevention, such as the development of "arson early warning systems" or risk prediction data bases. However, we do refer the interested reader to recent literature and other sources of information on these and other technical topics.

Chapter One discusses the reasons why a comprehensive and cooperative approach to arson prevention is so important. Chapter Two examines linkages between community groups and public agencies, while Chapter Three examines cooperation with insurance companies. Chapter Four describes the development of comprehensive anti-arson prevention programs aimed at bringing together all major public agencies and private groups concerned with the problem of arson.

### Methodology

We began this study with an extensive review of the literature on arson control. A number of anti-arson programs in the U.S. were identified based on the literature, information from experts in the field, and prior arson research studies conducted by the principal author. Based on preliminary telephone interviews with staff in nine programs and an examination of written program materials furnished by these respondents, five programs were selected for on-site study. These five sites were chosen to include both community-based and publicly-initiated programs, and to represent the most promising examples of the three kinds of linkages described above (communi-

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ty groups and public agencies, community groups and insurance companies, and public agencies and insurance companies):

- Kensington Action Now: a community-based arson prevention program in Philadelphia that established a joint community-city task force to fight arson in its neighborhood;
- Stop Wasting Abandoned Property/Providence Anti-Arson Coalition: a community-based arson prevention program that has established effective working relations with city agencies;
- Flatbush Development Corporation Arson Prevention Project: a community-based program in Brooklyn that has developed a sophisticated computerized "arson early warning system" and has established information exchange with a number of insurance companies;
- San Francisco Fire Department Arson Early Warning System: a publicly-based program that has worked effectively with insurance companies; and
- Boston Arson Prevention Commission: an effort to create, within a separate city department, a comprehensive, coordinated anti-arson program bringing together all major public and private entities concerned about the problem.

Information from these programs forms the basis for much of the discussion in this report, and specific examples are presented throughout the text.

It is important to emphasize that these programs were selected based on our professional judgment and that of others knowledgeable in the arson prevention field. We selected for study programs that, in our opinion, appear to be most successful in establishing comprehensive, cooperative approaches to arson prevention, and that therefore would provide the most practical information for those interested in setting up or participating in arson control programs.

In addition to information obtained from the five study sites, this document draws on the findings of a telephone survey of insurance claims supervisors and public arson investigative supervisors (described and exhibited in Appendix A). The survey focused on the perceived effectiveness of legislative initiatives designed to promote information exchange between insurers and public arson investigators.

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## Chapter One

# The Importance of Comprehensive and Cooperative Arson Control Programs

Arson is a multifaceted crime with intricate economic and social aspects. Its effective prevention and control requires the involvement of neighborhood groups, individual citizens, insurance companies, and a variety of public agencies—in other words, comprehensive and cooperative programs. By *comprehensive* programs, we mean those involving a range of public and private individuals and organizations in a broad range of activities from identification of high-risk properties and prevention of arson to effective investigation and prosecution of arson cases and, ultimately, deterrence of future arsonists. By *cooperative* programs, we mean those in which public and private actors work closely together toward a common goal of arson prevention. Developing such anti-arson programs is difficult, but the dividends for the community are great. These programs are based on an understanding of the complex nature of the arson problem.

### The Problem of Arson

Arson is a serious problem in the United States. The National Fire Protection Association estimates that in 1984 there were 110,500 incendiary and suspicious building fires—an average of more than 300 every day. These fires cost 530 civilian lives and probably hundreds of injuries. Fifteen firefighters died fighting incendiary and suspicious structural fires in 1984—over 25 percent of all “fireground” deaths that year. Direct property loss and damage from arson and suspicious fires in structures amounted to \$1.4 billion in 1984, with billions of dollars of additional cost in lost tax revenues, outlays for

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fire suppression, investigation, and associated services, and escalating insurance premiums. Actually, structural arson rates have been declining since 1980—but many cities still suffer serious arson problems, and there have been increasing incidences of vehicle and wildland arson during this same period.<sup>1</sup>

Arson is not confined to the older cities of the Northeast and Midwest. It attacks the newer metropolises of the South and West, as well as rural communities, forests, and open spaces across the country. Particularly in times of economic difficulty, arson moves out of the inner cities into middle-class suburbs. Recently, insurance companies in some areas of the country have begun suffering heavy losses from arson fires in single-family homes, and a particular upsurge in arson fires has been noted in homes with “balloon” mortgage arrangements.<sup>2</sup>

However, it is still usually people who are poor or of modest means who suffer the most from arson. Indeed, arson can threaten entire neighborhoods and further reduce the supply of affordable low- and moderate-income housing. Together with blight, drug trafficking, and street crime, arson can create a climate of fear and despair for the future of the community.

Arson strikes often in deteriorating or “gentrifying” neighborhoods. Some aspects of complex arson-for-profit patterns are summarized in Exhibit 1.1. In deteriorating neighborhoods dominated by absentee-owned multiple-unit dwellings, arson often results from the closely associated practices of “milking” and “disinvestment.” This process typically begins when long-term responsible property-owners are replaced by speculators or owners interested in short-term financial gain. A spiraling increase in property transfers and residential turnover generally follows. Owners seek to “milk” the property—that is, maximize their short-term yield by reducing operating expenditures (e.g. maintenance, property taxes, utility payments) while still collecting (and often increasing) rents. At the same time, the owner may effect numerous sales and resales of the property to dummy corporations. These transactions can be used to inflate the paper value of the property and to support applications for increased insurance coverage.

Owners may carry out minor cosmetic repairs to justify the increased valuation, but the basic structural conditions are usually ignored and continue to deteriorate. Worsening physical conditions lead to vacancies and, ultimately, to abandonment. Owner disinvestment begins when an owner decides that a property has lost its potential as an income producer. Even before a deteriorated property is vacant, the owner may have it professionally “torched” or simply allow it to be burned by vandals. Such arsons often yield large profits from insurance proceeds.

In “gentrifying” neighborhoods and areas where there is a potential for profit from redevelopment, the sequence of events may be different. Since

## Exhibit 1.1 Process of Building Decay and Arson

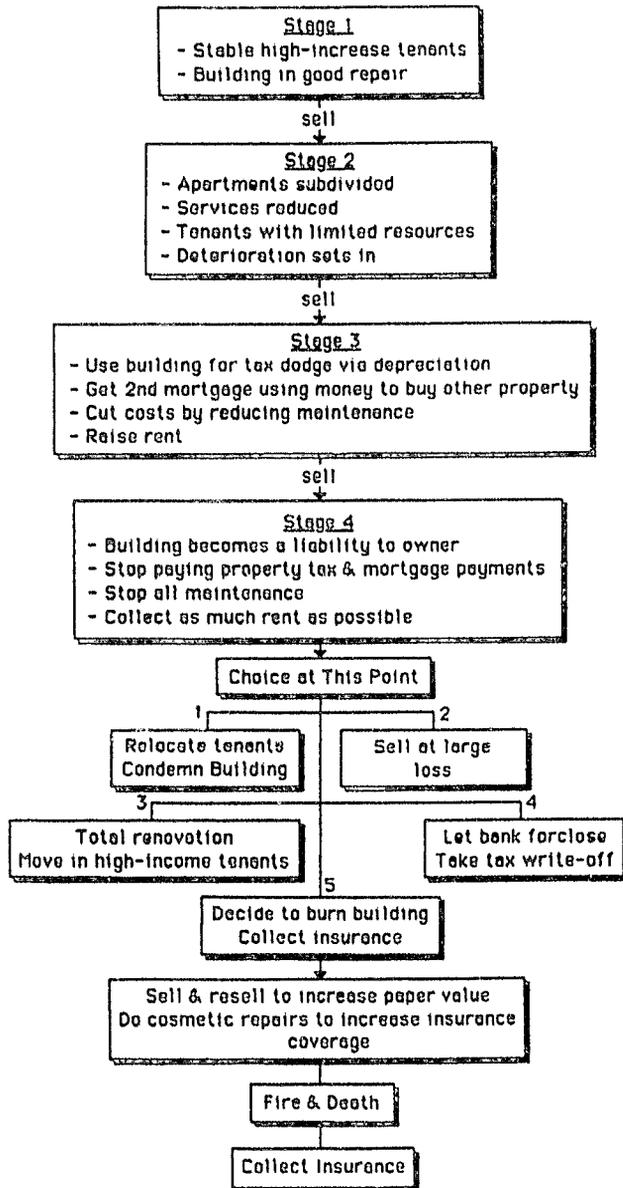


Chart developed by Urban Educational Systems, Boston, MA

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the primary source of profit in this case is from the conversion of the property to other purposes, the emphasis is on emptying the building of relatively low-rent tenants so it can be converted to condominiums saleable at high prices, or on demolishing the building so the land can be redeveloped. In either case, the current tenants may be seen as a troublesome obstacle to the realization of large profits from the property. Faced in many cities with stringent limitations on evicting tenants for this purpose, unscrupulous owners have used arson to drive out tenants.

Thus, arson is often much more than isolated, individual cases of vandalism, revenge, mental incapacitation, or personal hardship. Arson is a powerful weapon in the struggle to control land and property. Nonetheless, it does not really matter who sets a particular fire--the result is the same in terms of fear, continued neighborhood destabilization, and loss of housing. The processes of housing abandonment, neighborhood destabilization, and residential displacement are self-perpetuating and extremely difficult to arrest, and the economic and social costs of arson, as well as the psychic toll, continue to be severe in many American neighborhoods.

## The Importance of Comprehensive Approaches

A comprehensive approach to arson control has many components--prevention, enforcement (including investigation and prosecution of arson cases and denial of fraudulent insurance claims), and deterrence of future arson through swift and certain imposition of sanctions appropriate to the seriousness of the crime.

Efforts to control arson after-the-fact have thus far been generally ineffective. National figures from the FBI's Uniform Crime Reports show that only 19 percent of reported cases of arson were cleared by arrest in 1984. This is comparable with the clearance rates for property crimes such as burglary, larceny-theft, and motor vehicle theft. It is, however, far below those for other such violent crimes (e.g., murder, rape and aggravated assault).<sup>3</sup>

A recent study for the National Institute of Justice found that only 4 percent of a sample of arson fires in four major American cities resulted in conviction of any defendant on any criminal charge.<sup>4</sup> Finally, analysis of insurance industry data on a sample of suspected arson-for-profit cases reveals that, on average, the insurer paid 80 percent of the claim amount.<sup>5</sup> While these figures include payments to mortgagees, which are required by law regardless of the cause of the fire, this high payment ratio suggests that claims investigation has not generally been stringent.

All of these figures suggest that attention should be given to improving the investigation and prosecution functions.<sup>6</sup> However, given the limited public resources available, we believe that arson prevention efforts, emphasize-

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ing cooperation among the public and private sectors, offer great promise as integral parts of comprehensive arson control programs. Moreover, as Lavrakas has argued regarding community crime prevention in general, we cannot and should not rely exclusively on the police to control crime through enforcement actions; private citizens, individually and organized into neighborhood groups, working closely with police and other public officials, can play an extremely important role.<sup>7</sup>

This document suggests ways of improving arson investigation and prosecution efforts through expanded and enhanced information exchange and other forms of cooperation among law enforcement agencies, insurance companies, and community residents. However, the major emphasis here is on prevention strategies. These are especially valuable because of the lack of resources for investigation and prosecution, and because they refocus efforts onto the problems underlying arson in many communities: neighborhood destabilization and deterioration. For example, many arson prevention programs have grown out of and, in turn, further strengthened community-based housing rehabilitation programs.

### **Public-Private Partnerships and Inter-Agency Coordination**

Public-private cooperation and inter-agency coordination have become central to discussions of arson prevention and control. Indeed, in recent years, the public-private partnership concept has become a critical element of strategies for community crime prevention, neighborhood revitalization, drug abuse prevention, and many other social, economic, and anti-crime activities. Substantial research and program documentation have established the effectiveness and desirability of public-private partnerships in each of these areas.<sup>8</sup>

Cooperation and coordination are important to the success of arson control programs. Responsibilities for both arson enforcement and arson prevention are highly fragmented, and fiscal constraints often demand resources from as many places as possible. In addition, valuable information can come from both public and private sources.

Since arson is at once a fire problem and a crime problem, enforcement efforts in most jurisdictions involve both the fire and police departments. These are the most important public safety agencies in a city, whose cooperation is critical to the arson control effort, yet they are often at odds over budget allocations and other issues. Responsibilities in arson prevention are even more fragmented and diffuse, in part, because they have not traditionally or formally been designated to a particular agency. In some cities, establishment of departments of public safety, which bring fire and police together under an umbrella organizations, has helped ease their "turf" battles.

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Apart from the involvement of fire and police departments, effective arson prevention requires the involvement, expertise, and information of other agencies of government, including the departments responsible for code inspection and enforcement, property valuation and tax collection, and insurance and banking regulation. Fiscal constraints present serious problems for arson prevention and control efforts, as they do for most functions of government. Many cities have difficulty fielding full-time arson investigators, let alone the ability to afford comprehensive arson control programs. The fact that a diversity of groups and resources can potentially be mobilized to fight arson represents a great opportunity as well as a difficult problem.

Public agencies are by no means alone in the struggle—at least they should not be alone. Community groups and residents have a powerful stake in preventing and deterring arson in their neighborhoods. Moreover, they often have information that can be valuable in both preventing arson and investigating arson after it occurs. Community groups may also be able to provide labor for various arson prevention and control activities such as research on potentially at-risk properties, data entry for arson information systems, and arson watches and surveillance activity. Such efforts can substantially supplement resource-constrained public programs. Finally, the insurance industry has an economic stake in reducing all types of arson losses and has substantial investigative and informational resources that can be applied to prevent arson and to investigate cases of suspected arson-for-profit.

### **Difficulties in Achieving Comprehensive and Cooperative Programs**

While the value and the necessity are becoming widely accepted, comprehensive and cooperative anti-arson efforts have been difficult to achieve. Persistent interagency conflict has often undermined cooperation within government. The classic case of the “turf” battle in arson enforcement occurred at the scene of a multiple-fatality fire in a major American city, where fire and police personnel actually became involved in fistfights over who would interrogate witnesses. This may be an extreme example, but it illustrates the widespread and persistent conflict that exists between fire and police departments in many cities over arson enforcement issues.

Mutual mistrust and resentment have often divided community groups and city agencies and precluded cooperative arson control efforts. Community residents have often denounced fire departments and other agencies for incompetence, indifference, and ineffectiveness in discharging their responsibilities. For their part, government officials and agencies have often been extremely defensive and have rejected any community attempts to become involved in arson control programs.

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Insurance companies have shown reluctance to participate in cooperative anti-arson programs because they fear legal action by policyholders for disclosing information either before or after fires occur. In addition, many insurers may believe that it is ultimately cheaper to settle claims and attempt to cover themselves through re-insurance and increased premiums than to bear the significant expense and legal risk of investigating and fighting suspicious claims.

Though these serious obstacles to effective cooperation exist, in recent years the number of promising programs has begun to increase. In a growing number of jurisdictions, public officials, community activists, and insurance people have been able to overcome the barriers and forge effective working partnerships against arson. In addition, all fifty states have now passed arson reporting-immunity laws intended to promote information exchange, both before and after fires, between insurers and public arson investigative agencies. In particular, the laws seek to reduce the risk of legal action against insurers who share with public agencies information on policies and policyholders.

The strategies offered in this document are drawn from the experiences of some of the most promising programs. They do not represent a prescription for success, as no simple formula exists. The strategies can help, if tailored to the conditions and needs of individual jurisdictions, and may serve to suggest other methods of developing cooperative anti-arson programs. The task is challenging: to build mutual trust, understanding, and a realization of shared values and interests.

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## Footnotes

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3. FBI, *Crime in the United States--1984*, p. 39.
4. Theodore M. Hammett and Deborah Day Emerson, *Arson Investigation and Prosecution: A Study of Four Major American Cities* (Washington: U.S. Government Printing Office, 1984) Figure 3.2, p. 68.
5. Abt Associates' analysis of data collected by the All-Industry Research Advisory Council (AIRAC). AIRAC's analysis is presented in *Arson Incidence Claims Study* (AIRAC, 1982).
6. See the following Department of Justice reports: Hammett and Emerson, *Arson Investigation and Prosecution*; Richard Ku, Theodore M. Hammett et al., *Arson Control: A Synthesis of Issues and Strategies Based on the Arson Control Assistance Programs* (Report submitted to Law Enforcement Assistance Administration, U.S. Department of Justice, 1980); Hugh C. McLees, et al., *Managing Arson Control Systems: Executive Summary* (National Institute of Justice, 1983); Hammett, *Cracking Down on Arson: Issues for Investigators and Prosecutors*. (National Institute of Justice, 1987).
7. Paul Lavrakas, "Citizen Self-help and Neighborhood Crime Prevention Policy," in Lynn Curtis, ed., *American Violence and Public Policy: An Update of the National Commission on the Causes and Prevention of Violence* (New Haven: Yale University Press, 1985).
8. See, for example, Judith D. Feins, et al., *Partnerships for Neighborhood Crime Prevention* (Washington: National Institute of Justice, June 1983); Rachel Bratt, et al., *The Private Sector and Neighborhood Preservation* (Cambridge: Neighborhood Policy Research, January 1983); Lynn Curtis, ed., *American Violence and Public Policy*, pp. 11-12.

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## Chapter Two

# Cooperation Between Community Organizations and Public Agencies

It is increasingly recognized that effective community crime prevention programs require the close cooperation of public officials (particularly the police) and neighborhood groups.<sup>1</sup> More specifically, cooperation between community groups and public agencies represents an essential component of effective comprehensive arson control programs. Community groups and individual neighborhood residents have the most direct stake in stopping arson: the survival of their neighborhoods. Because they are so directly affected, residents are often willing to contribute time, labor, ingenuity, and invaluable investigative and intelligence information to anti-arson programs.

By the same token, public agencies have a direct interest in combating arson. Many firefighters are killed each year fighting arson fires, and probably hundreds more are injured. This needless human cost is the strongest and most persuasive argument for fire departments' welcoming, and indeed actively seeking, the participation and cooperation of community groups and local residents in arson prevention programs.

Moreover, in view of the serious budgetary limitations affecting most municipal governments, public agencies have a need for the kinds of assistance that local residents are most effective in providing. In many cases, the "additional" resources that citizens and groups can contribute are the difference between maintaining and drastically reducing current arson prevention efforts. In other cases, community participation may add a new and uniquely effective dimension to an already solid anti-arson program.

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All too often, however, this logical and necessary partnership between communities and municipal governments falls victim to suspicions and lack of experience with cooperative involvement.<sup>2</sup> Residents may believe that public agencies are indifferent to their concerns, while public officials may suspect that community groups are only seeking to discredit them and to advance unacceptably radical political agendas. The frequent result is that these natural allies against arson remain unwilling to cooperate with one another. Nonetheless, the experiences of some communities prove that productive working relationships between community groups and public agencies can be achieved.

## Two Promising Programs

The efforts of two community-based arson prevention programs to develop and sustain cooperative working relationships with the public agencies in their cities illustrate the serious obstacles to effective community-municipal cooperation and the strategies that can be used to overcome those obstacles.

### *Kensington Action Now/Kensington Arson Prevention Task Force*

Kensington Action Now (KAN) is a community organization in the Kensington section of Philadelphia that was founded in 1975 to address the increasingly serious problems of the community and to increase the responsiveness of city agencies to its needs. Begun as a coalition of six neighborhood groups, KAN has since brought numerous other block clubs, civic organizations, school associations, churches, and senior citizens' groups into the organization. KAN is organized into action committees dealing with issues such as housing, education, crime, economic development, and arson. It is funded primarily through grants from private foundations, as well as through state and federal funds. An adjunct housing development organization, the Kensington Area Revitalization Project (KARP), works to upgrade the neighborhood's housing stock through urban homesteading programs and supports commercial property revitalization projects.

Kensington is one of Philadelphia's oldest neighborhoods and was once the leading industrial area of the city. The population of the KAN target area is predominantly working-class white, with significant concentrations of people of Irish and German ancestry. Because the area is bounded by poor black neighborhoods of North Philadelphia and middle-class white Northeast Philadelphia, it is an area of strategic demographic and political importance. Exhibit 2.1 is a map of Philadelphia showing the KAN target area.

Kensington was once one of the nation's leading industrial centers. The area was characterized by many large textile, steel, and chemical factories

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and other commercial buildings in close proximity to densely populated residential areas of one-and two-family row homes. It was a self-contained neighborhood, where people lived near their jobs and patronized the merchants on several neighborhood commercial strips. Kensington's problems began in the mid-1960s when the factories started to relocate to the suburbs and to other parts of the country. Soon, many of the mill buildings and other commercial properties were abandoned and, as job opportunities dwindled, residential properties lost their value and were abandoned as well. Within a relatively short time, the entire area fell into serious decline. One of the most visible marks of this decline, as in similar areas of other American cities, was a plague of arson fires striking abandoned properties. Street crime also increased to serious proportions. In a familiar circular pattern, the destructive forces of disinvestment, blight, arson, crime, fear, and flight brought the neighborhood to the verge of total destruction. But many of the committed, long-term residents of the community were unwilling to let this happen. In the words of one KAN officer,

*It's one of two things: either stay here and improve the neighborhood, or move out—follow the the trail and leave a wasteland. I decided, if you've got a cut, you bandage it up, right? You can't just let it bleed.*<sup>3</sup>

KAN's arson prevention efforts grew from work conducted by the group's housing committee to eliminate insurance and mortgage "redlining" in Kensington. "Redlining" refers to denial of applications for mortgages based exclusively on geographical location of the property—i.e., a decision on the part of the lending institution against investment in a particular neighborhood or area. KAN also began to pressure the city's Department of Licensing and Inspection (DLI) to clean and seal the abandoned properties posing the most serious arson risks. In 1982, after numerous residents were alerted to the relationship between the community's serious arson problem and the problem of property abandonment, KAN established a separate arson committee. This committee set about the formidable task of identifying the most serious arson risks among the area's approximately 2,000 abandoned properties and working with the city to abate those risks. The high-risk properties were identified using a combination of subjective information provided by neighborhood residents and objective risk indicators including property tax arrearages, fire history, and ownership by individuals or corporations with previous fires in their buildings.<sup>4</sup>

In early 1983, after diligent efforts, KAN secured a commitment from Managing Director (now Mayor) W. Wilson Goode to direct key municipal agencies to work with KAN on the development of a model Arson Prevention Task Force. In June of that year, the formation of the KAN/Kensington Arson Prevention Task Force was officially announced. Designed to identify high-risk properties and to implement coordinated intervention strategies

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**Exhibit 2.1**  
**Map of Philadelphia, Pennsylvania**  
**Showing Kensington Action Now (KAN) Target Area**

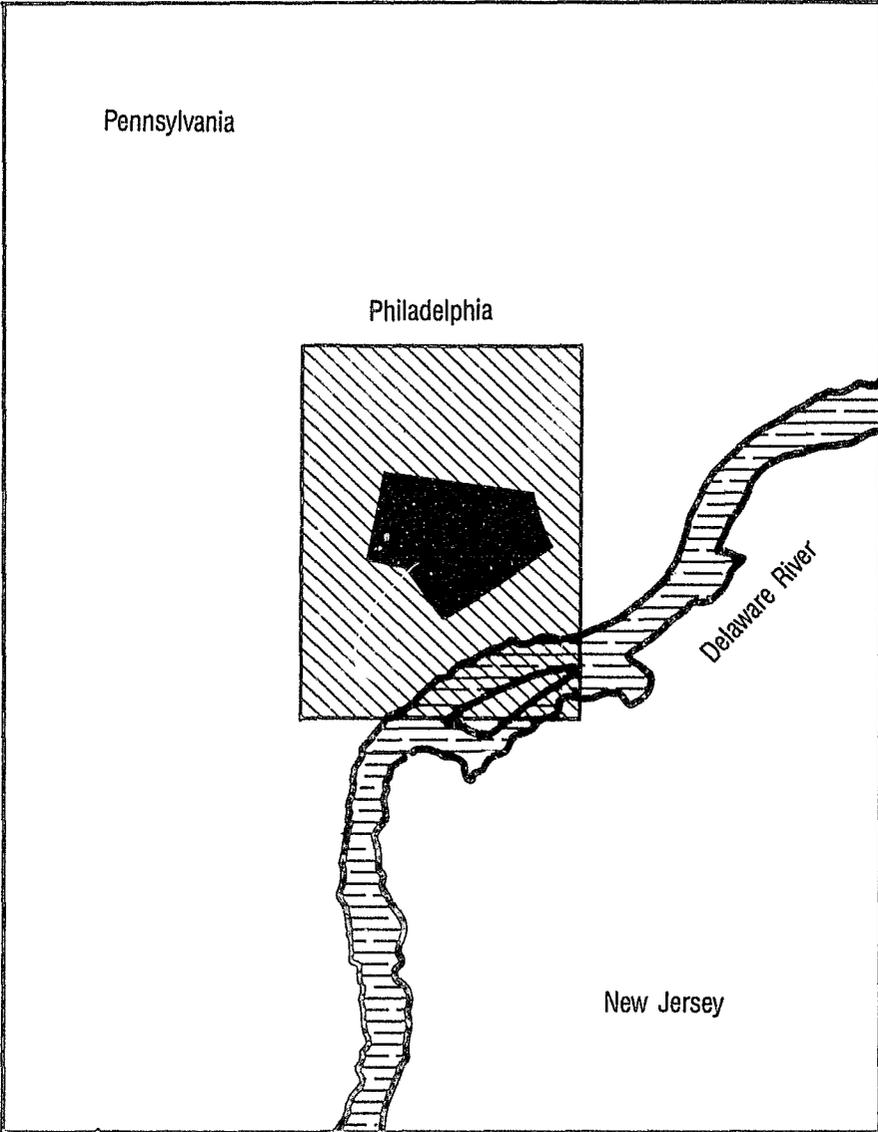
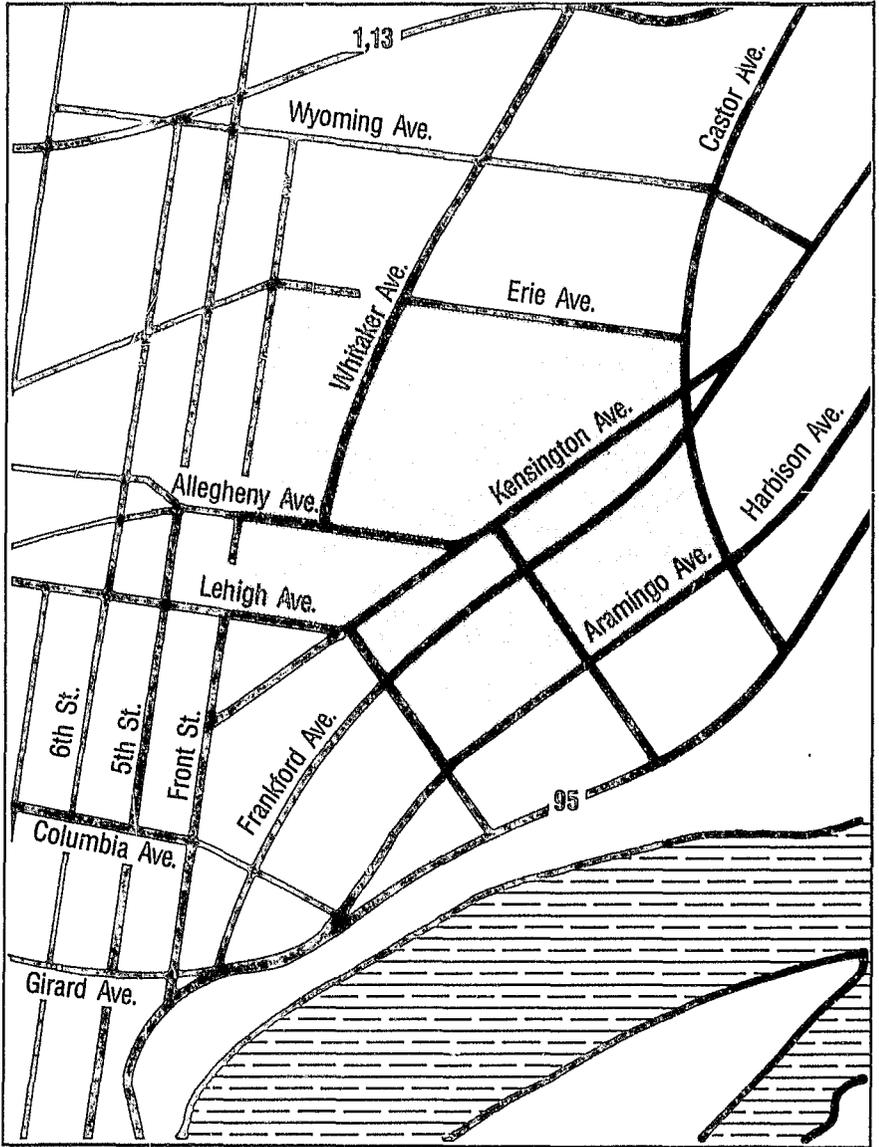


Exhibit 2.1 (continued)  
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to abate arson risk, the Task Force is composed of representatives from KAN and other community groups and from the following city agencies: the fire and police departments, DLI, the city solicitor's office, and the district attorney's office. It has been funded through grants from the U.S. Fire Administration, private foundations (William Penn Foundation and Penn Memorial Trust), and donations from churches and civic organizations. KAN's total budget for arson prevention is about \$40,000 per year.

Since the formation of the task force in 1983, DLI has cleaned and sealed over 700 properties in Kensington and demolished over 100 others. KAN and the task force view demolition as a last resort on the list of arson prevention strategies. The program prefers to salvage buildings and return them to productive and stable community use. To this end, KAN has been successful in working with current owners to correct the problems in their buildings that pose risks of fire and arson—measures such as sealing windows on lower floors to prevent unauthorized entry and removing rubbish and combustible debris. Through meetings with the new owners of the property, DLI inspections, and court hearings, the Task Force secured substantial improvements in the condition of a large vacant mill building that had become a serious arson risk. Dangerous chemicals have been removed, the entire building has been cleaned, and the first two floors have been reboarded, sealed, and painted. KAN is now working with the owner to bring new tenants into the building, thus rendering it once again a useful and productive property.

KAN has also helped to get highly dangerous and arson-prone abandoned properties into the hands of individuals committed to their rehabilitation. The conversion of a long-abandoned supermarket to a home improvement store employing a number of Kensington residents (and the payment to the city of almost \$90,000 in back property taxes by the previous owner) stands as graphic evidence of KAN's effectiveness. It also represented a major step in KAN's efforts to revitalize the deteriorated Frankford Avenue commercial strip.

In addition to these revitalization efforts, KAN and the task force have secured the demolition of a number of large industrial buildings that had posed arson risks. Because these properties were extremely deteriorated and open to entry, they posed other threats to the community as well. For example, neighborhood children could easily gain access to these buildings and serious falls and other injuries could have resulted.

While the fire and arson statistics for Kensington still reflect a serious problem, the dimensions of the problem have been reduced in the past year. Statistics from the Philadelphia Fire Department show that total building fires in the KAN area declined from 252 to 198 between 1984 and 1985. Even

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more dramatically, incendiary and undetermined fires dropped by 50 percent (from 147 to 73) and incendiary fires in abandoned properties fell by 64 percent (from 109 to 39) over those two years. These figures point to the effectiveness of the KAN/Task Force program.

There is also strong evidence of improved cooperation between public agencies and community groups, as reflected in the formation of and progress made by the Kensington Arson Prevention Task Force. We believe that this program shows great promise for having a long-term impact on arson in its target area and already offers useful examples of how to develop public-private partnerships against arson.

### *Stop Wasting Abandoned Property/Providence Anti-Arson Coalition*

In Providence, Rhode Island, the arson Prevention program developed by the group called Stop Wasting Abandoned Property (SWAP) grew directly out of the organization's exemplary urban homesteading program. SWAP is a non-profit community organization founded in 1976 to prevent the abandonment of residential property in the Elmwood section of Providence and to convert existing abandoned properties into stable low- and moderate-income housing. Elmwood is a working-class neighborhood with an ethnically and racially diverse population. Exhibit 2.2 is a map of Providence showing the SWAP target area. SWAP helps individuals to purchase and rehabilitate abandoned homes that the individuals have committed themselves to inhabit. Since 1976, approximately 350 abandoned properties have been reclaimed by new owners.

SWAP's commitment to arson prevention crystallized in 1980 after a study concluded that arson was the greatest contributor to the abandonment problem in the area. As a result, all vacant buildings considered at high risk to arson (based on information provided by local residents) are now given priority in the process by which properties are "listed" as available for homesteading. Moreover, the results of this survey encouraged SWAP to develop a city-wide anti-arson program.

SWAP's arson prevention program ultimately grew into an Anti-Arson Coalition (AAC) of community organizations dedicated to developing close working relationships with city agencies responsible for arson control and related problems, particularly with the Fire Department and the Department of Inspections and Standards. The AAC targets Elmwood and five other arson-prone districts in the city. The SWAP/AAC arson prevention program received funding support from the U.S. Fire Administration (a total of \$40,000 in the period 1984 to 1986), as well as from private sources (the Ford Foundation and the Insurance Committee for Arson Control [ICAC], a total of \$24,000 for the period 1984 to 1985).

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**Exhibit 2.2**  
**Map of Providence, Rhode Island**  
**Showing Kensington Action Now (KAN) Target Area**

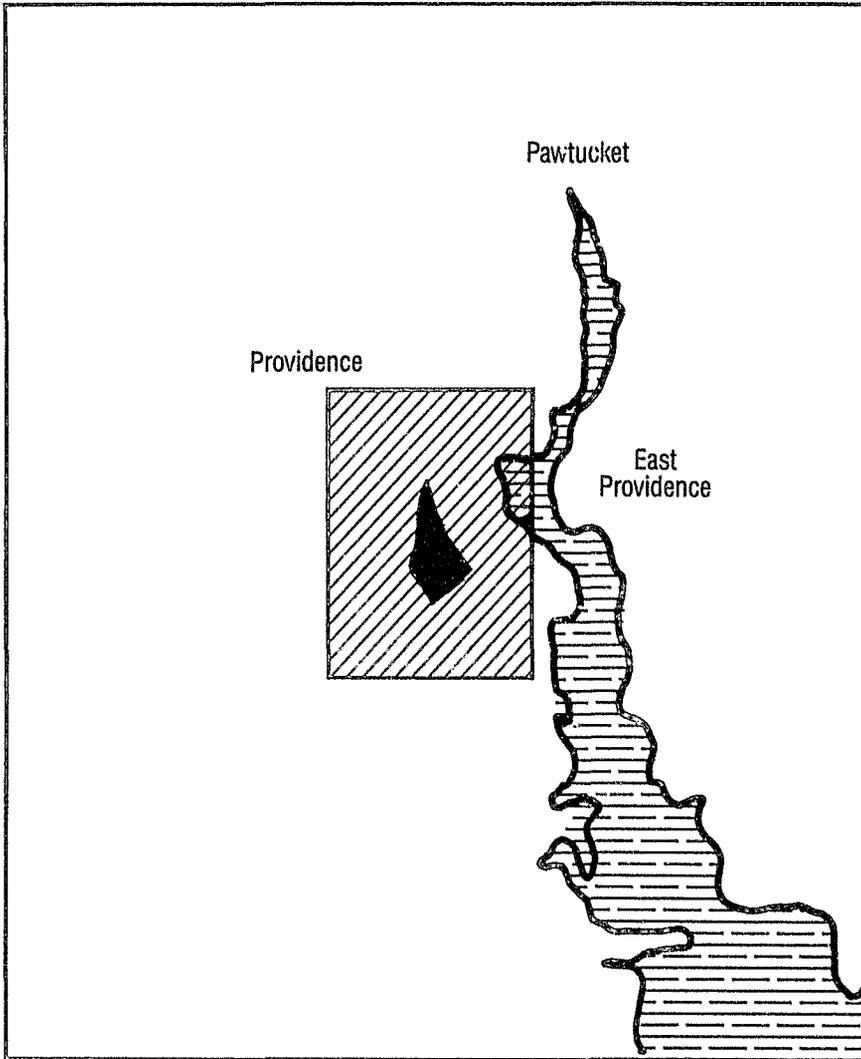
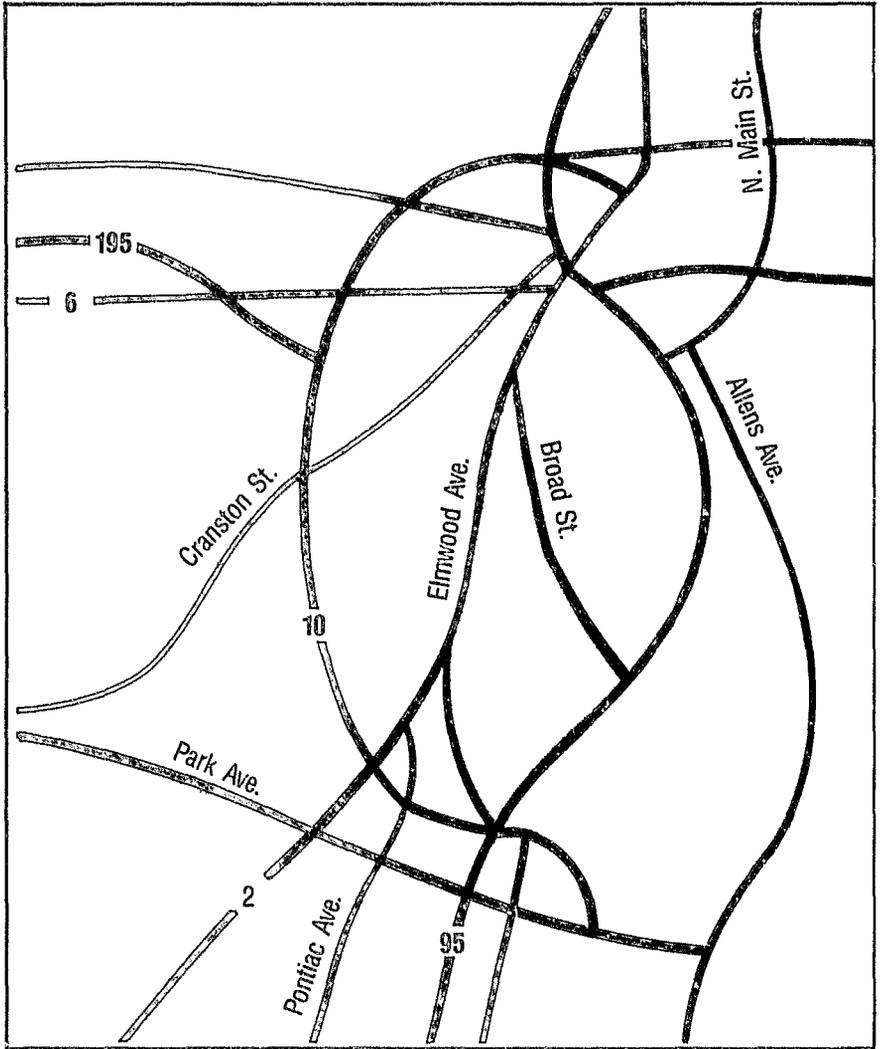


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SWAP is one of six grantees nationwide under the Ford/ICAC Arson Information Management System (AIMS) project. This project is designed to mobilize community groups, public agencies, and insurance companies in a cooperative effort to develop comprehensive neighborhood data bases to assist in the prevention and investigation of arson.

More recently, the Bureau of Justice Assistance of the U.S. Department of Justice has provided \$50,000 to form a city-wide anti-arson task force composed of city agencies, insurance and banking representatives, the anti-arson coalition, and other community-based organizations.

Providence has an unusually long history of community-city cooperation in arson prevention efforts. Cordial relationships were established between the fire department and community organizations as far back as the early 1970s. After several years of serious outbreaks of vacant-building arson on the Fourth of July, neighborhood groups began to work with the fire department to keep watch over vacant properties. This proved to be an extremely effective cooperative effort, both in terms of reducing the incidence of arson on the Fourth of July and in paving the way for an overall anti-arson program based on cooperation between the neighborhoods and city agencies. There has been a steady decline in fires on the Fourth of July, and the 1986 holiday was reportedly the quietest in twenty years. Another critical factor in the development of improved working relations was the strong support given by SWAP and other neighborhood groups to the establishment of an arson squad (the Arson Prevention Unit) in the Providence Fire Department in 1983. The department was eager to establish the unit, but community support was critical in winning the mayor and city council over to the idea.

In addition, the Anti-Arson Coalition helped to draft and supported passage of two important pieces of legislation designed to assist in the struggle against arson: a law requiring owners of certain categories of properties to disclose information regarding their insurance coverage and a law requiring any back taxes or demolition costs to be paid from the insurance proceeds before the insured receives payment. (Copies of these and other key legislation related to arson prevention are provided in Appendix B.)

In 1982, there were 1,150 building fires in Providence, according to fire department statistics. Almost 400 of these were reported as being incendiary or of undetermined origin. The SWAP/AAC program has improved cooperation between public authorities and neighborhood groups, and since the 1983 formation of the Arson Prevention Unit, the arson rate has dropped by 39 percent and the arrest rate in arson cases has increased by 20 percent. The development of the citywide Anti-Arson Task Force promises continuing improvement in the Providence situation. While the APU and the SWAP/AAC program cannot claim full responsibility for these improvements, they can point to promising advances in public-private coopera-

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tion that can only help in the struggle to curb arson.

## Common Problems

The potential value of comprehensive anti-arson programs is undisputed, yet development of the necessary relationships generally remains a difficult and time-consuming process. This section reviews the types of problems that commonly arise, and the following section outlines strategies for addressing these problems.

A number of problems may arise in efforts to develop cooperation among public agencies. For example, power struggles among fire, police, code enforcement, and other city agencies may undermine intra-governmental cooperation. Arson and arson prevention are problems that seem to evoke one of two responses from city agencies: either everyone wants to be involved and struggles over which agency is to be in control, or no one wants to be involved and a struggle ensues over who bears responsibility. In addition, barriers of suspicion, hostility, and mistrust have often separated community groups and law enforcement officials. Problems of this sort are found to some extent in almost every city.

The attitudes brought by local residents and public officials to an incipient "cooperative" effort against arson directly affect the quality of the relationships developed and the ultimate effectiveness of the program. Bureaucrats often resent attempts of lay people to evaluate and respond to the performance of agencies.<sup>5</sup> Lower-income neighborhoods typically experience the most severe arson problems, and citizens from these areas are especially likely to encounter resistance from public agencies. Some city officials believe that lower-income groups are less deserving of, and less likely to be receptive to, improved city services.<sup>6</sup> Indeed, there is a substantial body of literature suggesting that poor and politically segregated neighborhoods are at a serious disadvantage in competing for the attention and service of all types of public agencies.<sup>7</sup>

Researchers have found that police departments often fail to take seriously the possibility of effective citizen involvement in crime prevention programs and, in any case, have little experience or expertise in gaining the cooperation of the citizenry in such efforts.<sup>8</sup> Most community-based arson prevention programs face initial resistance from public agencies, which may have operated for many years as closed "fraternities" with limited receptivity to community involvement. City officials in Philadelphia concede that there was some initial resentment to working with KAN. As one official explained,

*The way some municipal agencies view community organizations can be a problem, because we see ourselves as the professionals—paid for by citizens' taxes—so it makes us wonder when community groups like KAN try to tell us what to do.*

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City officials may prematurely convince themselves that community groups are more interested in undermining the department than in working toward a common goal. Public officials may be unwilling to release statistics on arson incidence and enforcement results to private groups and individual citizens, suspecting that these statistics will be used to criticize agency performance or cause unwarranted fear in the community.<sup>9</sup>

Conversely, community-based groups may initially misjudge the true intentions of public officials and underestimate the problems they face in carrying out their responsibilities. For example, community organizations may misconstrue a delay in response to a particular request to be an indication of indifference on the part of the municipal agency, rather than a reflection of the inevitable problem of resource constraints or the frustrating reality of bureaucratic procedures. Nevertheless, it is true that public agencies sometimes initially ignore or resist the demands of community-based organizations.

In sum, there are potentially serious obstacles facing community groups and public agencies seeking to forge effective partnerships against arson. However, the experiences of the programs already discussed suggest that these barriers can be overcome. The next section focuses on specific strategies that can be used to achieve better cooperation between community groups and public agencies.

## Ingredients for Enhancing Cooperation

There is no simple formula that can guarantee the success of community-based efforts to combat arson or other problems. Each setting and situation is unique. Sometimes factors such as lack of political connections, inexperience, and the countertactics of public agencies thwart community efforts that have charismatic leadership and apparently well-designed strategies.<sup>10</sup>

Though each jurisdiction attempting to develop and maintain a cooperative arson prevention program will encounter its own array of specific problems, some common problems appear in many localities. The improved cooperation achieved by the Kensington and Providence programs point to the importance of certain key ingredients or strategies, such as a need for toughness, persistence, political sophistication, mutual sensitivity, and a willingness to compromise. These factors are important both in initiating and maintaining cooperative programs. The discussion that follows is directed to community groups attempting to enlist the support and cooperation of public agencies, as well as to public agencies attempting to develop better relationships with community residents.

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## *Shared Objectives*

Community residents and public agencies share fundamental objectives: to save lives, property, and neighborhoods. For example, fires in vacant buildings are particularly dangerous for firefighters. A top Philadelphia fire official put it succinctly: "vacant building fires kill firefighters." These fires also contribute heavily to neighborhood blight and decline. Working together, the fire department and the community can help each other counter this mutual problem. The critical, and often difficult, task is to get to the point where shared objectives take precedence over suspicion and mistrust. Emphasizing mutuality over differences when approaching and negotiating with one another maximizes the likelihood that community groups and city agencies will develop productive relationships.

The favorable publicity and prestige that may result from involvement in an innovative anti-arson program is another shared objective that may be emphasized in negotiations between government agencies and community groups. For example, Philadelphia fire officials note that participation in successful programs can be a source of both positive publicity and enhanced prestige within the government. Effectiveness and prestige may bring added allocations in budget debates. Similarly, community groups that are able to develop innovative and promising partnerships with public agencies may receive favorable attention in the media and favorable consideration of their applications for private funding.

## *Realistic Strategies*

Even if community groups and public agencies share fundamental objectives, cooperative efforts may fail if the parties do not set realistic strategies for meeting those objectives. In particular, program planners should not overestimate the level of staffing commitment that can be expected from a city agency, or the amount of volunteer labor that can be contributed by a community group. If a program sets overly ambitious goals or fails to develop realistic plans for labor and other resources, it is bound to be frustrated and may end up losing previously committed participants.<sup>11</sup> Indeed, the identification of clear and realistic goals can set the tone for the entire program and play a large part in shaping all subsequent relations among the agencies, groups, and individuals involved in the arson prevention effort.

Program strategies must always meet two critical standards:

1. **Realism:** Are they achievable, given known or expected resource limitations and political realities?, and
2. **Acceptability:** Do they go far enough toward meeting the underlying objective of preventing arson?

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Obviously, there are inherent tensions between these two standards, but they must be successfully balanced if real community-government cooperation is to be achieved. In general, strategies and objectives involving public agency actions should be concrete but also flexible. This helps to ensure that acceptable compromise is possible later on.<sup>12</sup> The KAN/Kensington Arson Prevention Task Force experience provides some useful examples of the process of realistic strategy-setting.

KAN's initial strategy was to propose a task force composed of community representatives and officials from key city agencies. This strategy grew out of the group's frustration in attempting to deal with each department on an individual basis. The task force concept required each department to designate one responsible contact person to address arson-related issues. This proved to be a realistic strategy and one that was in fact implemented with the support of the city's managing director.

In the early months of the task force's existence, KAN representatives requested "saturation" patrolling by fire marshals in Kensington.<sup>13</sup> However, when city officials pointed out that this would have required assignment of 52 full-time fire inspectors to the KAN area, more than were authorized for the entire city, KAN was willing to settle for more realistic program strategies. It withdrew the demand for saturation patrolling and negotiations proceeded more smoothly toward an achievable and acceptable level of city commitment to the area. The task force began to focus its arson prevention strategy on intensive action by the Department of Licensing and Inspection to clean and seal high-risk abandoned buildings within agreed-upon time limits.

City agencies operate under legal and fiscal limitations that may be frustrating to community groups seeking their cooperation. Community residents should not necessarily accept all limitations as given and immutable. Effective neighborhood organization and pressure can and does achieve significant changes in public policies: KAN's success in winning the city's commitment to address the vacant building problem in Kensington is a good example. The group staged demonstrations at vacant buildings it considered arson-prone and effectively called attention to the city's lack of prompt corrective action. By mobilizing community support, political influence, and media attention, KAN got the city to begin taking action on vacant buildings.

Community groups' strategies should always be guided by a realistic assessment of what is achievable. For example, the Providence Arson Prevention Unit (APU) has experienced difficulties in obtaining a regular line-item budget. SWAP and other community groups in Providence decided that this was a necessary, as well as an achievable, goal. Thus, rather than becoming frustrated and withdrawing their support, the groups have continued to work diligently but patiently for the institutionalization of the APU. Governments take time to operate. There are appropriate times for pressure and for pa-

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tience. However, unless government officials are manifestly insincere or adamantly unwilling to cooperate, little is to be gained by withdrawing from or denouncing the effort to develop cooperation.

Similarly, government agencies should not have unrealistic expectations of community groups. Volunteer labor is critical to the success of almost all community-based efforts, but such labor must be carefully planned and allocated, with appropriate training and supervision provided.<sup>14</sup> Public officials tend to believe that community groups have an unlimited amount of free labor to contribute to arson prevention programs. This was the case in Providence, where the fire department assumed that community groups would be able to provide virtually all of the labor to collect and enter data for the city's Arson Information Management System (AIMS), involving hundreds of hours of work. Community group members are often deeply committed to the cause of arson prevention, but they also have jobs and families and cannot be expected to supply unlimited amounts of free labor. This misperception seriously undermined the AIMS program in Providence.

### *Credibility*

One of the principal reasons for the cooperation achieved by the Kensington Arson Prevention Task Force and the Providence Anti-Arson Coalition is the sincerity and credibility of the commitment to arson prevention made by both community groups and public agencies in the two cities. Once this commitment became clear, the barriers of resentment and suspicion were markedly eased. Below, we provide specific examples of how both sides succeeded in demonstrating credibility.

#### *◦ What Community Groups Can Do*

Government agencies commonly believe that a primary intent of community groups is to make them look bad in the eyes of the public. Community-based organizations have been most successful in developing cooperative arson prevention programs with public agencies when they successfully counteract this perception.

By championing the creation of the Providence Arson Prevention Unit, SWAP demonstrated its commitment to working constructively with the city and supporting city efforts to combat arson. The group further demonstrated its dedication to the cause of arson prevention, its knowledge of the issues, and its ability to use the political process by lobbying extensively with city officials to institutionalize the APU's budget, working to find a solution to the problems posed by the different work schedules mandated in the fire and police labor contracts, and helping to draft and thereafter lobbying for key anti-arson legislation.

Conference planning can also provide an opportunity for community

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groups to demonstrate a sincere commitment to cooperative arson prevention efforts. In Providence, community residents and APU investigators worked together to plan and conduct a two-day conference on arson. They jointly prepared the workshops and developed the profiles of arson-prone properties that served as the focus of discussions. APU staff were also asked to chair several of the workshops. Each session consisted of in-depth discussion of one or two profiles and on development of cooperative, interagency intervention strategies for each property. Members of the Anti-Arson Coalition believe that this cooperative approach to planning and conducting the conference served to initiate and enhance productive working relationships.

In Philadelphia, KAN demonstrated its sincerity and credibility to city officials by conducting extensive research on arson in Kensington and producing a slide show graphically portraying the area's problems. An outside expert was brought in to confirm the magnitude of the arson problem and to suggest specific ways to address the problem. Government agencies are likely to be more responsive to groups that familiarize themselves with a particular issue before presenting a list of demands. By arriving at meetings prepared to discuss the issues in detail, KAN gained the respect of the municipal officials.<sup>15</sup>

A step further in the process of securing cooperation is the demonstration of a willingness to act on particular problems. Community efforts to prevent arson in Providence began with the Fourth of July fire watches, and SWAP and other community groups have since worked with the fire department to dramatically reduce the incidence of fires on this holiday. According to the department's chief, the fire watch was successful because "the people decided to take back their neighborhoods." This commitment and effort on the part of community residents helped to pave the way for more formalized and ongoing programs of public-private cooperation in arson prevention in Providence.

Community groups may offer a range of assistance to public agencies, particularly in times of limited public resources.<sup>16</sup> Providence Anti-Arson Coalition members offered their assistance to the fire department in surveillance of arson-risk properties on occasions other than the Fourth of July fire watch. APU staff have expressed misgivings about involving community people in potentially dangerous criminal investigations. This concern may be addressed through the development of guidelines for citizen involvement in such activities.

A much less controversial but extremely useful form of assistance that community groups can provide to municipal arson units and other agencies is to relay information from residents who are unwilling to speak directly to public officials or who do not know the appropriate official to contact. Residents often have valuable information both on high-risk properties and

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on arson fires. Moreover, studies of community crime prevention programs suggest that as soon as the number of cooperative relationships between neighborhood groups and public agencies grows, citizens may become more willing to provide information directly to public officials.<sup>17</sup>

◦ *What Public Agencies Can Do*

Public agencies have demonstrated changes in attitude and policy that have helped to promote improved working relationships with community groups. Perhaps most critical is the development of genuine receptivity to neighborhood concerns and a belief that individual citizens and community groups have a critical role to play in all crime prevention programs. The police and fire departments and other agencies of government simply cannot — nor should they be expected to — do the job alone.<sup>18</sup> Underlying these attitude changes is the growing belief among public officials that it is possible to prevent arson by identifying and intervening in high-risk situations, and to control arson through improved after-the-fact investigation, prosecution, and deterrence.

The ability to admit mistakes or errors in judgment is also crucial to becoming more open to community input. Fire officials in Philadelphia now understand the importance of admitting that “we don’t know it all” and that “we don’t lose face” by being receptive to ideas and suggestions from the neighborhoods. On the contrary, these officials now firmly believe that the communities can help the department to do its job more effectively.

There are a number of ways in which public agencies can actively demonstrate to community groups that they are sincerely committed to a cooperative arson prevention program. First, and most basic, officials should be willing to meet regularly with community groups and residents to discuss mutual concerns and possible strategies. Delays in obtaining meetings may anger and frustrate community groups sincerely interested in dialogue and cooperative action. Second, community residents respect officials who provide timely and accurate information — such as arson incidence statistics, investigative clearance rates, and numbers of vacant properties — in response to reasonable requests. Attempts to withhold or conceal information or to deceive groups with inaccurate or incomplete information obviously lead to suspicion and mistrust.<sup>19</sup>

Third, as the chief of Providence’s Department of Inspections and Standards pointed out, public officials who “do their homework” on neighborhood issues gain credibility in the eyes of local residents. In his department’s case, this means not only doing timely and complete building inspections, but also talking to local residents to learn about neighborhood concerns and information of potential value to arson prevention efforts.

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Fourth, residents appreciate it when officials are receptive to, and take action on, information they provide. While in some cases such information may be unreliable or of little value, in other cases it may be extremely useful. A willingness to assess and act on neighborhood information objectively is critical to real cooperation. Resource constraints sometimes limit what can be done, but when reliable information is received, forceful action should be taken. Public arson control units often argue that surveillance of properties considered to be at high risk of burning is too resource-intensive and therefore impractical. However, surveillance may be appropriate when there is very strong information that a property will burn during some reasonably circumscribed period—say, one to two days.

Fifth, community groups react negatively to agencies' arguments that they are powerless to act because of legal or bureaucratic problems, if such assertions are intended simply to delay response and frustrate neighborhood mobilization.<sup>20</sup> Cooperative efforts are enhanced if public agencies are willing to clear away "red tape" and try innovative arson prevention strategies. In Philadelphia, the Department of Licensing and Inspection changed regulations so that three-month contracts could be made with firms to clean and seal vacant properties instead of requiring a separate competitive procurement for each job. This change has made it possible to get buildings cleaned and sealed much more quickly.

In both Providence and Philadelphia, community group members praise the fire departments' "practice runs" to high-risk properties. These involve arriving at a property with fire equipment and walking through a mock fire suppression activity: "so we will be ready just in case there's a fire." In general, fire departments in the two cities have also been increasingly willing to make direct contact with owners of high-risk properties to make them aware that they are being watched. Community groups are particularly interested in this type of intervention because they believe that public agencies have much more power to influence owners than do private organizations or individuals. However, there have been some legal obstacles in the way of contacting owners. For example, the Philadelphia city law department believes that sending letters to owners of high-risk properties notifying them of code violations or otherwise signaling "interest" in the property may be an unwarranted selective notification—in other words, the city would have to so notify all violators. It would seem that some way around this problem could be found—perhaps through an insurance disclosure law, such as now exists in Massachusetts, which explicitly permits authorized agencies to request insurance information in writing from property owners. Such a written request constitutes an effective notification to the owner that the property is considered an arson risk. (The Massachusetts law and its enforcement are discussed in Chapter 4 below. A copy of the law is provided in Appendix B.)

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Sixth, public agencies demonstrate commitment and establish credibility with residents if they make diligent efforts to enforce existing laws related to arson prevention and work for improvements in such laws. For example, many jurisdictions have insurance disclosure laws and laws or ordinances requiring owners to pay back property taxes and/or other charges out of insurance proceeds (municipal lien laws). However, due to resource constraints and other problems, these laws are often not enforced. Sometimes, improvements can be made in the laws to facilitate their enforcement (as in the Massachusetts insurance disclosure law), but in other situations creative enforcement strategies are necessary. For example, notifications regarding insurance disclosure laws can be sent out in utility or tax bills.

Clearly, then, the development of effective arson prevention partnerships requires each side to have realistic expectations of the other and establish its sincere commitment and credibility as a partner. In the words of one SWAP member,

*City officials should not underestimate the strength of community groups; government agencies invariably have more work to do than they have time for, which means that community groups must invest time defining what should be a reasonable response from the city; community groups need to establish their credibility in terms of their own ability to be reasonable and knowledgeable, and in terms of offering their assistance wherever possible.*

### *Political Power and Influence*

With complicated and often highly politicized subject such as arson prevention, success depends not only on sincerity and credibility, but on the ability of both sides to exert as much power and influence as they can in support of desired program goals. The three key components of power and influence are: community support, political leadership, and media attention.

#### *◦ Community Support*

Broad community mobilization is essential to winning cooperation from public agencies. Arson-prone areas often display the characteristics of neighborhoods that are difficult to mobilize.<sup>21</sup> However, in the Kensington area of Philadelphia and in the Elmwood area of Providence, existing and vigorous community organizations that had been formed for other purposes were ready to respond to the arson problem. Established multi-purpose community organizations are usually considered the best organizers of community crime prevention programs. More specifically, it has been shown that housing rehabilitation and housing improvement programs can effectively spawn, and in turn be further strengthened by, arson prevention programs.<sup>22</sup> This section discusses key strategies for community mobilization for arson preven-

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tion programs: education and outreach, emphasis of concrete issues with immediately visible results, and tenant organizing.

KAN's mobilization efforts employed three components of outreach and education stressed by crime prevention researchers: building awareness of the problem, tapping the feelings and experiences of individual residents, and offering meaningful tasks for residents to perform.<sup>23</sup> In the initial stages of its efforts, KAN established a community arson education program designed to develop a diverse and dedicated constituency. Outreach and education efforts were undertaken on about 300 blocks in Kensington. An arson prevention poster contest was also held in local schools. Among other projects, KAN held neighborhood meetings, made presentations to senior citizens groups, and used local newspapers to educate residents on the indicators of arson risk. KAN effectively applied the principle that community mobilization is much more rapidly achieved by "organizing organizations" rather than focusing on recruiting individuals.<sup>24</sup>

At the same time, KAN encouraged and provided a forum for individual residents to voice their concerns and describe their particular experiences with arson fires and/or properties at risk of being burned. Finally, KAN established efficient lines of communication for residents to perform meaningful tasks such as reporting information on possible arson-prone properties. A simple form designed by KAN for this purpose was printed in the local newspaper (see Exhibit 2.3). This proved to be a successful strategy; community residents used the forms to refer numerous properties to the program.

Community organization and educational efforts appear to be most effective in gaining sustained support when they focus on concrete issues with immediately visible results. In a study of community group activity in Baltimore neighborhoods, Crenson found that one group selected a vacant and deteriorated building as "a tangible focus for neighborhood dissatisfaction, an occasion for making demands of political authorities, and an opportunity for local residents to fight city hall and win." The group's success in obtaining prompt city action to repair the property won a nucleus of committed new activists to the larger cause of neighborhood improvement.<sup>25</sup>

Similar strategies have been effective in arson prevention. Indeed, KAN organizers draw a distinction between the arson problem in general, and the problem of vacant buildings in particular. Their experience suggests that it is often easier and more successful to mobilize community pressure around the need to clean and seal particular vacant buildings than to expect residents to sustain pressure on city officials to improve overall arson control efforts after fires have occurred. Mobilizing sustained pressure to solve arson cases can be difficult because the chances of making an arrest and obtaining a conviction are so low in any one case. Residents may be angry and committed

Exhibit 2.3

Stop Wasting Abandoned Property (SWAP)  
Form for Reporting Arson-Prone Properties

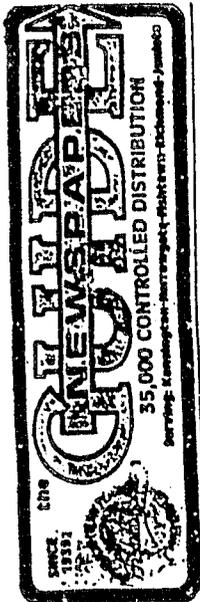
**Stop ARSON!!**

**SAVE YOUR CHILDREN!!!**

IN 1982, FORTY PERCENT OF THE FIRES IN KENSINGTON HAVE BEEN THE RESULT OF ARSON YET THE CITY SAYS WE HAVE NO ARSON PROBLEM!!

**What do you think??**

IF YOU THINK ARSON IS A PROBLEM IN KENSINGTON—DO SOMETHING!! FILL OUT THE FORM BELOW BY VISITING BUILDINGS IN YOUR AREA AND ANSWER AS MANY QUESTIONS AS POSSIBLE. CALL THE KAN OFFICE FOR HELP—426-5705.



Property Address: \_\_\_\_\_

Property	Yes	No
1. Vacant		
2. Open		
3. Trash Filled		
4. Building Code Violation		
5. Frequent/Recent Ownership Change		
6. Mortgage Delinquent		
7. Water Taxes OWED		
8. Insurance Changed		
9. Property Taxes Owed		
10. Liens Against		

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

**TO STOP KENSINGTON FROM BURNING CALL:**

**KENSINGTON ACTION NOW—  
ARSON PREVENTION/EDUCATION/  
REINVESTMENT PROGRAM  
3160 FRANKFORD AVE.  
PHILADELPHIA, PA 19134  
426-5705**

**Arson costs money and lives!!**

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for a period of time after a fire occurs, but if the case is not quickly solved, community interest and pressure may dwindle.

By contrast, when pressure succeeds in promoting concrete and immediately visible action, it helps to build and sustain community-wide support for the whole program. Concentrating organizational efforts on concrete goals that stand a reasonable chance of being achieved is also important for purposes of building and sustaining momentum. Community crime prevention efforts have been most successful in maintaining motivation and momentum when they focus on series of small steps and provide participants regular tastes of success, particularly in the early stages.<sup>26</sup> When success is achieved, it is important to praise and publicize the volunteer efforts of local residents, and encourage others to volunteer so further successes may be achieved.<sup>27</sup>

Tenant organizing can be effective in mobilizing communities around arson prevention goals, particularly in areas where most residents live in large apartment buildings and where many such properties are at high risk to arson. This is not the case in Kensington, for two reasons: arson has primarily hit vacant commercial properties, and most residents live in single-family dwellings. However, in the Flatbush section of Brooklyn, the Flatbush Development Corporation's Arson Prevention Project has made extensive use of tenant organizing to secure needed improvements in the management and physical condition of properties, thus abating the risk of arson. (The Flatbush project's efforts to develop cooperative relations within insurers are described in detail in Chapter 3.) The program employs full-time tenant organizers who meet with resident of at-risk buildings to assist them in organizing to pressure the owner and city agencies to take corrective action. Though FDC's staff is much too small to organize tenants in all high-risk buildings in its target area, and its organizing efforts have failed in some buildings, the group has achieved some significant successes. FDC has assisted tenants to take control of their buildings through city programs and, in so doing, to develop much stronger stakes in improving the conditions of those buildings.

The focus of tenant organizing is very different from that of other community mobilization strategies. While KAN in Kensington stressed organizing around particular vacant properties, staff of the Flatbush Development Corporation Arson Prevention Program feel that organizing tenants solely around the danger of arson would be an overly narrow and ineffective approach. Arson prevention is mentioned as a goal of the organizing process, but organizers stress the overall improvement in quality of life to be gained from upgrading physical surroundings. These broader arguments are much more powerful in sustaining tenant commitment and action. This strategy incorporates three principles found to be important in studies of community

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mobilization: first, the notion that groups can attract a broader constituency by "expanding the scope of conflict," in this case from preventing arson to upgrading the conditions of housing in the area; second, the importance of addressing the root causes of and the opportunities for crime, in this case the general neighborhood deterioration that is so often associated with arson; and third, the desirability of playing on the opportunity for improvement more than on the fear of crime.<sup>28</sup>

◦ *Political Leadership*

As much if not more than other municipal programs, arson control is enmeshed in the complex process of local politics. Thus, to succeed in attaining its arson prevention goals, community groups and city agencies must identify and enlist key supporters and use political pressure to their advantage.

Legislative and mid-level agency support is important, but in most instances the support of one or more high-level officials is vital as well. It is particularly important to cultivate relationships with agency heads and other top officials who believe in arson prevention and are committed to community involvement. The experience of KAN and the Kensington Arson Prevention Task Force well illustrate this point. An element of luck and KAN's skill in identifying and targeting just the right official to provide the desired city commitment combined to produce almost irresistible support for establishment of the Task Force.

At the time that KAN began pressuring the city to take action against arson in Kensington, W. Wilson Goode was the city's managing director. In Philadelphia, the managing director oversees the "service departments" of city government, including those most important to arson prevention: the fire, police, and Licensing and Inspection departments. Goode had long been committed to establishing programs with significant community participation and input. Thus, KAN's proposal for a joint community-government task force to fight Kensington's serious arson problem immediately interested him. Because Goode was also about to launch his campaign for mayor, he was in the perfect position to direct the establishment of an arson prevention task force. He was also already interested in the problem and committed to community participation, and support of the plan served his political purposes. According to KAN leaders and city officials, Goode's support was "absolutely vital" in the drive to establish the task force. As mayor, Goode has maintained his support and announced his intention to expand the task force concept to the entire city. His support has been critical both to KAN and other community groups and to other city officials who are committed to cooperative arson prevention programs.

The fortuitous political situation in Philadelphia at the time KAN began its efforts may have been unique. However, if other groups can time their

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approaches to coincide with political campaigns, they would be well advised to do so. They should also concentrate on institutionalizing cooperation and information-sharing through laws, ordinances, and regulations so that their arson control efforts are not vulnerable to turnovers in personnel or administrations or to changing relationships with individual officials.

Community mobilization efforts have also often effectively practiced "government hopping"—that is, involving officials from state and federal government who might have jurisdiction in a particular problem area—if local officials fail to respond.<sup>29</sup> State legislatures, offices of state attorneys general, the United States Department of Housing and Urban Development, and the federal Bureau of Alcohol, Tobacco and Firearms are only a few of the state and federal agencies whose involvement might be sought by local residents in various aspects of arson Prevention and control. Involving state and federal officials might also be useful as a way of reducing dependence on the support and cooperation of particular local officials.

Coalitions of neighborhood organizations may be particularly effective in building and wielding political influence. The Providence Anti-Arson Coalition has grown into an organization of numerous community-based groups. Through a "networking" process, the AAC has developed and cultivated middle-level contacts in key city agencies. Being a broad-based neighborhood coalition has further helped the AAC because it means that each member organization has its own contacts in the legislature and in various public agencies.

#### ◦ *Media Attention*

Community mobilization efforts have frequently used the media to present community views and build the image of community groups. Researchers stress the value of visible rallies and demonstrations, as well as exploiting opportunities for free air-time, such as television editorials and editorial replies.<sup>30</sup>

The benefit of media attention to community arson prevention programs is by no means limited to mobilizing internal support. Indeed, KAN and other groups have assiduously cultivated newspaper, radio, and television attention in order to build pressure on the government and the city at large to take action. Extensive press coverage and other publicity have been critical elements in KAN's success. The group worked hard to develop credibility with the media and to obtain enough coverage to keep the area's problems in the public (and governmental) eye. The media connections have been developed to the point where, in the words of a KAN leader, "whenever there's a serious fire in Kensington, the newspapers, TV and radio stations automatically call us."

In Providence, SWAP and the Anti-Arson Coalition, as well as the

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Arson Prevention Unit, encouraged and cooperated closely with a local newspaper reporter preparing an in-depth series on arson in the city. The series, which was published in May 1985, documents the extent of the city's arson problem and names the alleged members of arson-for-profit rings responsible for many serious fires in the past five years. Citizens and fire officials alike understand the potential impact of such spectacular publicity in sparking increased governmental commitment to arson control programs.

Publicity and media attention are important for another reason. In the words of one SWAP member, because "[i]t is often hard to quantify the losses which these kinds of programs prevent, we must make the larger community aware of our activities and progress" in dramatic ways.

### *Persistence*

Setting realistic goals, demonstrating sincerity, establishing credibility, and mobilizing community support and political influence will go far toward achieving cooperative arson prevention programs. However, as is clear to all community groups and public agencies that have attempted to develop such programs, the importance of persistence cannot be over-emphasized. Working to achieve productive and cooperative relations with city officials can be tremendously frustrating, and groups should be prepared for constant negotiations.<sup>31</sup>

Even after initial commitments to cooperate have been obtained, there may be hard work ahead to ensure that all parties live up to those commitments. KAN representatives reported that it took at least five task force meetings before feelings of suspicion and resistance began to weaken. An important factor in the city agencies' increasing willingness to make a genuine commitment to the Task Force was their realization that the community group was "not going away." Both top fire department officials and KAN representatives attest to the importance of the community's persistence in the success of the Task Force. A deputy fire commissioner offered this opinion of KAN: "They're tough; there's no doubt about it. I've got a lot of respect for them." One of the longtime leaders of KAN's arson Prevention efforts emphasized that "[a] lot of people start with something, and they think they can wave a magic wand and make it happen. But you've got to stick with it."<sup>32</sup>

### *Compromise*

The experiences of KAN clearly demonstrate that one of the most important ingredients in productive working relations between community groups and city agencies is a spirit of mutual understanding and realization of shared goals. Although toughness and persistence are still critical qualities for community organizations, openly confrontational attitudes and tactics are almost always counter-productive.

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A willingness to compromise on issues may be a particularly effective way to demonstrate a cooperative spirit. For example, KAN's concession to the fire department's request that regular task force meetings be held at a local fire station rather than at KAN's offices (a more "neutral" location) allowed the meetings to continue uninterrupted and cleared a potentially serious barrier to cooperation.

In addition, KAN and fire department representatives initially differed on the criteria for designating high-risk properties. KAN wanted to rely almost completely on the subjective perceptions of neighborhood residents, while city officials wished high-risk designation to be based on a combination of objective factors. However, both sides were willing to compromise on a system that would draw on both objective factors and neighborhood residents' perceptions.

## Conclusion

This chapter discusses a key building block in comprehensive arson prevention and control programs: cooperation between community groups, who have large stakes in arson prevention and much valuable assistance to offer, and public agencies, who are officially charged with responsibilities for arson control. Though long-standing barriers of suspicion and mistrust may stand between these two factions, two groups in particular, Kensington Action Now/Kensington Arson Prevention Task Force in Philadelphia and Stop Wasting Abandoned Property/Anti-Arson Coalition in Providence (Rhode Island), have made significant progress in developing cooperative relations and designing programs with real promise for preventing arson. The experiences of these programs suggest that the following ingredients are critical to success: realization of shared objectives; development of realistic strategies; establishment of credibility; mobilization of political power and influence (the key components of which are community support, political leadership, and media attention); demonstration of persistence; and willingness to compromise.

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## Footnotes

1. Judith D. Feins, *Partnerships for Neighborhood Crime Prevention*, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1983.
2. Paul J. Lavrakas, "Citizen Self-Help and Neighborhood Crime Prevention Policy," in Lynn A. Curtis-ed., *American Violence and Public Policy: An Update of the National Commission on the Causes and Prevention of Violence* (New Haven: Yale University Press, 1985), p. 103; Howard W. Hallman, *Neighborhoods: Their Place in Urban Life* (Beverly Hills, Calif.: Sage Publications, 1984), p. 272.
3. Philadelphia *Inquirer*, February 28, 1985.
4. As noted in the preface to this report, we are not able to cover in detail the various factors and procedures that may be used in so-called "arson early warning systems." However, there is an extensive literature on this subject. See, for example, Royer F. Cook and Janice A. Roehl, *Preventing Crime and Arson: A Review of Community-Based Strategies* (Washington: Institute for Social Analysis, 1983), pp. 46-53; Royer Cook, "Predicting Arson," *Byte* (October 1985), 239-245; Richard Ku, Theodore M. Hammett et al., *Arson Control: A Synthesis of Issues and Strategies Based on the Arson Control Assistance Program* (Report submitted to the Law Enforcement Assistance Administration, U.S. Department of Justice, November 1981), pp. 169-182. The latter report is available from the National Criminal Justice Reference Service, Rockville, Maryland.
5. Hallman, *Neighborhoods*, p. 272.
6. Kenneth R. Greene, "The Impact of Agency and Individual Decision Rules on the Delivery of Urban Services," Paper presented at the Annual Meeting of the Midwest Political Science Association, Chicago, 1979, quoted in Clarence N. Stone, "Systemic Power in Community Decision Making: A Restatement of Stratification Theory," *American Political Science Review* 74 (1980), p. 986.
7. See, for example, Stone, "Systemic Power."
8. Lavrakas, "Citizen Self-Help and Neighborhood Crime Prevention Policy," pp. 103-104.
9. On the reluctance of police to release neighborhood crime statistics and information to citizens, see Paul Lavrakas, Dennis Rosenbaum and Frank Kaminski, "Transmitting Information about Crime and Crime Prevention to Citizens: The Evanston Newsletter Quasi-Experiment," *Journal of Police Administration*, 11(1983), pp. 463-4.

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10. See, for example, Jeffrey R. Henig, *Neighborhood Mobilization: Redevelopment and Response* (New Brunswick, N.J.: Rutgers University Press, 1982), pp. 181-183, 199-200; Matthew A. Crenson, *Neighborhood Politics* (Cambridge, Mass.: Harvard University Press, 1983), pp. 242-243.
  11. Lavrakas, "Citizen Self-Help and Neighborhood Crime Prevention Policy," p. 107.
  12. Hallman, *Neighborhoods*, p. 152.
  13. This approach has apparently been effective in reducing arson and increasing arrest rates in several New York City neighborhoods that had severe arson problems. Fire Department, City of New York, "REDCAP Program: Executive Report" (New York, 1981).
  14. Feins, *Partnerships for Neighborhood Crime Prevention*, pp. 133-134; Hallman, *Neighborhoods*, pp. 150-151.
  15. Research on other types of community-based action establishes the strategic importance of systematic information-gathering in advance of seeking action from government agencies. Officials are more likely to listen and respond when they are presented with the facts. Lavrakas, "Citizen Self-Help and Neighborhood Crime Prevention Policy," p. 106.
  16. Hallman, *Neighborhoods*, p. 273.
  17. Feins, *Partnerships for Neighborhood Crime Prevention*, p. 27.
  18. Lavrakas, "Citizen Self-Help and Neighborhood Crime Prevention Policy," pp. 103-104; Hallman, *Neighborhoods*, p. 273.
  19. Researchers have found that controlling and manipulating information is a common strategy of public agencies when faced by community-based action. Henig, *Neighborhood Mobilization*, p. 203.
  20. Such tactics have been deliberately -- and successfully -- employed by public officials faced with neighborhood opposition to redevelopment plans and other community action. Henig, *Neighborhood Mobilization*, p. 203.
  21. Researchers have found that mobilization is most difficult in racially or ethnically fragmented neighborhoods where residents lack political connectedness and a tradition of community action. Henig, *Neighborhood Mobilization*, p. 197; Lavrakas, "Citizen Self-Help and Neighborhood Crime Prevention Policy," p. 109; Crenson, *Neighborhood Politics*, pp. 242-243. To the extent that fragmented neighborhoods take action against disorder, crime, or other social problems, it is likely to take the form of informal and internal activity, with little attempt to involve public agencies or other outside forces.

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- By contrast, neighborhoods which display internal social solidarity are more likely to take collective action against outside threats and to seek action by outside agencies. Crenson, *Neighborhood Politics*, p. 256.
22. Feins, *Partnerships for Neighborhood Crime Prevention*, pp. 25-27.
  23. Feins, *Partnerships for Neighborhood Crime Prevention*, p. 24.
  24. Henig, *Neighborhood Mobilization*, p. 191.
  25. Crenson, *Neighborhood Politics*, p. 249.
  26. Lavrakas, "Citizen Self-Help and Neighborhood Crime Prevention Policy," p. 107.
  27. Hallman, *Neighborhoods*, pp. 150-151.
  28. Henig, *Neighborhood Mobilization*, p. 191; Lavrakas, "Citizen Self-Help and Neighborhood Crime Prevention Policy," p. 109.
  29. Henig, *Neighborhood Mobilization*, p. 191.
  30. See, for example, Lavrakas, "Citizen Self-Help and Neighborhood Crime Prevention Policy," p. 106; Crenson, *Neighborhood Politics*, p. 250; Henig, *Neighborhood Mobilization*, p. 191.
  31. Skill in negotiations has been recognized as an important skill for all community activists. Hallman, *Neighborhoods*, p. 153.
  32. Philadelphia *Inquirer*, March 4, 1985.
  33. Studies of various types of community mobilization have found that joint action with public agencies is necessary to solve immediate problems and to build the foundation for future cooperative efforts. Although there is continuing debate on the relative effectiveness of confrontation and compromise in dealing with public agencies, studies have found that a willingness and ability to compromise has resulted in significant progress by community groups on a number of issues. Hallman, *Neighborhoods*, pp. 152-153, 252; Crenson, *Neighborhood Politics*, pp. 248-249.

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## **Chapter Three**

### **Cooperation with Insurers: Programs and Legal Initiatives**

Chapter Two discussed the importance of cooperation between community groups and public agencies in the achievement of comprehensive arson control programs. Cooperation between these groups and the insurance industry is also a critical building block in the development of a comprehensive anti-arson approach. This chapter discusses ways to bring insurance companies into full partnership in the fight against arson.

The insurance industry suffers heavy losses from arson: annual claim payments for arson fires amount to millions of dollars. One study estimated that payments for arson-for-profit fires alone amounted to \$440 million in 1982.<sup>1</sup> Investigating and defending against suspected arson fraud claims add significantly to the cost of arson. These costs are passed on to the consumer in the form of higher insurance premiums. At the same time, because of the deregulation and diversification of the financial services industry and because of spiraling underwriting losses in recent years, there has been a marked increase in competitive pressure in the property-casualty insurance business. Thus, this should be a particularly auspicious time for cooperative anti-arson efforts among community groups, public agencies, and insurance companies.

The basic objectives of the programs and legal initiatives described in this chapter are to improve information exchange both before and after arson fires occur. Before a fire occurs, insurers may be able to use information regarding increased arson risk to a covered property by taking action to abate the risk or, if this fails, cancelling the policy, thereby removing or reducing the owner's arson-for-profit motive. In some cases, notifying an

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owner that an arson prevention program or an insurance company is concerned about the condition of a property may be enough to deter arson. A key factor in the success of cooperative programs with the insurance industry is to convince companies that participation in the proposed program will be of real benefit to them.

Improved post-fire information exchange and investigative cooperation aims for concentrating investigative resources on suspected arson cases to increase the possibility of a criminal conviction or a favorable outcome in a civil action. Legal initiatives, such as Arson Reporting-Immunity Laws, are particularly important to post-fire information exchange between law enforcement agencies and insurance companies. Our survey of insurance claims staff and public arson investigators identified a number of valuable categories of information exchange that have been facilitated by the Immunity laws. For example, insurance companies can furnish law enforcement agencies with loss reports and sworn statements and depositions made by the insured and other parties to the loss. Such documents are often useful, particularly if inconsistencies or contradictions are found between these documents and other information provided to law enforcement officials by the same individuals.

Once they decide to pursue a case aggressively, insurers also have access to greater investigative resources than public arson investigative units. In particular, insurers can:

- afford expensive investigative and scientific experts to perform fire scene examinations and to consult on electrical, engineering, and building construction issues;
- spend more time and money on document analysis and investigation into the financial condition of suspected arsonists, information often critical to establishing a motive for arson; and
- afford more sophisticated and efficient laboratory services than are available from understaffed and underequipped law enforcement laboratories.

Another advantage enjoyed by insurance investigators is their greater latitude in the questions they can ask property owners, witnesses, and other parties. According to law enforcement officials, insurance investigators are much freer to elicit incriminating information because they are not subject to the kinds of stringent legal restrictions that are placed on police. One public arson investigator made the point bluntly: "insurance people can ask questions I wouldn't dare ask." Moreover, according to some of our survey respondents, persons with valuable information may be more willing to talk to insurance investigators than to law enforcement officers. This is particularly

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the case with individuals who feel that they may have committed a crime or are simply fearful of getting involved with the police.

Insurers also stand to benefit from information held by law enforcement agencies. However, insurance claims staff generally assert that they receive far less information from law enforcement officials than they provide. This seems to be true even in states with so-called "reciprocity" provisions in their Arson Reporting-Immunity laws. Many insurance respondents noted that they would like to receive more information from public investigators and pointed to instances in which such information had been very valuable in civil litigation involving defense against fraudulent claims. In one instance, public arson investigators provided information on the financial troubles of a property owner without which the company would not have gone forward to defend against the claim.

In sum, information exchange among community groups, law enforcement officials, and insurance companies can be beneficial to all parties concerned and can help in providing a foundation for comprehensive and cooperative arson control programs. This chapter discusses some of the persistent problems in developing cooperative anti-arson programs with insurers and documents strategies and legal initiatives that can succeed in overcoming those problems.

## **Introduction to Programs and Legal Initiatives**

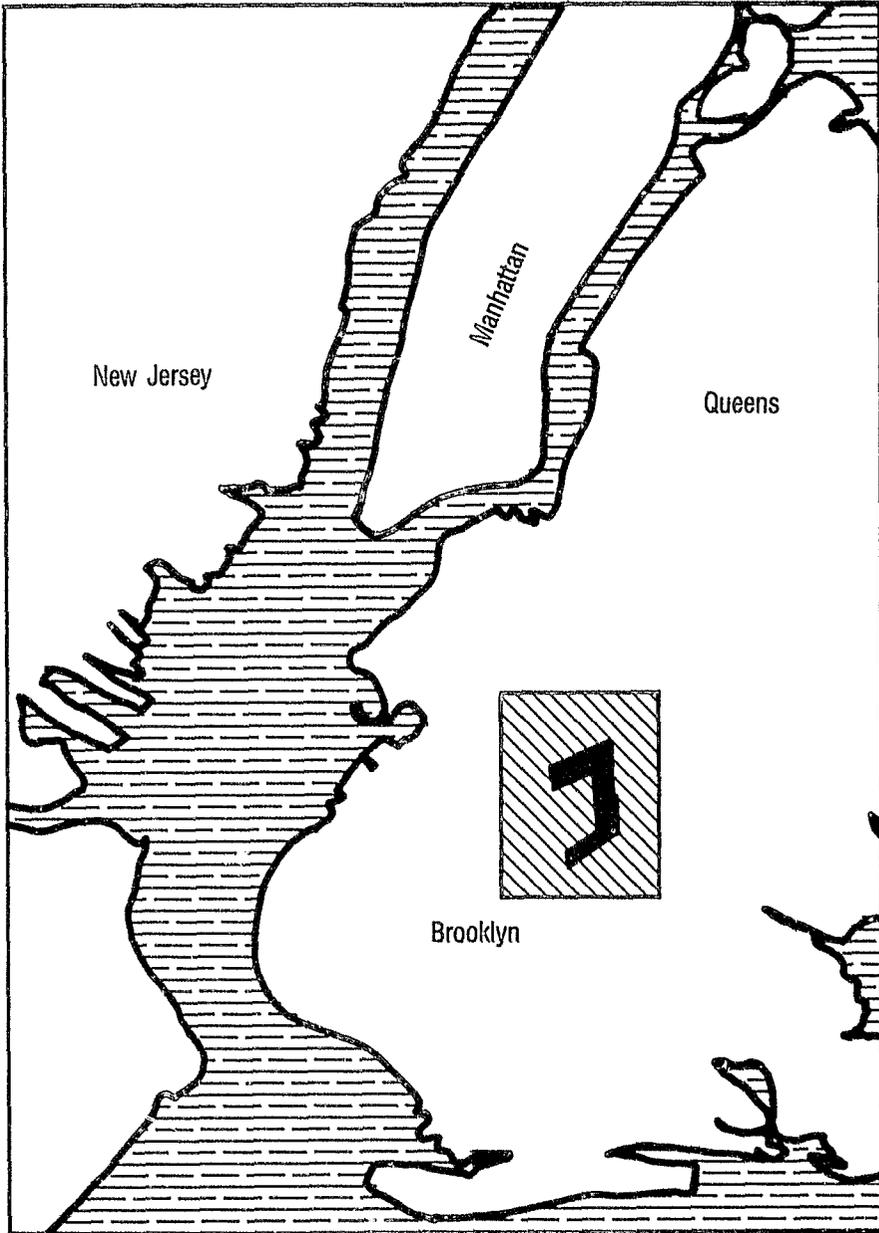
Two programs have achieved significant success in working with insurance companies to prevent arson—the Flatbush Development Corporation's Arson Prevention Program in Brooklyn, New York and the San Francisco Fire Department's Arson Early Warning System. The Flatbush and San Francisco programs are similar in that they both attempt to identify buildings at risk of arson and then refer those properties to their insurers for action to abate the risk. The programs differ in their institutional locus, geographic scope, and methods of identifying at-risk properties.

### *Flatbush Development Corporation Arson Prevention Program*

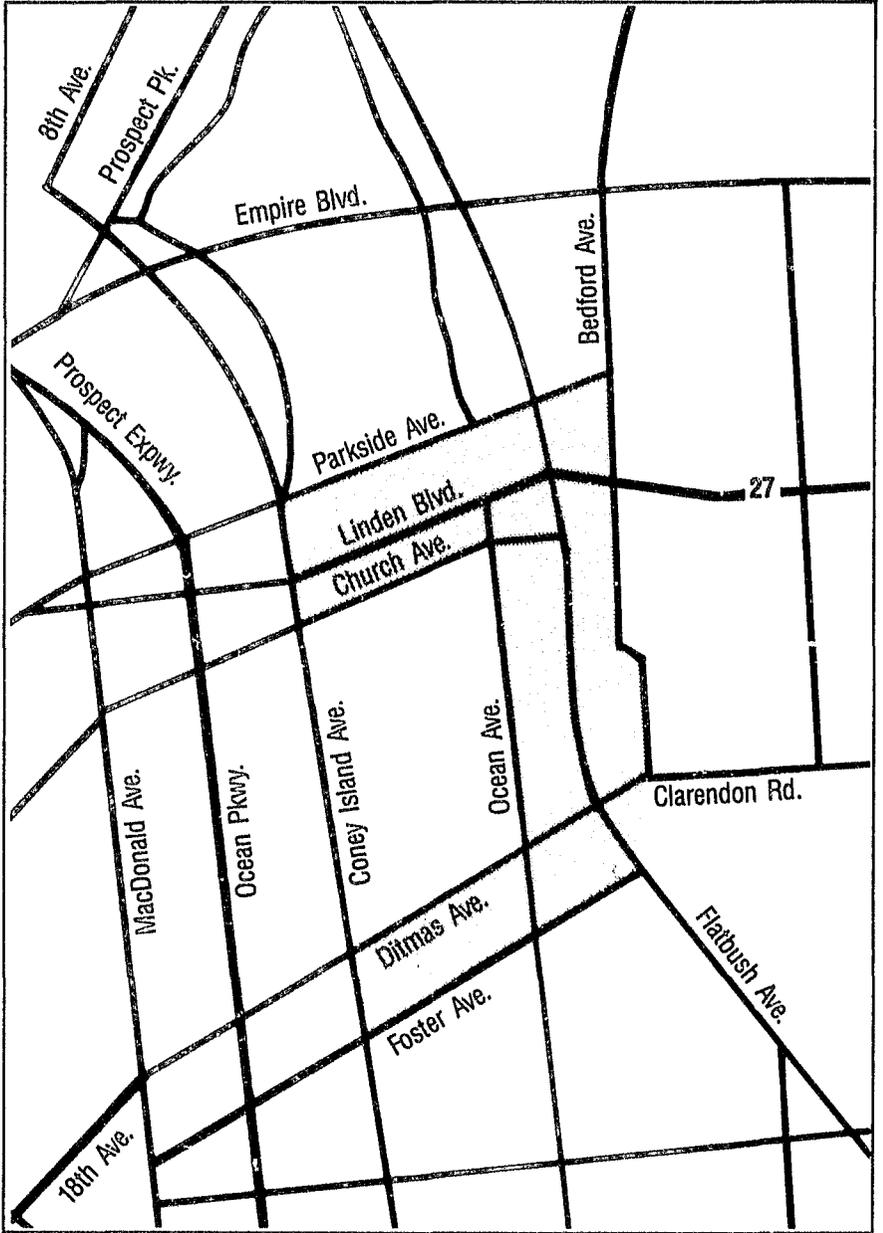
The Flatbush Development Corporation (FDC) is a community organization that conducts a wide variety of housing, economic development, and crime prevention activities in a residential area of Brooklyn, New York that includes both stable middle-class neighborhoods and deteriorating arson-prone neighborhoods. (See Exhibit 3.1.) Since 1980, the Flatbush Development Corporation's Arson Prevention Program has received funding from numerous sources, including the Ford Foundation (\$340,000 in 1982 to 1986); Community Development Block Grants (\$90,000 in 1980 to 1983); the U.S. Fire Administration's Federal Emergency Management Agency (\$35,000 in

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**Exhibit 3.1**  
**Map of Brooklyn Showing**  
**Flatbush Development Corporation (FDC) Target Area**



**Exhibit 3.1 (continued)**  
**Enlargement of Shaded Area Shown on Previous Page**



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1985 to 1986); Action/LEAA (\$20,000 in 1981); and the Public Development Corporation (\$5,000 in 1984 to 85 for a study of commercial arson on Flatbush Avenue). The Arson Prevention Program is based on sophisticated computer data analysis of properties in a small geographic area of North Flatbush comprising about 2,000 buildings. The computerized data base, which took two years to perfect, is arranged by building and contains information from public agencies and insurance companies including owner's name, property characteristics, code violations, tax arrearages, complete fire history, property transactions, and insurance coverage. (See Exhibit 3.2 for an example.) The Flatbush data base represents a unique body of information that would not otherwise be readily available to insurers or law enforcement agencies. The data base is updated quarterly and the project can generate computerized "building profiles" at a moment's notice.

The FDC program calculates arson risk indices for each property according to a formula based on four key variables: serious building code violations; number of apartments; fires of unknown cause in the past 2½ years; and vacancy rate.<sup>2</sup> Properties are then ranked by arson risk, and those with the highest risk are selected for cooperative intervention strategies with insurance companies and public agencies. These strategies are summarized in Exhibit 3.3.

The Flatbush program has also recently conducted a pioneering study of arson in commercial properties. This involved developing a risk prediction formula and intervention strategies specifically for commercial properties. The key intervention strategy is to have teams of fire marshals conduct structured interviews with owners of at-risk commercial properties, thus making clear the fire department's "interest" in the building. The FDC Arson Prevention Project has also developed guidelines for other jurisdictions seeking to prevent this type of arson.<sup>3</sup>

The FDC program has established cooperative relationships with the city fire marshals (Bureau of Fire Investigation), the Department of Finance, and the Department of Housing Preservation and Development. Two city fire marshals have worked closely with the project, conducting regular inspections and monitoring at-risk properties.<sup>4</sup> However, the Flatbush project director is particularly proud of the progress made in working with insurance companies. The FDC program has established close working relations with several major insurers in the Flatbush area, including Liberty Mutual Insurance Company, and is now usually able to obtain the insurance information necessary to support its arson prevention efforts. This principally involves identifying the insurer of an at-risk property and obtaining basic information on the coverage, such as named insured, policy limits, and effective periods. Once the program identifies the insurer, it notifies underwriting staff at the company of the conditions resulting in the at-risk designation so that the company has the opportunity to take action to abate the risk.

## Exhibit 3.2

### Flatbush Development Corporation (FDC) Building Profile

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#####
*DC BUILDING PROFILE # 121 02/08/85
#####
2317 NEWKIRK AVE Block 5209 Lot 24
AKA: none WALK-UP APTS/> 6 FAN
4 stories
0016 apartment units
  
```

```

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
Registration # 311607 Violations by Hazard Class:
Owner: OWNER OF PREMISES A: 53 B: 76 C: 57 total:188
2317 NEWKIRK AVE Emergency Repair Liens:
Brooklyn, NY 11226 balance: $ 5763
date of last lien: 07/15/83
  
```

```

DEPARTMENT OF FINANCE
Taxpayer: CARL GIBBS Assessed Value:
Quarters RE Tax Arrears: 12 land: $ 20000
Unpaid Balance: $ 22067.67 total: $ 46000
  
```

INSURANCE n/a

```

CON EDISON units: 0 vacant units: 16 vacancy rate % : 100.00
  
```

#### FIRE DEPARTMENT

date	time	dura	cause	alarm	dnge	origin	injured
09/04/76	07:53		UNKNOWN	0	16-49%	bathroom	0
04/05/79	20:22		cooking carelessness	0	NONE	kitchen	0
06/14/79	18:16		UNKNOWN	0	NONE	living rm	0
12/25/79	08:36		open flame from candles	0			0
02/12/81	01:17	0015	INCENDIARY	0	01-15%	vacant apt	0
06/04/81	22:08	0050	UNKNOWN	0	01-15%	bedroom	0
02/20/82	17:59	0020	SUSPICIOUS	0	01-15%	living rm	0
05/22/82	16:50	0100	SUSPICIOUS	7	01-15%	vacant apt	0
06/07/82	12:52	0100	SUSPICIOUS	7	16-49%	living rm	2
02/27/83	14:21	200	SUSPICIOUS	7	50-100%	living rm	0
04/27/84	22:17	0020	SUSPICIOUS	0	NONE	hallway-pub	0
05/15/84	01:24	0220	SUSPICIOUS	7	16-49%	vacant apt	2
07/04/84	22:35	0010	UNKNOWN	0	NONE	vacant apt	0

#### REAL ESTATE REGISTER

date	type	amount	owner/mortgagee
03/78	deed		CLEARVIEW RLTY CORP 2555 CHURCH AVE BRKLYN NY
04/82	deed	2000.00	WADDELL SAMUEL 000202 MAC DONOUGH ST BRKLYN, NY

### Exhibit 3.3

## Flatbush Development Corporation (FDC) Arson Prevention Strategies for Arson Risk Properties

#### ARSON PREVENTION STRATEGIES FOR ARSON RISK PROPERTIES

Organization/Institution	Strategy
Flatbush Development Corporation	
Arson Prevention Program	<ul style="list-style-type: none"> <li>.direct contact of owner, notification that property is being monitored</li> <li>.coordination of strategies listed below</li> </ul>
Housing Assistance Unit	<ul style="list-style-type: none"> <li>.landlord counseling, loan assistance and packaging</li> <li>.building management</li> <li>.tenant organizing</li> <li>.tenant-arson awareness</li> </ul>
Crime Prevention Program	<ul style="list-style-type: none"> <li>.organization of lobby or block patrols</li> </ul>
Insurance Companies	<ul style="list-style-type: none"> <li>.examination of Building Profile report</li> <li>.thorough on-site inspection</li> <li>.notification to FDC/APP of new policies, claims, cancellation, or other action</li> </ul>
Bureau of Fire Investigation	<ul style="list-style-type: none"> <li>.thorough monthly inspections</li> <li>.direct contact of owner where serious fire record exists</li> <li>.criminal investigation of all suspicious fires utilizing FDC/APP's background info</li> </ul>
Department of Finance	<ul style="list-style-type: none"> <li>.enforcement of fire insurance proceeds law</li> </ul>
Department of Housing Preservation & Development	<ul style="list-style-type: none"> <li>.building code compliance</li> <li>.denial of government loan subsidies for arson-prone owners</li> <li>.compliance of insurance registration</li> <li>.vacant building seal-up/decorative seals</li> </ul>
Mortgagee	<ul style="list-style-type: none"> <li>.direct contact of owner</li> <li>.foreclosure for lack of repairs or non-payment of mortgage</li> </ul>
District Attorney/Bureau of Alcohol, Tobacco, & Firearms	<ul style="list-style-type: none"> <li>.initiation of investigation where pattern of incendiarism by owner or group of owners is identified by FDC/APP</li> </ul>

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Although the Flatbush program has not won over many of the insurance companies doing business in its area, it has convinced a number of insurers that participation in the program will be of concrete benefit to them, by providing them with useful, reliable, and timely information on covered properties. This information has been used by insurers to induce owners to upgrade their properties or to cancel coverage on properties that might have been burned for the insurance proceeds.

While the FDC program cannot take full credit, arson has been substantially reduced in its target area. Suspicious fires have dropped by 65 percent (a steady decline from 69 to 24) in the target area from 1982 to 1985. Serious (defined as multiple-alarm or "all-hands" fires) have declined 74 percent (another steady decline from 23 to 6) in this period. At the same time, total fires have only been reduced by 17 percent (from 386 to 319).

### *San Francisco Fire Department Arson Early Warning System*

The San Francisco Arson Early Warning System (AEWS) differs from the Flatbush program in three major ways: first, it is located in a city department rather than a community organization; second, it covers the whole city rather than a single neighborhood; and third, its method for identifying "target hazard" properties is currently based on referrals by fire department code enforcement officers, community groups, and insurance companies rather than on computerized risk assessment.

The program has gone through some major changes in the past few years. Originally, the AEWS actively sought to identify at-risk properties, and did so from 1980 to 1985. The research focused on four neighborhoods with high arson incidence and individual and corporate property owners with histories of serious fires. The research was performed by a full-time consultant funded initially by the U.S. Fire Administration (\$31,840 over a two-year period) and subsequently by insurance company contributions. The insurance industry contributed about \$30,000 over a two-year period. The manual analysis was based on such variables as number of recent ownership transfers, history of previous fires, code violations, and property tax arrearages. It was intended specifically to identify properties at risk of arson-for-profit.<sup>5</sup>

Although target hazards are now identified reactively rather than proactively, they still receive immediate intervention by a fire inspector. Intervention strategies include: accelerated code enforcement proceedings; forceful threats of court action against property owners who fail to take prescribed corrective actions such as restoring utility service or sealing the building if it is vacant; rapid seal-up of vacant buildings by the city if the owner fails to take action; photographic documentation of the property's problems; and

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encouragement of and assistance with civil actions by tenants for nuisance or negligence.

If the insurer of a target hazard property is known, AEWS staff notify the company of the specific problems. They have sent lists of at-risk properties with unknown insurance carriers to major San Francisco insurers encouraging them to contact AEWS if they insured any of the listed properties. The AEWS program provided a centralized, cost-effective source of accurate up-to-date information on arson-prone properties. Several insurance companies were able to cancel coverage on major properties as a direct result of information received from the AEWS. From 1980 to 1985, arson incidence declined by 37 percent (a steady decline from 540 to 342) and dollar loss from incendiary fires dropped by 54 percent between 1980 and 1983.<sup>6</sup> Insurers and city officials attribute some of this reduction in arson to the AEWS program.

The AEWS' shift from proactive identification of at-risk properties to reactive intervention in properties referred into the program resulted from the termination of federal government and insurance industry funding support. The shift in strategy does not yet appear to have resulted in a resurgence of arson-for-profit in San Francisco, but it is still too early for the impact of the change to be clear.

## Legislative Initiatives

Successful arson control programs depend on the timely exchange of accurate information among a variety of individuals, agencies, and groups, each of which can contribute important pieces of a complex picture. In recognition of this fact, a number of related legislative initiatives have been developed to facilitate information exchange among public arson investigation agencies and insurance companies. These include the following:

- Arson Reporting-Immunity Laws;
- Provisions for exchange of information on "potential arsons"- i.e., before fires occur; and
- Provisions providing for public-agency access to Search Analysis Reports from the insurance industry's computerized data base of fire claims, the Property Insurance Loss Register (PILR).

Each of these is discussed briefly below. To inform this discussion, Abt Associates conducted a telephone survey of public arson investigators and insurance company staff to determine the effectiveness of these legislative initiatives and the usefulness of the information exchanged under their provisions. The survey covered six large populous states (Virginia, New Jersey, California, Texas, Ohio, and Illinois) that operate under immunity laws providing various degrees of reciprocity in information exchange. Of the six

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states, Ohio and Illinois have laws permitting information exchange on "potential arsons" and Illinois has law granting law enforcement agency access to PILR search analysis reports. (Additional information on the survey may be found in Appendix A.) Many of the specific results of the survey appear in various sections of this chapter.

### *Arson Reporting-Immunity Laws*

All fifty states have now passed some form of Arson Reporting-Immunity Law. Although the laws contain significant variations, their general outlines are fairly uniform: they require insurance companies to report certain information on suspicious fire claims and release investigative information on policyholders involved in fire losses to designated public officials; they in turn provide insurers with limited immunity against suit by policyholders for libel, slander, or defamation of character for the release of such information. Indeed, insurers' fears of suit have proven to be legitimate: such litigation has resulted in some large verdicts against companies, occasionally including awards for punitive damages.

The Insurance Committee for Arson Control (ICAC), which is sponsored by major insurance trade associations and independent insurers, has developed and lobbied for passage of a model reporting-immunity law with the following key features:

1. Allows authorized agencies (defined as state and federal fire marshals, law enforcement officers, insurance commissioners, and prosecuting attorneys) to require that insurance companies release all information concerning a policyholder involved in a fire loss. This information includes, but is not limited to, premium payment history, loss history, and claims investigation files.
2. Requires insurance companies to notify authorized agencies of all suspicious fire losses. Such notification is to constitute a request for official investigation.
3. Grants limited civil and criminal immunity to insurers and public agencies which provide information under the provisions of the law.
4. Provides for reciprocal information exchange between insurers and authorized public agencies as well as among those authorized public agencies.
5. Provides for confidentiality of released information.<sup>7</sup>

Exhibit 3.4 summarizes key features of each state's law, including points of conformance to and departure from the ICAC model. The most signifi-

### Exhibit 3.4

#### Key Provisions of Arson Reporting — Immunity Laws

State and Citation	Insurer Must Report Suspicious Losses to Authorized Agency	Civil Immunity	Criminal Immunity	"Weak" <sup>a</sup> Reciprocity	"Strong" <sup>a</sup> Reciprocity	Pre-Fire Information Exchange	Post-Fire Information Exchange
Alabama pub. officers and emp. 35-19-40 - 35-19-44	X	X	X				X
Alaska Insurance Code Sec. 21.09.050	X	X	X		X		X
Arizona Insurance Code Sec. 20-1901 - 20-1907	X	X	X		X		X
Arkansas Sec. 66-5601 - 5605	X	X	X				X
California Insurance Code Sec. 1878 - 1878.5	X	X		X			X
Colorado Insurance Code Sec. 10-4-1001 - 10-4-1008	X	X <sup>b</sup>					X
Connecticut Insurance Code Sec. 38-114h a-g	X	X	X	X		X	X
Delaware Ch. 68 Title 16 Sec. 6810 - 6813	X	X	X		X		X
District of Columbia (D.C. Code 4.317)	X	X <sup>b</sup>					X
Florida Insurance Code Sec. 633.175 1-7	X	X	X	X			X
Georgia Public Safety Sec. 92A-734.1 a-g	X	X	X		X		X
Hawaii Fire Protection Sec. 132-4.5 a-o	X	X	X	X		X	X
Idaho Ch. 2 Title 41 Sec. 41-270-274	X	X	X		X		X
Illinois Insurance Code 73 Sec. 1153 a-b	X	X	X	X		X	X
Indiana Insurance Code Sec. 27-2-13-1 - 27-2-13-4	X	X	X		X		X
Iowa State Fire Marshal Ch. 100A 1-6	X	X	X		X		X
Kansas Stat. Ann. 31-401	X	X			X		X

Exhibit 3.4 (continued)  
Key Provisions of Arson Reporting — Immunity Laws

State and Citation	Insurer Must Report Suspicious Losses to Authorized Agency	Civil Immunity	Criminal Immunity	"Hook" <sup>a</sup> Reciprocity	"Strong" <sup>b</sup> Reciprocity	Pre-Fire Information Exchange	Post-Fire Information Exchange
Kentucky Insurance Code 304.20 - 150 et seq.	X	X	X		X	X	X
Louisiana Public Health and Safety 405 Sec. 1568.2	X	X	X				X
Maine 25 Sec. 2411 - 2413	X	X	X		X		X
Maryland article 38.A Sec. 55 - 57	X	X	X				X
Massachusetts Ch. 148 Sec. 32	X	X	X	X			X
Michigan State Fire Marshal Sec. 29.4 i-8	X	X	X				X
Minnesota State Fire Marshal Sec. 299.F.057 - 299.F52	X	X	X	X			X
Mississippi Code Ann. 1972, Sec. 83-13 -21 (Supp. 1981)		X					X
Missouri Insurance Code Sec. 320.081-320.087	X	X	X		X		X
Montana Title 50 Ch. 63 Part IV	X	X					X
Nabraska 81-5, 115 et seq.	X	X	X		X		X
Nevada NRS Ch. 696A Sec. 679B	X	X	X	?			X
New Hampshire Pub. Safety and Welfare Sec. 153:13 - 13a	X <sup>c</sup>	X	X		X <sup>d</sup>		X
New Jersey Ch. 17:36-14 thru 21	X	X			X		X
New Mexico Sec. 41-8-1 - 41-8-6	X	X	X	?			X

Exhibit 3.4 (continued)  
Key Provisions of Arson Reporting — Immunity Laws

State and Citation	Insurer Must Report Suspicious Losses to Authorized Agency	Civil Immunity	Criminal Immunity	"Weak" <sup>a</sup> Reciprocity	"Strong" <sup>a</sup> Reciprocity	Pre-Fire Information Exchange	Post-Fire Information Exchange
New York Insurance Laws Sec. 336 1-6	X	X <sup>b</sup>		?			X
North Carolina Fire Pro. Sec. 69-7.1 a-e	X	X	X				X
North Dakota Fires Sec. 18-01-05.1	X <sup>d</sup>	X	X		X		X
Ohio Fire Marshal Sec. 3737-16	X	X	X	X		X	X
Oklahoma Insurance 36 Sec. 6301 - 6306	X	X	X	X			X
Oregon ORS 476.090 and 270	X	X	X				X
Pennsylvania 1980 PL 340 #A5	X	X	X	X			X
Rhode Island Insurance Sec. 27-8.1-2 & 8.1-3	X	X	X		X		X
South Carolina Title 23 Ch. 41 (Chapter 509 Laws 1984)		X <sup>b</sup>					X
South Dakota Ch. 3432A Sec. 3432A 1-10	X	X	X		X		X
Tennessee Health and Safety Title 68-17-115	X	X	X		X		X
Texas Insurance Code Art. 5.45 - 5.46		X	X				X
Utah State Affairs In General Sec. 63-29-24	X	X	X				X
Vermont 8 V.S.A.Ch. 101 Subchapter 12A, Sec. 3671 - 3673	X	X					X
Virginia Fire Protection Sec. 27-85.3 et seq.	X	X	X		X		X
Washington Insurance Sec. 48.50 et seq.	X	X	X		X		X

Exhibit 3.4 (continued)  
Key Provisions of Arson Reporting — Immunity Laws

State and Citation	Insurer Must Report Suspicious Losses to Authorized Agency	Civil Immunity	Criminal Immunity	"Weak" <sup>a</sup> Reciprocity	"Strong" <sup>a</sup> Reciprocity	Pre-Fire Information Exchange	Post-Fire Information Exchange
West Virginia Misc. B&O Sec. 29-3-11 - 12a	X	X <sup>b</sup>					X
Wisconsin Police Reg. Sec. 165.55 (14)	X <sup>d</sup>	X	X	X			X
Wyoming Stat. 6-3-108 - 6-3-110	X	X	X	?			X

SOURCE: Statutes cited.

<sup>a</sup> "Weak" reciprocity means that authorized agencies may share information with insurance companies, or insurance companies may request information. "Strong" reciprocity means that public agencies must provide information to insurers in return.

<sup>b</sup> State provides for immunity, but does not specify "criminal" or "civil."

<sup>c</sup> Insurance companies must report losses in excess of \$1,000.

<sup>d</sup> Law reads that insurance companies "may" report suspicious fires, but does not require that they do so.

<sup>e</sup> In New Hampshire, the State Fire Marshal or other investigating agency is required to notify any insurance company "believed to have an interest as insurer of such property."

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cant widespread deviation from the ICAC model is in the reciprocity provision.<sup>8</sup> The insurance industry favors reciprocity on the ground that investigative information generated by public agencies may be just as vital to insurers involved in civil litigation arising from denial of claims as investigative information generated by insurers is to law enforcement agencies developing criminal arson cases. In addition, the industry argues that the prospect of getting something in return will encourage insurers to provide investigative information to law enforcement agencies in the first place. Nevertheless, due in large part to the strong objections of law enforcement officials who do not wish to provide information on their investigations to insurance companies, only about two-thirds of the states have incorporated any form of reciprocity into their Arson Reporting-Immunity laws. Moreover, it is important to note that there are degrees of reciprocity: some states' laws *require* public agencies to provide information to insurers in return, but most only *permit* public agencies to share information or permit insurers to *request* information. Finally, almost all of the laws containing a reciprocity provision also include a general escape clause permitting public officials to withhold confidential investigative or other information protected from release by other laws.

### *Exchange of Information on "Potential" Arsons*

Arson Reporting-Immunity Laws in five states (Connecticut, Hawaii, Illinois, Kentucky and Ohio) provide immunity to insurers for sharing information with public officials on "potential" arsons—that is, information indicating an increased risk of arson such as deterioration in the physical condition of the property or application for a large increase in coverage. Some insurers are concerned, nonetheless, that the definition of "potential" arson is not sufficiently clear in the laws and that, as a result, there may be even greater danger of legal action in sharing information before a fire occurs.

### *Public Agency Access to PILR Search Analysis Reports*

The Property Insurance Loss Register (PILR) is a national data base of property insurance claims funded by the insurance industry and operated by a leading trade organization, the American Insurance Association. Companies currently subscribing to PILR write approximately 90 percent of the property insurance in the United States. However, this does not mean that 90 percent of the property claims are reported to PILR; due to the difficulties involved in monitoring highly dispersed networks of company claims personnel and independent adjusters, many claims are never reported to the system.

Claims in excess of \$1,000 are reported to PILR on a standard form by insurance companies or their independent adjusters. Data elements captured by the system include: name and address of insured; insurance com-

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pany; policy number and amount of coverage; cause of loss; and names and addresses of other parties to the loss, including tenants, business partners, mortgagees, attorneys, and public adjusters.

PILR has two main purposes: first, to detect multiple claims to different carriers on the same loss; and second, to detect possible patterns of fraudulent claims. A complex set of interrelated computer searches of the data base provides Search Analysis Reports or "hit reports." These list other claims filed by the same insured, other claims involving the same business partner, attorney, or adjuster, and similar patterns of loss history or recurring names indicating possible arson-for-profit.

Though the PILR reports constitute a valuable investigative resource, these reports have not generally been made available to law enforcement officials investigating arson cases due to the insurance industry's legal concerns. In many states, the PILR reporting form is also used by insurers to report suspicious claims to the designated public agency, as required by the Arson Reporting-Immunity Law, but only in Illinois are law enforcement agencies officially given access to the hit reports. This was accomplished through legislation passed in 1980, which requires PILR to send copies of all hit reports to the state fire marshal, who forwards them to the agency responsible for the particular investigation. Public arson investigators in Illinois consider the PILR information to be extremely valuable in developing cases.

Across all six states surveyed by telephone for this report, 89 percent of the respondents considered the information exchanged (including, where applicable, information on "potential" arsons and information from PILR hit reports) to be either "very useful" or "somewhat useful." At the same time, respondents from public arson investigation agencies were much more likely to rate the information they received as very useful (72 percent) than were the insurance respondents (37 percent). This reflects the somewhat one-sided nature of information-sharing: law enforcement officials receive much more information from insurers than they provide in return.

### **Problems Affecting Cooperation with Insurers**

This section discusses some of the serious problems that still limit insurance companies' cooperation and information exchange with arson prevention programs and public arson investigation units. Some of these concerns apply primarily to efforts to increase cooperation between community-based arson prevention programs and insurers (e.g., the Flatbush Development Corporation's Arson Prevention Program), some apply primarily to efforts involving public agencies and insurers (e.g., the San Francisco Arson Early Warning System and the legislative initiatives described above), and some apply to both types of efforts. We have attempted to draw from the experiences of the programs studied and the responses to our telephone survey

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some generic problems and issues likely to face agencies and groups in any jurisdiction that is attempting to establish cooperative anti-arson programs with insurers.

### *Reluctance to Share Information*

Despite the passage of Arson Reporting-Immunity laws, many insurance companies and public arson investigative agencies continue to be reluctant to share information with one another. At the same time, arson prevention programs such as those in Flatbush and San Francisco, far from being reluctant to share information, are attempting to induce insurers to accept information on potential arson risks in the hope that the companies will take action to abate the risks.

Of course, in order to implement this strategy it is necessary to identify the insurer of the property, so programs usually try to obtain this information by soliciting the companies doing business in the area. Fear of legal action inhibits many insurers from divulging information on their policies and policy holders to an arson prevention program, just as it still inhibits some of them from providing investigative information to public arson investigators after a fire occurs.

### *Lack of Awareness and Understanding of Immunity Laws*

Our telephone survey of insurance claims supervisors and public arson investigators was designed to reach the individuals in each state most likely to be familiar with the immunity laws: claims supervisors in the companies with the greatest market share in homeowner and commercial multi-peril insurance; arson investigation unit supervisors in state fire marshals' offices or other state-level arson units; and supervisors in the arson investigation units of the state's largest cities. While most of our respondents demonstrated a high level of familiarity with the laws, they also reported widespread ignorance of the laws among other insurance company staff and public officials.

This lack of awareness was by far the most commonly mentioned problem affecting information exchange between insurers and public agencies. One insurance claims investigator in Virginia noted that "most law enforcement officials don't even know [the immunity law] exists." An investigator in a Texas city fire marshal's office reported that most insurance company attorneys "have not even seen the law." Our survey also revealed that many insurance companies fail to request information from law enforcement agencies, even in states with strong reciprocity provisions.

### *Insurers' Fear of Legal Action*

The primary purpose of the Arson Reporting-Immunity laws is to pro-

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mote arson information exchange by reducing the threat of legal action by policyholders if insurance companies reveal information regarding policies or claims investigations to public authorities. Nevertheless, the fear of legal action persists, even among insurance staff fully conversant with the provisions of the immunity laws.

◦ *“Bad Faith” and “Punitive Damages”*

Insurers' legal fears grow out of a series of court decisions in California and other states that have made the insurance contract and insurance claims handling procedures subject to policyholders' lawsuits alleging “bad faith” and seeking punitive damages. Below, we briefly review the evolution of bad faith litigation and punitive damage awards.<sup>9</sup>

Until recently, damages in the event of a breach of contract were recoverable only to the amount of the actual loss or to the limits of the policy, whichever was smaller. Additional compensatory damages in tort were awarded only in extreme instances when the plaintiff could establish actual fraud or intentional infliction of emotional harm. In the past twenty years, judicial findings have markedly altered this state of affairs. The changes first affected health and disability insurance claims, then motor vehicle accident claims, and finally, in the early 1970s, fire insurance claims. The first major development was the emergence of the doctrine that the insurance contract contained an “implied covenant of good faith and fair dealing.” Violation of this covenant (e.g., by unreasonably denying a claim) could constitute an independent tort carrying compensatory damages beyond the limits of the policy. The second development was the concept that the policyholder has a protected property interest in his or her insurance coverage, a “tortious interference with which” could also produce compensatory damages in excess of the policy limits.<sup>10</sup>

Finally, and most troubling of all to the insurance industry, punitive damages have been sought and awarded in “bad faith” insurance claim cases on the basis of allegedly fraudulent, malicious, or oppressive insurer conduct. Punitive damages are those set by a jury above and beyond the award necessary to compensate the plaintiff for actual losses, and are intended to punish the defendant and deter similar conduct in the future.<sup>11</sup> Examples of insurer conduct that might occasion an action for punitive damages include:

- intentional alteration or concealment of evidence tending to show that the fire was accidentally caused;
- excessive delays in the claims investigation designed to frustrate the policyholder and bring about a settlement favorable to the company; and
- intentional harassment of the policyholder, such as close

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surveillance, excessive and unannounced visits, and intrusive telephone calls.

Insurers are justifiably concerned about punitive damage awards, which have been extremely high in some cases. This concern is heightened amid the current economic distress of many property-casualty insurers.

"Bad faith" suits typically turn on the plaintiff's allegation that the insurer unreasonably denied payment of the claim. However, such suits also frequently allege that the insurer released information to a law enforcement agency or engaged in other conduct constituting a common law invasion of privacy or a common law defamation of character—i.e., suggesting that the policyholder committed arson. Two forms of defamation may be alleged: slander (in verbal statements) or libel (in written communication).

Insurers' concerns apply to releasing information on policies and policyholders to both public and private arson programs and agencies and apply to releasing information either before or after a fire. Insurers are likely to be more reluctant to provide information to private organizations than to programs based in public agencies, because Arson Reporting-Immunity laws do not cover release of information to private organizations. Insurers are also likely to be more reluctant to release information in the absence of any statutory requirement for disclosure of insurance coverage. Thus far, relatively few jurisdictions (including New York State, Massachusetts, and Providence, R.I.) are covered by such disclosure laws.

Moreover, insurers have legal concerns not only about providing information to outside agencies and groups but also about accepting and acting on information provided by arson prevention programs. For example, insurers commonly express uncertainty about the accuracy and currency of the information provided to them; they are rightfully concerned that if they contact a policyholder regarding alleged "problems" at the property, they must be acting on accurate and up-to-date information.

Insurers must also be careful to avoid potentially defamatory language such as "arson-prone" or "high-risk" when contacting policyholders about their properties. More generally, some insurers believe that the necessarily limited and selective geographic scope of the information offered by arson prevention programs raises serious legal issues. In other words, can a company justify taking action against policyholders in certain geographic areas on the basis of information not available on all of its policyholders, or does this constitute an impermissible double standard for underwriting?

#### ◦ *Possible Protections*

Some attorneys believe that the doctrine of "qualified privilege" may protect insurers who release information on policyholders, policies or claims

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investigations to public or private arson programs. A qualified privilege may apply if the communication was made in good faith and if it served the interests of both parties. One type of protected interest under this doctrine is that of the private citizen providing information to law enforcement authorities for the perceived purpose of preventing or detecting crime. However, insurance attorneys believe that qualified privilege may apply to the insurer's provision of information to law enforcement agencies only if certain conditions are met, including conduct of a prompt, reasonable, and thorough claims investigation that ultimately discloses a serious crime. It is clear that this limitation causes problems for insurers. Several respondents to our survey noted that at the time investigative information is needed by a public agency, it is usually not determined whether a fire was incendiary or the insured was involved in setting the fire. In the absence of certainty, the insurer may risk lawsuit by releasing information if the investigation ultimately determines that the fire was not incendiary or exonerates the insured.

Moreover, there is case law that causes many insurers to doubt the efficacy of a defense based on qualified privilege. In *Young v. Federal Insurance Company*,<sup>12</sup> the insured's action was based on the extent and intrusiveness of the company's claims investigation. The court held that the "considerable breadth" of this investigation may have exceeded "what was appropriate to verify the merit of the plaintiff's insurance claim." This case established the principle that investigations may be challenged on the grounds of their reasonableness, and raises serious questions as to how far insurers may wish to pursue an investigation, particularly when there are substantial doubts regarding its outcome. Typically, such a decision would be based largely on the size of the claim as well as on the level of certainty that the fire was incendiary and that the insured was involved. However, the *Young* case seems to suggest a decision based solely on the latter consideration. Indeed, for more wary insurers, it might suggest a policy that investigations be pursued aggressively only if it is almost certain that the insured was involved. Since decisions must usually be made before such certainty exists (indeed, aggressive investigation is usually necessary to produce such certainty), such a policy might preclude aggressive claims investigation and undermine information-sharing with public authorities in cases of suspected arson.

In *Gruenberg v. Aetna Insurance Company*,<sup>13</sup> the court also rejected the insurance company's assertion that its conduct was privileged. The company had provided information to a public arson investigator regarding the possible arson motive of the insured and had permitted its representative to testify at a preliminary hearing on a complaint alleging that the insured had committed arson. The plaintiff's case was aided immeasurably by the fact that the criminal charges were dismissed at the preliminary hearing. Gruenberg argued that the insurance company had falsely implied that he had a motive

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to commit arson when the real reason for the company's action was to avoid payment of the claim. The court agreed, stating that the "alleged scheme to avoid liability [for the claim payment was] in breach of an implied duty of good faith and fair dealing."<sup>14</sup> Thus, *Gruenberg* seems to undermine insurers' assertion of qualified privilege as a defense against "bad faith" actions. It suggests that the reporting of information on possible criminal acts, which would be privileged if done by a private citizen, may not be privileged if done by an insurance company whose primary intent can be shown to be avoidance of paying the claim. This clearly places an insurance company in a difficult position because it will always have a strong interest in denying fraudulent claims, as well as in helping public authorities bring arsonists to justice. *Gruenberg* appears to be the source of much of the industry's concern about releasing information when the incendiary nature of the fire and the involvement of the insured are not absolutely clear at the time of the request. The persistent uncertainty and fear surrounding release of information has caused many insurers to insist on the protection of a subpoena in all cases.

State privacy acts and the federal Fair Credit Reporting Act (FCRA) provide some protection to insurers who share information with public authorities. Most state laws afford limited immunity, in the absence of malice, for insurers who release information, provided that the information is accurate, was obtained in the course of an insurance transaction, and is reasonably necessary to deter or detect fraud, other criminal activity, or material misrepresentation/material non-disclosure in connection with an insurance transaction.

Nonetheless, the federal Fair Credit Reporting Act presents some problems for information exchange. FCRA establishes standards for ensuring the accuracy of information reported on consumers for a wide range of business purposes and requires that the "nature," "substance," and "sources" of such information be disclosed to consumers upon request. FCRA applies to any data base or system that furnishes information used for determining consumers' eligibility for personal insurance or for any other legitimate business need in connection with a transaction involving the consumer. Thus, in the view of insurance attorneys, the FCRA disclosure requirements seem explicitly applicable to information sharing in support of underwriting decisions, such as that encouraged by the Flatbush and San Francisco programs. To save the considerable cost of providing disclosure and to preserve the confidentiality of their data, insurers wish to avoid becoming subject to FCRA requirements. It was primarily for this reason that the industry limited its Property Insurance Loss Register to claims investigations purposes, which are not generally considered subject to the disclosure requirements of FCRA.

Primarily because of the weaknesses in qualified privilege as a defense for sharing information, the insurance industry sought the protection of a strong statutory privilege. The arson reporting-immunity laws were intended

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to meet this need, although, as written, most of them provide only a limited civil immunity. Moreover, in the absence of support in case law, insurance attorneys are inclined to assume that the immunity laws (like other statutory grants of privilege and immunity) will be very strictly construed. This means, for example, that the immunity may only cover the actual provision of the information and not extend to subsequent actions such as denial of the claim. Moreover, survey respondents noted that the laws apparently do not provide immunity from class action suits.

In short, insurance companies do not believe that the immunity laws provide the kind of blanket protection they would like. Fewer than one-half (47 percent) of our telephone survey respondents from both insurance companies and public arson investigative agencies concluded that the laws had been "very" effective in overcoming insurers' fears of legal action. Another 33 percent answered that the immunity laws had been "somewhat" effective in overcoming these fears. These survey results suggest that while the immunity laws have brought some progress in overcoming insurers' legal fears, they have by no means eliminated the problem.

The immunity laws do not preclude the "bad faith" suits and punitive damage actions that are most feared by insurance companies. Indeed, some insurers believe that the immunity laws leave the companies in the same legal situation that they were in before: having to defend against "bad faith" claims on the merits of their actions, with all of the attendant uncertainties in deciding upon a course of action. Moreover, many immunity laws have only been on the books for a short time and they remain untested in court. Because of this, many insurance officials are justifiably hesitant to risk incurring large judgements (and associated legal costs) if the provisions are held invalid or inapplicable to particular courses of action. Industry legal counsel believe that there is a substantial legal basis for their continuing concern.

These fears probably restrain the aggressiveness and thoroughness of the entire claims investigation process. Several of our survey respondents asserted that insurers simply avoid categorizing fires as suspicious and aggressively pursuing claims investigations; in view of the legal uncertainties, some companies may consider it less costly and troublesome simply to pay the claim or withhold the requested information. Under most immunity laws, insurers are subject to penalties for failure to furnish requested information, and these provisions have occasionally been used to coerce compliance. However, it appears that limitations on enforcement resources will generally ensure that this is a fairly low priority activity and that companies unwilling to provide information need not fear significant action by public authorities.

### *Other Factors in Insurers' Reluctance to Share Information*

In addition to the legal concerns discussed above, insurers have other

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reasons for withholding information, including:

- privatism;
- fear of competition; and
- lack of reciprocity with public agencies.

Many insurers resist outside intrusion into their affairs<sup>15</sup> and are reluctant to disclose information if they are not required by law to do so. Their view is that absent a statute or ordinance requiring disclosure of insurance information, the insurance policy remains a private contract. Insurers may be particularly fearful of releasing information to community-based programs, unaware of how the requested information legitimately fits into the prevention program and suspicious that it will be used to expose the company to public criticism for its underwriting or claims investigation practices. These concerns are undoubtedly linked to the fears of legal action described above.

This industry privatism is also related to competition. When asked to release information, insurance companies often express fear that the information will fall into the hands of competitors who will use it to steal their business. This is of particular concern in view of the current difficult times in property-casualty insurance. In addition, lack of reciprocity provisions may lead some insurers to withhold information from public investigative units. Our survey results, noted above, reveal the perceived one-way nature of information flow, though this obviously depends on the state of the law and existing relationships in each jurisdiction.

### *Public Agencies' Reluctance to Share Information with Insurers*

Public arson investigators' reluctance to share information with insurance companies stems primarily from fear that their cases will be exposed. As all police officers and prosecutors know, inadvertant or premature disclosure of sensitive investigative information can quickly "blow" a painstakingly developed case. Informants and witnesses may change their stories because they fear reprisals, and crucial physical evidence may disappear. Even the arson reporting-immunity laws with strong reciprocity provisions (i.e., requiring public agencies to provide information to insurers) include an "escape clause" under which the agency can withhold information that is sensitive or protected from disclosure by other statutes. Most states have laws protecting confidential investigative information from disclosure to persons outside law enforcement.

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## Other Problems in Developing Cooperative Anti-Arson Programs with Insurance Companies

### *Cost-Benefit Issues*

Insurers' reluctance to share information with, or to use information provided by, arson prevention programs in specific instances may rest largely on legal considerations. However, when making a decision about participating in a cooperative program with a community group or a public agency, a company's response is typically based on some assessment of the costs and benefits of participation. Legal problems constitute only one of the potential costs. Regular participation in a program such as the Flatbush Arson Prevention Program or the San Francisco Arson Early Warning System requires commitment of at least some staff time and resources to resolve legal issues, answer inquiries (often involving time-consuming manual record searches), and maintain liaison. Decisions may also be affected by the present financial conditions in the particular company. Insurers must be convinced that the economic and public relations benefits of such a commitment are worth the cost.

However, the potential benefits are limited when the proposed program covers a small geographic area. Unfortunately, by the very nature of the data collection and intervention strategies involved, most arson early warning programs focus on small geographic areas. Programs seeking insurance industry cooperation must attempt to overcome this disadvantage by stressing the benefits of cooperation even in a small-scale program.

Decisions are usually made on a case-by-case basis and legal issues as well as the size of the claim under review play important roles in the cost-benefit assessment. In general, however, many insurers still view aggressive investigation of suspected fraud arson claims to involve high risks and high costs with very low rates of successful outcome. As noted above, several of our survey respondents suggested that insurers may have unwritten policies that claims under a certain amount are simply paid or adjusted without regard to the possibility of fraud or arson.

#### *◦ Insurers' Suspicion of Funding Requests*

When asked to cooperate with an arson prevention program, insurers may suspect that the request represents the beginning of an effort to obtain funding assistance. This may be a particular problem with requests from arson prevention programs operated by community groups, but it also affects relations with public programs, as the following San Francisco experience clearly illustrates.

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In San Francisco, an apparently inextricable connection between information exchange and funding seems to have developed. When its original U.S. Fire Administration funding expired, the fire department's Arson Early Warning System, which had been highly praised by insurance executives, turned to the insurance industry for continuing support. Insurance companies helped to support the AEWS for two years, but declined to make further contributions. The program is now operating with a reduced staff and on a much more reactive basis, and an impasse has developed between the fire department and the insurance industry. The fire department believes that the insurance industry should help to pay for a program which is of such direct and demonstrable benefit to it. On the other hand, many insurance companies in San Francisco (and nationwide, for that matter) feel strongly that programs such as the AEWS, as generally beneficial and desirable as they may be, ought to be supported by public tax revenues, into which the industry already pays.

In San Francisco, information exchange suffers as a result of these conflicting attitudes. The AEWS is reluctant to provide useful information to insurance companies who refuse to help support the program and insurance companies are reluctant to participate in the program, feeling that participation means further requests for funding, which they are unwilling to provide.

In Flatbush, the funding issue is not so near the surface of relationships between the Arson Prevention Program and insurance companies. However, it may affect those relationships in more subtle ways. First, it may be that some insurers devalue the information provided by the program because it is offered at no charge. At the same time, other insurers may be concerned that if they use this free service too heavily, they may begin to be charged for it on a per-inquiry basis or the program may approach them for grant support.

#### ◦ *Organizational and Bureaucratic Issues*

The complex bureaucracies of insurance companies often present problems for anti-arson programs attempting to establish cooperative relations with them. Typically, the company's home office must approve participation in any program involving information exchange or commitment of significant staff time. The need for this approval presents few problems—indeed, it may be an advantage—if the program seeking the company's participation is located in its home city, as insurance companies are typically anxious to obtain the favorable publicity that may come with involvement in worthy projects in their home city. However, most programs are seeking the cooperation of insurance companies headquartered in distant cities. Thus, their requests for participation must compete with many other matters. In such a situation, the chance for a favorable response may be low, particularly

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if the anti-arson program serves only a small part of the company's business area.

Even if the home office approves the company's participation in an anti-arson program, the structure of a regional or local office may present problems for the program. Multiple staff with the same or similar responsibilities and high staff turnover present particular difficulties. As discussed in more detail below, successful working relations with insurance companies depend on identifying key contact people and maintaining regular contact with them. This presents problems for an anti-arson program covering a small geographical area if the insurance company has a large underwriting staff with substantial turnover. In such a situation, programs may face the difficult task of "re-educating" a new individual almost every time they contact an insurance company.

◦ *Insurance Company Data Base Structure*

Assuming that an arson prevention program can overcome the obstacles to securing insurer cooperation, it may still have difficulty obtaining the information it needs. Arson prevention programs generally wish to know whether a company insures particular properties that are considered at risk to arson. However, it is difficult for most insurance companies to respond quickly and easily to such inquiries because their data bases are typically arranged not by property address but by policy number or name of insured, neither of which is helpful to arson prevention programs.

Some insurance companies are upgrading the search capabilities of their data bases to facilitate inquiries by address. In the meantime, costly and time-consuming manual record searches are necessary to respond to inquiries. As a result, many companies have decided that they cannot commit the resources needed to cooperate.

◦ *Limitations on Insurers' Intervention Options*

Insurers report that arson prevention programs sometimes appear to have exaggerated notions of what companies can do to intervene in an arson risk situation. As a result of the "consumer-oriented" legal and regulatory climate in many jurisdictions, insurers believe that their intervention options are severely limited. For example, the Flatbush and San Francisco programs believe that if they inform insurers of problem properties, the insurers will be able to abate the arson-for-profit risk by cancelling the policy or working with the owner to correct the problems. However, insurers report that they must have an "acceptable" reason to cancel a policy and that the types of "problems" usually identified by arson prevention programs--for example, code violations, tax arrearages, vacancy/abandonment--in most instances

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do not constitute acceptable reasons to cancel a policy or even to contact the owner. In general, it is considered extremely difficult to cancel a personal homeowner's policy except by refusal to renew. Commercial fire and multi-peril policies may be cancelled more easily, but this still rarely occurs.

There are several reasons for this conservative approach. First, much commercial business is written in large multi-location accounts. If the company receives information that one of the properties in a multi-location account may be at risk to arson, it is unlikely to cancel the entire policy. (Coverage cannot be cancelled on individual properties in a multi-location account.) Rather, the company will seek to protect itself through increased re-insurance, a strategy that obviously has no effect on the level of risk that the property will burn.

A second reason for insurers' reluctance to cancel policies is that they are extremely eager to avoid consumer complaints to state insurance departments. State statutes and regulations differ widely as to the specific acceptable reasons for cancellation. Views on this point vary substantially even within states. For example, some insurance officials in New York noted that policies could be cancelled for the following reasons, beyond non-payment of premiums: overvaluation, poor physical condition and financial trouble. However, other New York underwriting staff reported that in reality policies could only be cancelled for such reasons during the initial 30 to 90 day waiting period after a policy is issued. After the expiration of that period, these officials believe, the pro-consumer regulatory and legal climate makes it extremely difficult to cancel a policy for reasons other than non-payment of premiums. In California, underwriters reported that companies may cancel policies with notice for poor maintenance or other increased hazard and without notice for making false statements on the insurance application. However, companies emphasized that the latter is very difficult to prove.

#### ◦ *Program Data Base Development*

A final obstacle to the development of cooperative relations between arson prevention programs and insurers is the fact that it may take a substantial amount of time, resources, and commitment for an arson prevention program to build its data base to a point that it has something of value to offer insurance companies. Programs based on a sophisticated computerized approach take longest to develop, but the pioneering work of the Flatbush Arson Prevention Program and the continuing availability of improved hardware and software have reduced the time necessary for subsequent programs to develop their data bases.

Computerized arson prevention data bases may only be feasible in small geographical areas, where the data analysis can be supplemented with close monitoring of the "neighborhood pulse" and close access to neighborhood intelligence through tenant organizing and other outreach activities.

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## Strategies for Enhancing Cooperation with Insurers

The preceding section demonstrated that arson prevention programs and arson investigation units face formidable obstacles in their efforts to obtain and maintain the cooperation of insurers. This section offers a range of strategies for addressing those problems and for enhancing cooperation between anti-arson programs and insurers. Most of the recommendations are addressed to arson prevention programs and arson investigation units, although some are also addressed to the insurers. The recommended strategies are based both on the practices of the programs described in this document and on an assessment of how those and other programs might broaden and improve their working relationships with insurance companies.

### *Understanding the Insurance Underwriting Climate*

In a "cash-flow underwriting" climate, characterized by an eagerness to generate premium for investment, companies are unlikely to be very receptive to arson prevention programs offering information in support of "quality underwriting"—i.e. careful risk selection. This climate, which largely characterized property-casualty insurance from the late 1970s until 1984 or 1985, helps to explain some of the resistance (or lack of interest) encountered by the Flatbush and San Francisco programs when they approached insurance companies with requests to participate.

However, in 1984 to 1985, the underwriting climate changed dramatically. Lower interest rates prevented investment income from counterbalancing increasing underwriting losses, and many property-casualty insurers began to find themselves in serious financial straits. As a result, premiums have increased sharply throughout the industry (particularly in commercial lines) and companies have shifted from "cash-flow underwriting" (with little attention to risk selection) back to "quality underwriting" based on careful risk selection. Several respondents reported that many insurance companies are reviewing their entire books of business.

These changes should signal an auspicious opportunity for arson prevention programs to secure insurers' cooperation. However, industry-wide shifts of this kind will no doubt continue to occur. Thus, it is most advantageous for programs to shape their strategies according to the overall underwriting climate in the property-casualty insurance industry. Arson prevention programs that offer information designed to help insurers weed out bad risks should think carefully before committing resources to seeking insurance industry cooperation during periods when companies are unlikely to be very interested. During periods of "cash-flow underwriting," arson prevention programs might more productively concentrate their efforts on developing and implementing intervention strategies involving the public sector (e.g., code enforcement, cleaning and sealing abandoned properties, civil legal remedies,

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fire department contact with owners, "practice runs") and community residents (e.g. tenant organizing, arson watches).

### *Dissemination of Information on Immunity Laws*

It appears that post-fire information exchange is seriously hampered by widespread ignorance of the existence, as well as the specific provisions, of the arson reporting-immunity laws. Many of our survey respondents strongly recommend that programs disseminate information on these laws and bring insurance people and arson investigators together to discuss methods of improving information exchange. In the words of one survey respondent, such meetings could provide "reciprocal education" in the provisions of the laws and offer valuable opportunities to foster better mutual understanding of the problems, capabilities, and legal responsibilities of these natural, but sometimes uneasy, allies in the fight against arson. Another respondent suggested that concrete examples of information exchange in arson investigations be presented and discussed at such joint insurance-law enforcement sessions.

Meetings, conferences, and dissemination activities need not be limited to executives or supervisory staff of insurance companies, but might also include insurance agents and independent adjusters who, as our survey revealed, often have more contact with law enforcement officials regarding arson investigations than do personnel from the insurance companies themselves. Along these lines, a statewide arson prevention committee in New Jersey is preparing a summary of all legal responsibilities imposed by the immunity law for distribution to a broad range of insurance people, including agents and adjusters.

### *Identification and Cultivation of Key Contacts in Insurance Companies*

As with most programs that seek to develop interagency cooperation, public-private partnerships, and effective information exchange, the success of cooperative anti-arson efforts probably depends more on developing close personal contacts than on any formal corporate commitments or legal mandates to cooperate. Proof for this proposition lies in the fact that some insurance company staff and public arson investigators exchanged valuable investigative information long before the arson reporting-immunity laws were passed, and some insurance companies are able to obtain information from law enforcement contacts in the absence of reciprocity provisions. Moreover, public arson investigators are able to obtain PILR "hit reports" through personal contacts in the insurance industry in many states where such access is not required by law. Though the laws are critical to expansion and confirmation of cooperative relations between insurers and anti-arson programs, most cooperative relations begin and are nurtured at the personal level. Par-

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ticularly in large insurance companies, it is important not only to have close contacts but also to have a limited number of contacts in the right places. A little advance research in standard insurance directories<sup>16</sup> on each company's organization and lines of authority for underwriting and claims investigation could save a significant amount of time in identifying the most likely initial points of contact.

Community-based arson *prevention* programs would target companies' underwriting departments, while public arson *investigation* units would primarily target claims departments. It is generally useful for a program to establish a single contact person as coordinator of the entire relationship, thus preventing the confusion or miscommunication that might result from insurance companies' complex bureaucracies. This contact person will usually have to be designated by the company's home office or a regional office, but programs should try to ensure that the designee is an individual with sufficient authority to direct the desired types of cooperation and information release. The contact person should also be someone with a substantive interest in the project and sufficient direct knowledge of arson issues, but not be so senior or so burdened with responsibilities that he or she is unable to devote sufficient attention to the program.

Some large insurance companies maintain home-office arson/fraud units to which all suspected arson claims are immediately referred. Such units are clearly important points of contact for anti-arson programs seeking company cooperation. In general, it is much more desirable to establish a contact in the underwriting or claims department than in the public relations department.

In San Francisco, the Insurance Information Institute provided the Arson Early Warning System with recommended contacts in many insurance companies. The Institute is an industry-funded public information organization with offices in most major cities, which might be a good source of recommended contacts for anti-arson programs in many cities.

Insurance agents' associations may also be important allies and sources of information for arson prevention programs and public arson investigation units. Insurance agents, particularly those writing large volumes of business, may have a particular interest in quality underwriting and improvement of post-fire information exchange because many of them have profit-sharing agreements with insurance companies. Under these agreements, agents' compensation levels are tied to their individual underwriting results—that is, the profit or loss resulting from the difference between premium generated and claims payments and processing costs on the policies written.

Once programs identify their key contacts in the insurance companies, their diligence and dedication are necessary to maintain them. Particularly if the program covers only a small part of the company's business area, its

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contacts will inevitably have many other responsibilities and will not automatically keep a program's services or information needs constantly in mind. Two elements characterize successful personal relationships between insurance people and individuals from anti-arson programs: regular contact and mutual respect.

Programs offering information services, such as the Flatbush Arson Prevention Project, should regularly remind company contacts of those services and their potential value. (The importance of "selling" the program to insurers is discussed in more detail below.) Likewise, investigators desiring regular information exchange should frequently remind their insurance contacts of their information needs and of what they can offer in return. Programs might also consider preparation and distribution of periodic progress reports on the results of cooperation and information exchange. Finally, it is advisable for programs to take advantage of all opportunities to generate favorable publicity for cooperating insurance companies. For example, program representatives should always emphasize in interviews the value of the information provided by particular companies. Participating companies and their contact people should be identified by name. It takes favorable publicity as well as demonstrated "bottom-line" effectiveness to develop and maintain solid allies in the insurance industry.

Mutual respect is critical in developing and improving the personal relations that underlie program success. Showing mutual respect means understanding the constraints and limitations under which each side must operate and forming reasonable expectations as to what the other can offer. Responses to our telephone survey revealed some of the problems in this area. Public arson investigators criticized insurance companies for taking an overly conservative approach to claims investigation. Insurance officials asserted that many public arson investigators were incompetent and resisted providing information to companies attempting to deny fraudulent claims. Insurance companies need to understand the resource and staffing constraints under which most public investigative units must work, and public investigators must understand the legitimate legal concerns that often affect insurers' behavior. Such mutual understanding and respect will almost inevitably produce better personal relations and, in turn, more effective cooperation in combatting arson.

### *"Selling" the Program and the Value of Information Exchange*

Because an insurance company's decision regarding participation in an anti-arson program will be based primarily on a cost-benefit assessment made by company officials with neither the time nor the inclination to digest lengthy program descriptions or justifications for company involvement, arson

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prevention programs should attempt to present themselves in concise, concrete terms, stressing the attributes likely to be of greatest interest and concern to those making the decision. The following paragraphs discuss some of the specific factors that should be emphasized.

◦ *Amount of Business at Stake*

When approaching a company to seek its participation, a program should emphasize the amount of business the company has at stake in the target area. This can be expressed in absolute terms (number and value of policies) and relative terms (percentage of all properties in the target area insured by the company). The Flatbush Arson Prevention Project used statistics on percentage of properties insured to arouse Liberty Mutual's interest in participating in the program. Another insurance company we visited was apparently unaware of the substantial number of properties it insured in the Flatbush project's target area. Company representatives indicated that this new knowledge would lead them to work more closely with the Flatbush project in the future.

◦ *Services Offered by the Program*

Programs should not only summarize what they hope to obtain from the company but also itemize the services and information they can offer in return. For example, the Flatbush project has learned that it is critical to inform and regularly remind companies of its virtually instantaneous availability of up-to-date building profiles, which contain fire histories that may reveal minor fires for which no claims were filed but which nonetheless indicate a pattern of increasing arson risk. Such information is potentially very useful to insurers in evaluating risks for initial coverage and policy renewal. Most insurers have no other way of learning about such minor fires or of quickly and efficiently obtaining the other information contained in the building profile.

◦ *How the Program Will Use Information Provided by Insurers*

Arson prevention programs have found that many insurance companies do not fully understand (or trust) their explanation of the uses of the desired insurance information. Because some companies are afraid that information will fall into the hands of competitors or will be used to generate unfavorable publicity, programs must state clearly how they plan to use the information and explicitly promise to limit use to those purposes. Most programs seek insurance information to assess the risk of arson-for-profit and to prompt intervention by requesting insurers to review their coverage of the property. Obviously, this strategy cannot be implemented unless the insurer is identified.

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◦ *Program's Impact on Insurers' Arson Losses*

Documentation of program impact is perhaps the most critical factor in winning insurer cooperation. Benefits of participation in the program should be summarized in concrete terms understandable to the insurance executive, who is likely to be more interested in how much the program will save his company in claims costs than in how the program is bringing the community together to fight arson. Admittedly, it is difficult to assess the number of arsons that may have occurred in the absence of program intervention, but programs can use data showing overall declines in arson in their target area to suggest that they are having a positive impact. In addition, anecdotal information and testimonials from insurance companies that obtained information leading them to decline initial coverage or policy renewal on properties may also be useful in documenting program effectiveness.

Other types of data may be used to convince companies of the value of post-fire information exchange. The American Re-Insurance Company recently surveyed nineteen companies that had instituted aggressive claims investigation in cases of suspected arson-for-profit. The survey shows that the significant cost of investigations and consequent legal proceedings to deny the claim are more than balanced by the savings in claim payments: indeed, the surveyed companies reported that they had saved over \$10 million in 49 suspicious claims.<sup>17</sup> A regional arson unit supervisor in Virginia interviewed for our telephone survey estimated that insurance companies in his area had saved \$8.5 million in successfully denied claims due to their increased cooperation with public investigators. Moreover, such calculations leave aside the important collateral benefits of an aggressive investigative policy stressing cooperation between public agencies and insurers, such as the deterrence of future arsonists.

◦ *Favorable Publicity for Insurers*

Insurance companies are always interested in obtaining favorable publicity. Some of the most desirable public attention results from involvement in civic betterment projects such as arson control and crime prevention. Thus, programs should summarize the media attention they have received and, if possible, present examples of media coverage that include favorable references to participating insurers.

*Allaying Insurers' Fears of Legal Problems*

Insurers' fears of legal action for sharing both pre- and post-fire information are likely to persist. Arson prevention programs and arson investigation units seeking cooperation from insurers must take steps to address these fears. Although legal risks will always be associated with such cooperation, programs should urge insurers to view it as a risk-benefit question, weighing potential benefits against the probability of becoming involved in costly legal

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action. Moreover, programs can and should offer specific suggestions for ways to minimize the legal risk of participating in the program. They should also, where applicable, emphasize the presence and provisions of insurance disclosure laws that make all or part of requested information public record.

A pioneering legal opinion from the Liberty Mutual Insurance Company paved the way for the company's active participation in the Flatbush project. The opinion illustrates both the risk-benefit argument and the types of precautions that can be erected around pre-fire information exchange. When the Flatbush project asked Liberty Mutual to participate in its arson prevention efforts, the company turned the matter over to its legal department for an opinion as to the risks of legal action. The company's lawyers determined that there were some risks involved in participating, but concluded that these were outweighed by the potential benefits. They also asserted that it would be difficult for an insured to establish damages or prove malice (necessary in a libel suit) based on the type of information exchange that would be involved in participating in the Flatbush project.

The legal department of the Alliance of American Insurers, a leading property-casualty insurance trade association, has also examined the risks involved in companies' exchanging information with community-based arson prevention programs and using other private services in business to provide arson risk information on properties. The Alliance concluded that the common law "qualified privilege" and the statutory immunities provided by the Fair Credit Reporting Act and many state privacy acts are probably sufficient to protect companies participating in such programs or using such information services. However, the opinion closed by advising continued caution in dealing with such new, untested approaches.

The note of caution sounded in the Alliance opinion reflects insurers' persistent fears of legal action and consequent conservatism in approaching pre-fire information exchange and participation in arson prevention programs. These fears might be allayed by establishing and adhering to certain precautionary ground rules for company participation in arson prevention programs. Based on the terms of Liberty Mutual's agreement to cooperate with the Flatbush project and discussions with other knowledgeable respondents, we offer the following set of principles to govern insurance industry information exchange with arson prevention programs:

- written information exchange should be limited to objective facts;
- programs should ensure that all information provided to companies is accurate and up-to-date; and
- when communicating with policyholders, companies should never reveal that they received information on the property from an arson prevention program.

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Each of these principles is discussed briefly below.

In view of the industry's general conservatism regarding information exchange, programs should probably limit their requests to very basic factual information. The Flatbush project originally had overestimated what it could expect to obtain, hoping that insurance companies would notify the project of all claims in the target area and would check up-dated building profiles before initially writing or renewing any policies. This proved to be unworkable; Liberty Mutual's agreement with the Flatbush program, for example, provided that the company would furnish only objective, factual information: name of the insured, policy limits, and effective dates of coverage, to be furnished in writing. Programs should probably gear their expectations to this type of basic factual information. There is some controversy regarding the form of communication from insurers. Some companies prefer to have it all in writing, while others wish to avoid creating any "paper trail" by requiring that all information be furnished orally. The only consensus in this area appears to be that any exchange of *opinions* be done orally.

It is extremely important that programs providing information to insurers about properties ensure that such information is accurate, complete, and current. Insurers are concerned that they could be subject to legal action if they request a policyholder to correct conditions that never existed or that have already been remedied. Moreover, some insurers prefer that the information provided by arson prevention programs be factual and relate to the physical or structural characteristics of a building, and avoid judgemental terms such as "arson-prone" or "at risk to arson." If the referral comes from an arson prevention program, the purpose is clear and the use of such inflammatory characterizations could cause legal difficulties later on.

Finally, companies acting on information received from arson prevention programs should never reveal the source of that information to the policyholder. Such a revelation could provide ammunition for a lawsuit alleging a defamatory characterization of the insured as arson-prone.

The strategies discussed thus far in this section apply to pre-fire information exchange and cooperative arson prevention efforts. The legal aspects of post-fire information exchange are different. As discussed earlier, many insurers continue to be concerned about legal action for providing investigative information to public agencies after a fire occurs. These fears persist despite the presence of arson reporting-immunity laws in all fifty states. The best way for insurers to minimize their exposure to legal action is to adhere precisely to the letter of the law—that is, to furnish only what is required—and to request the added protection of a subpoena if they are uncertain about any particular request. Insurers should also avoid giving any ap-

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pearance that they are encouraging law enforcement agencies or prosecutors to pursue criminal arson cases. This could support a civil plaintiff's argument that the company was motivated solely by a desire to avoid paying the claim. Such allegations frequently form the basis of "bad faith" suits.<sup>18</sup>

### *Increasing the Accessibility of Insurance Company Data Bases*

The more arson prevention programs are established and begin to approach insurance companies to request and offer information, and the more beneficial those programs become to insurance underwriters, the more likely companies are to invest the time and effort necessary to make their data bases more accessible to the inquiries of prevention programs. Presently, most insurers arrange their data by name of insured and by policy number. When arson prevention programs know the name of the insured, the data base can be searched to determine whether the company has the policy on a particular property, but only if that individual or corporation is the same as the owner of record. From the arson prevention program's perspective, the most efficient and productive option is to search the data base by property address. Many of the larger insurance companies are now in the process of upgrading their data base structures to include this capability.

An alternative to costly data base modifications is to organize underwriting staff on a geographical basis. If companies assigned underwriters to relatively small geographical areas, those underwriters would presumably develop a more in-depth knowledge of the area and a quicker familiarity with the properties insured by the company in that area. Arson prevention programs would also then have a natural and knowledgeable contact for the exchange of information bearing on underwriting decisions. In short, this organizational structure appears to be advantageous both to the insurer and to the arson prevention program.

### *Developing Realistic and Effective Intervention Strategies for Insurers*

In developing their overall strategies for intervening in arson risk situations, arson prevention programs should realistically assess the intervention capabilities of insurance companies. Simply notifying an insurer that a property has serious code violations or other characteristics suggesting risk of arson will not automatically induce the insurer to cancel its policy on that property. As noted earlier, insurance companies are bound by state laws and regulations regarding acceptable reasons for cancellations and cancellation notice periods. These laws and regulations vary substantially across states in their breadth and specificity. Within states, permitted cancellation practices may vary according to whether the cancellation occurs during or after

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the policy's initial 30 to 90 day "probationary" period. Moreover, insurers may have different interpretations of the same regulations. For example, some may take a broad view of what constitutes "increased hazard" or "poor maintenance," and others may take a very narrow view. Clearly, programs should familiarize themselves with all applicable laws and regulations before forming any expectations as to likely insurer intervention.

Insurers' business interests also affect potential intervention strategies. Companies wish to avoid angering good customers by pressuring them to upgrade their properties or cancelling their policies, and fear that their business will suffer if they gain a reputation for employing overly strict underwriting standards. Such considerations are always weighed carefully, even as companies shift more towards "quality underwriting."

The organization of commercial fire insurance also plays a role in shaping companies' intervention capabilities. As discussed earlier, much commercial business is written in large multiple-location accounts. Coverage cannot be cancelled on individual properties in such accounts without cancelling the entire policy. Thus, if a company learns that a property in a multi-location account is at risk to arson, its typical reaction will be to increase their reinsurance rather than to cancel the entire account and suffer a large loss in premium income.

Once programs develop knowledge of the applicable laws, regulations, and business considerations, they should discuss possible intervention options with participating insurance companies. Such discussions should be of a general nature, as most companies strongly resist recommendations for action on particular properties. The Flatbush and San Francisco programs have made a policy of simply providing information on the problems affecting a property and leaving the decision regarding specific intervention up to the company. However, programs should certainly follow up with companies to learn what action was taken on the information provided.

Several other factors should be considered in shaping insurer intervention strategies. One is that policy cancellation should not be assumed to be the strategy of choice. Cancellation may defeat the larger objective of arson prevention programs to upgrade and stabilize neighborhoods. If too many policies are cancelled in an area, companies may begin to withdraw and all property owners will experience increasing difficulty obtaining coverage. In effect, the result will be illegal "redlining." Thus, in many instances it may be preferable for insurers to work with policyholders to correct the problems with their properties rather than to cancel coverage.

A second consideration is that cancellation of insurance may actually increase the short-term risk of arson. In most instances, the insurer must give notice of cancellation to the policyholder. During the period between notice and effective date of policy cancellation, the length of which varies

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according to state law, the policyholder still has coverage. Any plans to burn the building for insurance proceeds must be carried out during that notice period. Programs and insurers should notify the appropriate public agencies of this heightened risk so that surveillance or other intensive intervention strategies can be implemented.

### *Exercising Caution in Requesting Funding Support from Insurers*

In general, companies resist solicitations for funding, and the resulting ill-feeling and apprehension can seriously undermine information exchange and overall cooperation between the insurance industry and arson prevention programs. This represents a dilemma for both public and private arson prevention programs, many of which are desperately in need of funding support. The insurance industry is perceived as being a primary beneficiary of such programs as well as having vast financial resources. Yet, if programs pressure insurers for support, they cut off vital sources of information and cooperation.

Arson prevention programs should exercise caution in approaching insurance companies for funding until they have clearly demonstrated their effectiveness and their benefits to the industry. Once a program has developed convincing documentation of its effectiveness, preferably including specific examples of timely notification to insurers of high-risk properties and supportable estimates of savings in claim costs, it might consider seeking funding support from insurers. Obviously, efforts should be concentrated on those companies where the strongest case for direct program benefit can be made, as well as companies with home offices in their city, who may be more eager to obtain favorable local publicity. Local agents and brokers' associations, as well as individual insurance companies, should also be solicited.

Requests for support, whether in the form of outright grants or per-use service charges, should be kept to modest size. If even limited requests for support are unsuccessful, programs might consider working through their state legislature to impose an assessment on the insurance industry for the support of anti-arson programs.

Programs should explore alternative funding sources as well, including private foundations and government grants—for example, support from the U.S. Fire Administration, Federal Emergency Management Agency, and the Bureau of Justice Assistance, U.S. Department of Justice.

### *Clarifying and Strengthening Arson Reporting-Immunity Laws and Insurance Disclosure Laws*

Arson reporting immunity laws and insurance disclosure laws will never be a panacea for the problems of information exchange and cooperation be-

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tween insurance companies and anti-arson programs. However, strong, unambiguous, and well-disseminated laws are prerequisites for effective cooperation. Our telephone survey of insurance claims supervisors and public arson investigators disclosed loopholes and other problems with these laws that might be legislatively corrected.

The most serious problem with the immunity laws is the absence in most of them of strong reciprocity provisions. A majority of the insurance and public investigator respondents to our survey (93 percent and 78 percent, respectively) believed that reciprocity--i.e., entitling insurance companies to receive information from public agencies, rather than simply giving them the right to request information--was or would be "very important" in encouraging insurers to share information with public investigative units. According to one law enforcement official, reciprocity has been "very important to clearing misunderstandings and opening lines of communication" with insurance companies. Reciprocity provisions should be made a part of all arson reporting-immunity laws, and should include appropriate but not over-broad protections for sensitive investigative information.

Other recommendations for changes in the immunity laws include the following:

- Add provisions requiring insurers to share information with federal investigative agencies, as well as with state and local law enforcement agencies.
- Clarify the criterion for triggering insurers' reporting requirement: "reason to suspect arson" and similar phraseology is too vague. A conservative interpretation would require a full investigation before such a determination was possible, thus defeating the intended purpose of timely information exchange. Some law enforcement and fire officials believe that insurers should be required to report all claims in excess of a certain amount, rather than just suspicious claims.
- Clarify the scope and types of information to be exchanged.
- Specify the form in which information must be requested and furnished: orally, in writing, and/or on official letterhead.

As noted above, many insurers believe that the immunity laws do not provide sufficiently broad protection against extra-contractual suits, and particularly those seeking punitive damages. Several suggestions were offered by survey respondents for increasing this protection. Among these was explicitly barring bad faith suits if the insurer could make a reasonable case for arson short of conviction (any number of standards could be established, including a case sufficient to be accepted by the prosecutor, pass a preliminary hearing, obtain an indictment, or survive a motion for directed verdict of

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acquittal) and placing a cap on punitive damage awards. In response to the "liability insurance crisis" in America, bills have been introduced in many state legislatures capping such awards as applied to liability insurance.

Respondents generally spoke favorably of laws requiring property owners to disclose their insurance coverage. Most such laws are limited to absentee-owned multiple dwellings, but some respondents wished to see them expanded to cover all properties. In general, the type of disclosure law that places the burden on property owners to report their coverage as a matter of course (as in New York and Rhode Island) is preferable to the type under which disclosure is required only upon the request of an authorized public agency (as in Massachusetts).

Survey respondents generally favored expanding law enforcement access to PILR claim reports and search analysis reports. Illinois respondents overwhelmingly pronounced law enforcement access to PILR "hit reports" to be very useful, although some suggested that the process of obtaining the reports could be expedited. One method of speeding access would be to eliminate the current intermediaries, the insurance agent and the state fire marshal's office, and allow local arson units to obtain the search analysis reports directly from PILR.

## **Conclusion**

This chapter has shown that insurance companies have many shared goals and interests with arson prevention programs and public arson investigation units. However, insurers' fears of legal action and other factors have often frustrated efforts to establish cooperative relations and regular information exchange. We have described an array of strategies that may help to overcome the difficulties. These strategies stress being attuned to the organization, business trends, and prevailing concerns of the insurance industry and using that information to mount intelligent and persistent efforts to win industry cooperation. Using these strategies cannot guarantee a positive response but should certainly increase the chances of achieving cooperative and productive relations with insurance companies in the fight against arson.

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## Footnotes

1. Herbert Weisberg, Kenneth Carlson, Theodore Hammett, et al., *Unreported Taxable Income from Selected Illegal Activities* (Washington, Internal Revenue Service, September 1984), Table 6.8, p. 234.
2. FDC originally used the arson risk prediction index (ARPI) formula developed by the New York City Arson Strike Force, but an evaluation conducted by the Institute for Social Analysis found the ARPI to be a weak predictor of arson. ISA and FDC then developed the formula currently in use.
3. Ronald Hine et al., *Commercial Arson Prevention Project: Final Report* (Brooklyn, N.Y., Flatbush Development Corporation, August 1985), especially pp. 12-14.
4. Under funding from Aetna Insurance Company, the Fire Marshal's office maintained a landlord contact unit which pursued similar intervention strategies in other areas of the city.
5. Barry Goetz, *The San Francisco Arson Early Warning System: Summary of Research 1979 to 1981*, (Prepared for San Francisco Fire Department, 1981). This report is available from Barry Goetz, 1527 Lincoln St., Berkeley, CA 94703, (405)540-7128.
6. *Underwriter's Report*, December 1, 1983.
7. Insurance Committee for Arson Control, *Current Arson Issues: A Position Paper* (rev. ed., January 1983), p. 3.
8. The ICAC has published a detailed "State-by-State Summary of the Arson Reporting-Immunity Laws" (1985).
9. This discussion is based largely on Insurance Committee for Arson Control, *Good Faith: An Insurer's Approach to Suspicious Fire Claims* (New York, ICAC: 1984); See also Shernoff et al., *Insurance Bad Faith Litigation* (New York, Matthew Bender, 1984); McCarthy, *Punitive Damages in Bad Faith Cases* (California, law press, 1983).
10. These doctrines emerged through a complicated series of cases. The leading citations include *Crisci v. Security Insurance Company of New Haven, Connecticut*, 426 P. 2d 173 (Cal. 1967); *Fletcher v. Western National Life Insurance Company*, 89 Cal. Rptr. 78 (Cal. 1970); *Gruenberg v. Aetna Insurance Company*, 510 P. 2d 1021 (Cal. 1973); *Anderson v. Continental Insurance Company*, 271 NW 2d 368 (Wisc., 1978).

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11. See Arnold R. Levinson, "Thoughts on Trying a Plaintiff's Extra-Contract Damage Case" (Griffinger and Levinson, Suite 22, 850 Montgomery Street, San Francisco, California 94133).
  12. *Young v. Federal Insurance Company*, No. 79-4431, (Unpublished opinion, E.D.Pa. May 8, 1980).
  13. 108 Cal. Rptr. 480, 510 P. 2d 1032 (1973).
  14. *Id.* at 1038, n5.
  15. Andrew Tobias, *The Invisible Bankers* (New York, 1982).
  16. Key company claims staff may be identified from *Best's Directory of Recommended Insurance Adjusters* (Oldwick, N.J., A.M. Best Company, 1984); for key underwriting staff, programs should consult the Underwriting Guides published for each state.
  17. American Re-Insurance Company, *Arson: A Burning Issue* (n.d.) p. 15.
  18. E.g., *Greunberg v. Aetna Insurance Company*, *Supra*.

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## **Chapter Four**

# **Toward Comprehensive Anti-Arson Programs**

The previous chapters have discussed strategies for developing cooperative relations among community groups, public agencies, and insurance companies. However, the most effective way of dealing with inter-agency conflict and fragmented approaches to arson control is to bring all key public and private entities together in comprehensive, coordinated anti-arson programs. This chapter examines features of comprehensive approaches to arson control, drawing on the experiences of the programs in Philadelphia and Providence, as well as of the Boston Arson Prevention Commission.

### **The Arson Task Force Concept**

To be most effective in combatting arson, the efforts of all interested groups must be coordinated. Arson task forces have been formed in many jurisdictions to bring together representatives of key agencies and groups in regular meetings to resolve differences and to coordinate roles, responsibilities and specific action strategies.<sup>1</sup> They provide the necessary impetus and political support for arson prevention and control, and can mobilize resources and assist in planning and implementing anti-arson strategies. These task forces have been initiated at the call of governors, mayors, city councils, community groups, and private citizens.

While their primary objective is coordination, task forces play other important roles as well. For example, state, county, and municipal task forces have carried out studies on the nature and extent of arson in their jurisdictions, as a necessary first step in developing a coordinated response to the

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problem. Task forces can also be instrumental in expanding public awareness of arson through public education campaigns, press conferences, and regular cultivation of media attention. Finally, task forces can be effective in raising funds for anti-arson programs from outside sources such as federal agencies, foundations, insurance companies, and other businesses.

## Major Task Force Models

There is no single task force model. Arson task forces vary widely in size, composition, authority, and scope of activities. However, the following three major organizational schemes are discernible:

- *"blue-ribbon" task force* composed of department heads and top private sector representatives;
- *"working" task force* composed of mid-level officials and private-sector and community representatives; and
- *comprehensive anti-arson program based in a public agency*, staffed by full-time employees, and overseen by a body of community representatives and city officials.

Each of these models is discussed briefly below.

The "blue-ribbon" task force was the first common version of the concept. Typically chaired by the mayor or other local executive and comprising the fire and police chiefs, the chief prosecutor, city attorney, several other key department heads, prominent representatives of the insurance and banking industries, and community leaders, this type of task force can be useful in developing a grand strategy against arson and in making high-level policy decisions. However, because of the seniority of its members, such a group is not likely to be involved in the day-to-day development, administration, and coordination of anti-arson activities. This is a significant disadvantage, because much of the critical coordination and monitoring must be done "down in the trenches." Another disadvantage of the "blue-ribbon" model is that department heads are unlikely to attend meetings regularly, particularly after the passing of the initial crisis that prompted the formation of the task force. Designees sent to meetings by department heads will not have as much authority to make decisions and take aggressive action. Thus, "blue-ribbon" task forces can quickly become ineffectual bodies.

The "working" task force, exemplified by the Kensington Arson Prevention Task Force in Philadelphia, offers significant advantages. Its members are committed middle- or high-level managers rather than department heads. (The Kensington task force does not include representatives of the insurance or banking industries, but such representation is probably advisable in a working task force.) These managers deal directly with arson-related issues in their agencies and have a great deal of first-hand knowledge and experience in

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this field. A working task force also includes community representatives — for example, Kensington Action Now has several representatives on the Kensington task force.

Meetings of the working task force typically focus on specific issues and result in concrete decisions. For example, at each Kensington task force meeting, members consider a list of specific properties proposed for high-risk designation and develop specific intervention strategies for each property so designated. The disadvantage of a working task force is that members often will not have sufficient authority to enter into new or expanded program commitments without clearance from superiors.

In short, a working task force is preferable to a blue-ribbon task force if members have sufficient influence with their superiors to obtain necessary clearance for program initiatives. In arson control efforts, day-to-day coordination, strategy development, and program monitoring are absolutely critical. A “blue-ribbon” task force will never be able to provide this.

The third model, a comprehensive, public agency-based anti-arson program, can combine the best features of the first two approaches. This type of program, staffed by full-time employees, is overseen by a body of senior departmental officials and community representatives, which facilitates efficient decision-making on resource commitments and other issues and ensures that those decisions are responsive to community needs. At the same time, the permanent staff can be constantly at work implementing decisions and coordinating the overall program. The principal drawback of this model is its higher cost. Presumably, only fairly large cities with severe arson problems will have the inclination or the resources to hire a full-time staff to develop a coordinated anti-arson program. The best example of the comprehensive agency-based program is the Boston Arson Prevention Commission (BAPC).

### *The Boston Arson Prevention Commission*

The Boston Arson Prevention Commission (BAPC) was established by an ordinance of the Boston City Council in May 1983 to address several serious and long-standing problems that have plagued anti-arson efforts in Boston, including persistent inter-agency “turf” battles and suspicion and hostility between neighborhood residents and public agencies. (The ordinance appears in Appendix C.)

The BAPC is now an independent city department, reporting directly to the mayor and city council. According to the authorizing city ordinance, its principal responsibilities are to “study the problem of arson . . . , work with neighborhood organizations to implement remedies . . . , conduct independently or in conjunction with appropriate agencies . . . programs related

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to the prevention of arson . . . and . . . propose new programs as the commission deems feasible." The BAPC consists of fifteen commissioners. Eight commissioners are required by the ordinance to be "residents of the City . . . who live in areas affected by arson and have knowledge or expertise in the problem of arson." One commissioner is a representative of the insurance industry and the following six officials serve as ex officio members: the Fire Commissioner, Police Commissioner, Commissioner of Inspectional Services, Collector-Treasurer, Commissioner of Real Property, and the Chairperson of the City Council's Arson Committee.

Based on the mandate contained in the city ordinance, the Boston Arson Prevention Commission began to develop a comprehensive program that included the following functions and goals:

- Coordinate existing anti-arson activities and related housing programs and foster cooperation among the various agencies charged with responsibilities for arson control and between those agencies and the neighborhoods.
- Act as a clearinghouse for arson-related information for city, county and state agencies, as well as the insurance industry, ensuring that information of interest to an agency/entity is made available to it on a timely basis.
- Conduct systematic property research and information gathering in neighborhoods with serious arson problems to identify specific arson-prone properties and patterns of arson fires. This research is to focus on areas and properties occupied predominantly by low-income and minority people, as these suffer the most serious arson problems in the city.
- Develop and implement a consistent, predictable protocol of intervention strategies for arson-prone properties to prevent fires before they occur. Such strategies include tenant organizing, working with appropriate city agencies, and intervention with property owners.
- Reach out to the neighborhoods to foster community participation in anti-arson and fire prevention activities and to help community groups to develop their own arson prevention capabilities.
- Develop educational materials and curricula on arson prevention.
- Address the serious problems faced by fire victims.
- Initiate and coordinate smoke detector installation programs in arson-prone properties and neighborhoods.

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- Participate with other city agencies to implement a coordinated program for the prevention of housing abandonment and for the conversion of abandoned properties into much-needed low- and moderate-income housing for the neighborhoods.
  - Develop a centralized, automated arson "early warning" and investigative information system for Boston.
  - Research the utilization and effectiveness of existing laws, ordinances, regulations, and policies that relate to arson prevention.

Since early 1984, the Boston Arson Prevention Commission has been implemented by a full-time staff composed of an executive director, a neighborhood research coordinator, five neighborhood outreach workers/researchers, and an administrative assistant. The BAPC's ambitious program requires a substantially larger budget than that of other arson prevention programs discussed in this report. The Commission's budget for 1985 to 1986 is \$230,000: \$80,000 from the City Council, \$50,000 from federal Community Development Block Grants, and \$100,000 from the Massachusetts state legislature through the state's Executive Office of Communities and Development. If requested budget increases are received in fiscal year 1986 to 1987, BAPC will hire five additional neighborhood researchers and a part-time legal analyst.

Since it received a full-time staff and regular budget, the BAPC has made significant progress in developing and implementing a comprehensive plan to prevent and control arson in Boston. Examples of BAPC strategies and activities are highlighted throughout this chapter. Before turning to a discussion of strategies, however, it is important to understand the obstacles that may face those attempting to develop comprehensive arson control programs.

## **Problems in Implementing a Comprehensive Program**

### *Organizational and Interagency Relationships*

In developing comprehensive programs that bring together all interested agencies and groups, problems other than interagency conflicts can arise. Because response to arson generally involves both the fire and police departments, clear definition of the roles and responsibilities of each department is critical early in the program implementation phase. Disputes between fire and police personnel lead to animosity and inefficient working relations. One such problem contributed to delays in full implementation of the Providence Arson Prevention Unit, which is composed of fire inspectors and police detec-

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tives. Though formally established within the Fire Marshal's office in 1983, the APU is still operating without an established line-item budget. This means that the unit is not institutionalized and its budget can be diverted to other purposes at any time if the mayor or fire chief so desires. Differences in the shift schedules of fire and police personnel resulting from the union contracts of the fire and police departments present problems for establishment of the APU as a separate unit with its own budget. Similar problems exist in many cities.

In Philadelphia, some issues arose concerning the respective roles of the Fire Department, the Department of Licensing and Inspection, and other city agencies on the Kensington Arson Prevention Task Force. Some officials believed that the Task Force should be limited to representatives of the Fire Department and the community, with all other city departments channeling their participation through the Fire Department. Although a compromise was reached in Philadelphia, this sort of inter-agency dispute can debilitate a program if it is not quickly and reasonably settled.

Certain agencies in Boston, notably the Fire Department and the Boston Redevelopment Authority, have resisted the BAPC's entry into the arson prevention field and, at times, have even resisted the Commission's requests for cooperation and information. In certain instances, the BAPC monitored and sometimes criticized the activities and performance of these agencies as they relate to arson prevention. For example, the fire department has refused to furnish BAPC with reports of arson squad investigations. The Commission, in turn, has criticized the fire department's handling of certain cases. However, the BAPC has persisted in its efforts and has begun to build a position of strength and influence within city government and among residents of Boston's neighborhoods. As a result, the other agencies are becoming more amenable to cooperative arson prevention efforts with the Commission.

### *Shortages of Resources and Manpower*

Resource constraints, virtually universal in American city governments, limit the degree of commitment made by city agencies to an arson control program. Limited resources almost always preclude constant and forceful attention to all properties considered at risk to arson, through code enforcement action, surveillance or other strategies. While community groups can often contribute volunteer labor to help compensate for shortages in agency staffing and budgets, they are not an inexhaustible resource.

The Providence Arson Prevention Unit does not have nearly enough manpower to maintain constant surveillance on all of the buildings designated high-risk by the Anti-Arson Coalition. The APU is attempting to undertake arson prevention work (such as "practice runs" by fire suppression units to

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high-risk properties and meetings with owners to discuss abatement of hazardous conditions) on a selective basis, but it is difficult to devote sufficient attention to prevention because of the large caseload of active arson investigations. Finally, the Department of Inspections and Standards suffers from severe manpower shortages and has had difficulty keeping up with the inspection and code enforcement load.

The Boston Arson Prevention Commission, with a permanent staff and larger budget than the other programs discussed in this report, has been able to mount a more ambitious program—being particularly active in identifying high-risk properties and working with city agencies and property owners to abate arson risks.

### *Perceived Neighborhood Favoritism*

The possibility of one neighborhood or area being seen as favored over others may be a problem for programs attempting to improve the responsiveness of city government to community concerns. In Philadelphia, the problem arose with the Department of Licensing and Inspection. Kensington clearly has a serious vacant building problem, but it is by no means the only Philadelphia neighborhood with such a problem. The aggressiveness of KAN and the task force in pressuring DLI to clean and seal buildings has meant that the department is spending a disproportionate share of its clean-and-seal budget in this one neighborhood. Understandably, DLI is afraid that if community organizations in other parts of the city realize this, they will demand equal treatment. Unfortunately, DLI does not have sufficient resources to service all neighborhoods as quickly and as extensively as it now services Kensington. Other city departments see the potential for this problem if their resources are so heavily committed to the KAN area.

### *Manual Record Systems*

Many city offices still keep manual record systems. These systems make clearing the title on a vacant property (i.e., to ensure that there are no claims, encumbrances, or other “clouds” on the present ownership) extremely time consuming. Title clearance must be accomplished before the property can be sold to urban homesteaders. The longer a property lies vacant, the longer it is at risk of being burned. The manual record-keeping systems still used in many city agencies in Providence cause delays in title searches and property research for both the urban homesteading and arson prevention programs. Complicated title searches may take an entire week to complete, while even the simplest may require several hours of work.

The delays and frustrations caused by manual data systems are similar to those affecting some efforts to work cooperatively with insurance companies. It does appear, however, that municipal agencies as well as in-

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insurance companies are gradually upgrading their data systems, and this should bring some improvement in the future.

## **Strategies for Implementing Comprehensive Anti-Arson Programs**

A comprehensive anti-arson program is one that addresses both the short-term and long-term requirements of arson prevention and arson enforcement. In the short term, prevention means stopping particular buildings from burning; in the long term, it means helping to develop housing rehabilitation and community revitalization strategies that address the underlying causes of arson epidemics. Short-term enforcement success means increasing arrest and conviction rates, but in the long term this depends on fostering trust and cooperation between neighborhood residents and law enforcement officials. A coordinated program is one based on cooperation among all interested and responsible agencies, groups, and individuals. Such cooperation, in turn, results in the most efficient and effective application of available resources to the problem of arson. This section discusses the following major organizational and strategic considerations that will ultimately affect the degree of comprehensiveness and coordination that programs are able to develop:

- clarifying responsibilities and legal status;
- maximizing efficiency and productivity;
- working effectively with government agencies;
- working effectively with the general community;
- working effectively with insurers and private investigators;
- targeting anti-arson activities;
- implementing intervention strategies to prevent arson in highrisk properties; and
- other anti-arson activities.

### *Clarifying Responsibilities and Legal Status*

Coordinated arson prevention programs involving community groups and public agencies are likely to be unique or unusual organizations in a city. Thus, in the early stages of their development, it is important to clarify the respective roles and responsibilities of the participating entities and the legal status and authority of the organization as a whole. The following major questions must be resolved:

- Does the organization have the power to commit the necessary resources to the program?

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- Does the organization have the power to secure the necessary cooperation and action from responsible agencies and individuals?
  - Can the organization maintain political neutrality, especially if there are pre-existing inter-agency conflicts over arson control?
  - How formal should commitments and lines of authority be?
  - What is the precise legal status of the program?

In establishing a program involving various agencies and groups, it is particularly important to formalize any departmental or community commitments involving staff, funds, or other tangible resources. Memoranda of understanding or similar documents can be useful in the formal designation of roles and responsibilities. Chains of command and lines of reporting must also be clearly established.

Moreover, the exact legal status of the program should be established at an early date. City officials as well as community residents should know whether the arson program is a public, quasi-public, or private organization. The program's legal status can be extremely important in the design and activation of its intervention strategies to prevent arson. In this regard, a program will generally have more legal power (and thus, perhaps, be more effective) if it is officially made part of a public agency. For example, public agencies usually have more authority than community groups in dealing with property owners and obtaining information about buildings. On the other hand, community people may fear losing control of the program if it resides in a city agency. The Boston Arson Prevention Commission represents a promising approach to the problem of representing both neighborhoods and government agencies.

The BAPC is an independent city agency with its own staff and budget, overseen by a body with strong community representation and reporting directly to the mayor and city council. The BAPC thus has resources of its own to commit and the support of the mayor and council in fostering cooperation among other city departments. Being an independent agency has disadvantages, however. For example, the BAPC is not considered a law enforcement agency and thus does not have access to important sources of research information without clearance from the fire department. Also, the BAPC's status as a new and independent agency also raises some more general political issues. To some extent, the long-established city departments tend to view the BAPC as an outsider and have resisted BAPC intervention. These are problems that take time and perseverance to resolve.

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## *Maximizing Efficiency and Productivity*

Because arson prevention is a complex process, programs need to develop organizational structures and procedures to maximize their efficiency and productivity.

- *Maximizing the Productivity of Meetings*

Since representatives to comprehensive anti-arson programs usually have many other responsibilities, meetings cannot be held too frequently. Therefore, meetings must be as productive and as focused as possible, by preparing specific action proposals for discussion and circulating agendas in advance, among other things. In Philadelphia, where task force meetings generally focus on discussion of specific properties, agency representatives have found it particularly useful to have advance agendas listing the specific properties to be discussed. If the list is distributed several weeks in advance of the meetings, officials are able to research the properties and any previous municipal action taken on them. There may be some suspicion that city officials request an advance list so they can prepare excuses for past inaction or reasons for opposing high-risk designations. However, everyone has legitimate concerns regarding the productivity of meetings and compromise should be possible on this point.

The Boston Arson Prevention Commission meets on a monthly basis. Unlike the Kensington task force, its meetings focus more on broad policy decisions. Efficiency and productivity are maximized by developing and following a fairly standard agenda. The executive director presents a report at each meeting outlining the month's activities, and the commissioners are provided copies of monthly reports prepared by each neighborhood researcher. Time is allotted for the Commission to discuss these reports.

- *Establishing Subcommittees*

A body administering a comprehensive anti-arson program must deal with a wide variety of specific issues and policy decisions. Thus, they should consider establishing subcommittees to address specific issue areas and present recommendations to the full body.

The Boston Arson Prevention Commission has established three subcommittees, on insurance, property, and communications. The Insurance Committee has considered a range of issues, including experience under the state's arson reporting-immunity law and recommendations for its improvement, regulation of surplus lines insurers by the state's Insurance Division, and methods of facilitating identification of insurers and owners' addresses for specific properties. The subcommittee has developed some recommendations, such as proposing a new system for increasing compliance with

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Municipal Lien and Demolition Lien laws. The Property Committee has concentrated its efforts on assisting the city to develop a program to speed up the tax foreclosure process and convert abandoned properties into low- and moderate-income housing. The subcommittee is concentrating on ensuring that this program takes account of arson prevention concerns. The Communications Committee is responsible for fostering effective communication between the BAPC and outside entities, including other government agencies and the media.

### *Working Effectively with Government Agencies*

Wherever an anti-arson program is situated, it will have to work with a variety of public agencies. This section examines useful strategies for structuring agency participation in the program, and the need for program leaders both to take the initiative in dealing with public agencies and to cooperate with agencies on specific arson prevention strategies.

#### *• Structuring Agency Participation*

Two issues arise regarding agency participation in an arson prevention program. First, which departments should be involved in the program, and second, how should they be represented in the program. The first question is answered quite easily: all city departments with responsibilities relating to arson prevention and control should be involved. At a minimum, these include fire, police, code enforcement, legal, and prosecution agencies. In Philadelphia, questions arose concerning the respective roles that various city agencies should play in the Kensington task force. However, working with the city managing director's office and the various departments, KAN was able to engineer a solution acceptable to all parties.

The question of how departments should be represented poses more complex problems. The experience of the Kensington Task Force and other cross-agency arson prevention programs suggests that a single contact person should be designated by each municipal department. Mid-level managers are well suited for the position, people who can regularly participate in the program and also fulfill their department's commitments to it. Continuity is also important, as representatives need to become familiar with conditions and trends in specific properties and the history of actions taken to abate specific arson risks. Significant time and energy can be wasted due to turnover or uneven participation of representatives. It is essential that all representatives have the time and interest to be involved on a regular basis.

Still, there may be difficult tradeoffs between availability and authority in designating representatives. A person who is able to be involved regularly in the program's work is unlikely to have sufficient authority to carry out all desired commitments for departmental action. Need for clearance from

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superiors will probably lead departmental representatives to be cautious in making commitments, which may in turn frustrate community representatives. Nevertheless, regular involvement of a mid-level official—even though he or she may lack authority to make all desirable commitments—is better than irregular or minimal involvement of a department head.

The structure of the Boston Arson Prevention Commission may offer a solution to the difficult problems of extent, level, and manner of agency participation in an anti-arson program. The BAPC includes all key department heads as ex officio members, thus facilitating critical policy decisions and commitments. At the same time, the BAPC program is implemented and administered by a full-time staff who are in a position to make day-to-day strategic decisions.

- *Taking the Initiative with Public Agencies*

Arson prevention programs, whether in public agencies or private groups, should not wait for other public agencies to propose action plans, nor should they hesitate to be aggressive in seeking information from agencies or in candidly assessing agencies' activities relevant to arson prevention. The experiences of KAN and the BAPC offer useful illustrations of the importance of taking the initiative.

KAN secured the support of key municipal officials and many community residents for the proposed task force. But, KAN leaders emphasize, this was only the beginning of the task. KAN took the initiative to develop specific action proposals for the task force as soon as members were appointed. KAN was concerned that without specific proposals to use as the focus of negotiation, the meetings would become general discussions that would not lead to specific action strategies. Such unfocused meetings, in turn, might lead to a "do-nothing" program. Furthermore, by presenting specific (and realistic) proposals, representatives can also demonstrate their sincerity and credibility.<sup>2</sup>

The Boston Arson Prevention Commission staff has also found that it must often take the initiative in dealing with other city agencies, particularly the fire department and the Boston Redevelopment Authority, if it wishes to get cooperation and action.

The BAPC has also been aggressive in presenting its concerns regarding the Boston Redevelopment Authority's proposed development plan for the Dudley Square area of Roxbury. The Commission issued a report documenting the rise in arson in Dudley, suggesting that it was linked to the redevelopment of the area (e.g., fires to clear tenants from properties or to clear parcels of all structures to make way for more profitable uses), and recommending that the BRA take steps to prevent displacement of low- and moderate-income people and to guard against providing lucrative oppor-

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tunities for arsonists. The BRA criticized the report, and denied any connection between arson and its development plan for the Dudley area. The issues received front-page newspaper coverage and significant attention in the electronic media. The BAPC received strong support for its position from the media and, more importantly, from the neighborhoods and the City Council. As a result, the BRA was brought under strong pressure to adopt the BAPC's recommendations and to work cooperatively with the Commission in the future.

- *Cooperating with Government Agencies*

While aggressiveness and outspokenness are sometimes important for anti-arson programs, cooperation with and assistance to government agencies is also a valuable strategy. This is as important for programs already situated in public agencies as for programs situated in private organizations.

The BAPC has worked closely and effectively with a number of city agencies, and it still hopes to develop better relationships with the fire department and the BRA. A few examples convey the breadth of the BAPC's interests and concerns. BAPC staff have worked closely with the city Collector-Treasurer's office in the Commission's efforts to improve enforcement of the Municipal Liens Law covering fire losses to buildings in tax arrears. The Neighborhood Development and Employment Agency (NDEA) has furnished Commission staff with printouts from its citywide abandoned property data base to assist in the identification of high-risk properties, and the BAPC has updated the lists. The staff is also working with NDEA to resolve some inconsistencies between rehabilitation and demolition programs, such as certain properties being simultaneously listed in both. Commission staff regularly review applications for housing rehabilitation loans and purchase of city-owned property submitted to NDEA and other city departments to determine whether the applicant has a history of fires in his or her properties or any irregular property transactions. This information is provided for the consideration of the agencies as they make their decisions. The BAPC has discovered several convicted arsonists applying for new rehabilitation loans. BAPC staff have also recommended specific properties for rehabilitation funding under programs of the Massachusetts Executive Office of Communities and Development.

Programs can also contribute valuable assistance and information to arson investigative agencies after a fire occurs. The lines of cooperation and communication that are critical to preventing arson can be just as important to the effective investigation of arson. Community groups and individual citizens often obtain information that could be invaluable to arson investigators. Arson prevention programs should act as a clearinghouse for such information, ensuring that it reaches the proper authorities in a timely manner. Programs should also actively encourage citizens to pass on infor-

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mation and to cooperate in every way possible with arson investigators. In Providence, the Arson Prevention Unit has developed such respect for SWAP and the Anti-Arson Coalition that its staff has begun calling the community groups requesting information on specific fires and properties. In such a climate of cooperation, community groups can also request information from public arson investigators on the status of particular cases.

The Boston Arson Prevention Commission has passed on a great deal of information to city agencies on possible arson-prone properties and intervention actions to abate the arson risk. In addition, staff channel valuable investigative leads from neighborhood residents to law enforcement agencies. This may be a particularly important function when a resident is unwilling to speak to law enforcement officials.

BAPC staff have also provided investigators with research information that has resulted in prosecutions. For example, staff uncovered an apparent instance of perjury on a property owner's reply to a request for fire insurance information and an apparent case of forgery by a property owner who appropriated a settlement check written by his insurance company to the city in payment of back property taxes after the property had burned. These cases are still in the adjudication process.

The other side of information exchange is that, by city ordinance, BAPC staff have access to information maintained by other agencies that is vital to the performance of their duties. The State Fire Marshal has indicated a willingness to negotiate the BAPC's access to Property Insurance Loss Register loss reports, which must be filed with his office by all insurance companies (including surplus lines carriers). This information could be invaluable to BAPC research efforts.

The BAPC cannot carry out arson prevention research without regular Fire Department summaries of fires by location, cause, and dollar loss. BAPC staff must also have access to the critical information in the Arson Squad's fire reports and the authority to interview neighborhood residents regarding past fires. Moreover, Commission staff often desire to review arson squad reports to monitor the progress of investigations in response to inquiries and/or complaints from community residents. Yet, the Fire Department has periodically failed to provide timely fire summaries and has refused to provide fire reports on the ground that the BAPC is not a law enforcement agency. Thus far, the Commission has been able to resolve the difficulty in obtaining weekly fire lists, but it is still unable to gain access to arson squad reports.

### *Working Effectively with the General Community*

Community input is vital in any comprehensive arson control program. But programs must decide how best to structure community participation

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and how to maximize responsiveness to community concerns and community-generated information. Community outreach and education are integral to this effort.

- *Structuring Community Participation*

Community participation may take the form of open attendance at program meetings or some form of limited representation. In Philadelphia, city officials argue that task force meetings should be of manageable size in order to be productive, and favor limiting attendance at regular meetings to representatives of KAN and the key city agencies, with direct and open community participation limited to several forums per year. Otherwise, community people should channel their concerns and requests through the KAN representatives on the task force. KAN was at first suspicious of these concerns, but came to understand that unlimited direct community participation could lessen the productivity of meetings.

Community participation is a key aspect of the BAPC program; under the ordinance establishing the BAPC, eight of the fifteen commissioners are required to be residents of neighborhoods affected by arson. The mayor worked closely with the community groups in these neighborhoods to identify prospective commissioners, and sought to appoint commissioners acceptable to those groups and attuned to the needs of their neighborhoods. Even with heavy community representation on the Commission itself, meetings are open to anyone who wishes to attend.

- *Reaching out to the Neighborhoods*

Programs must demonstrate their responsiveness to neighborhood concerns by reaching out to encourage the participation of residents. In doing so, they will foster good relations and provide themselves with the opportunity to gather important information and support. The BAPC's community outreach begins with the very organization of the program. Much of the day-to-day work of the BAPC is carried out by five outreach workers/researchers, each assigned to a target neighborhood. These individuals are all residents of their assigned neighborhoods who have close ties to the community groups active in those areas.

To be as responsive as possible to community concerns and to take maximum advantage of residents' interest, staff of the BAPC spend a great deal of time "in the field," holding meetings and hearings with residents to discuss specific arson problems, doing neighborhood walking tours, and conducting merchant surveys and physical inspections of properties. The BAPC has also held a series of public hearings in neighborhoods hard-hit by arson. Exhibits 4.1 and 4.2 are English and Spanish language posters prepared by the BAPC to announce and encourage attendance at the neighborhood hear-

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Exhibit 4.1

**Boston Arson Prevention Commission Poster  
for Neighborhood Hearing (Spanish)**

**COMO TU PUEDES  
PREVENIR  
INCENDIOS  
PREMEDITADOS  
EN TU CUMUNIDAD**

La COMISIÓN de PREVENCIÓN  
de INCENDIOS PREMEDITADOS  
va a tener una vista publica en tu vencindario

DIA: \_\_\_\_\_

HORA: \_\_\_\_\_

SITA: \_\_\_\_\_

PARA MAS INFORMACIÓN PUEDES  
LLAMAR AL **725-3609**  
SE HABLA ESPAÑOL

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**Exhibit 4.2**  
**Boston Arson Prevention Commission Poster**  
**for Neighborhood Hearing (English)**

**YOU CAN STOP**  
**ARSON**  
**IN YOUR**  
**COMMUNITY**

**The Boston Arson Prevention**  
**Commission will be holding a**  
**neighborhood hearing in your area**

**DATE:** \_\_\_\_\_

**TIME:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

**For Further Information Call**  
**725-3609**

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ings. Following each hearing, BAPC staff follow up on all specific complaints and issues raised by witnesses.

Another important area of BAPC outreach is working with and training community organizations in arson prevention techniques. Staff follow a consistent, step-by-step process: BAPC presents research findings to neighborhood residents, plans initial and ongoing strategies, establishes organizational structures (including tenant organizations), acts for groups as intermediary and advocate with city agencies, provides technical assistance, and helps groups to obtain funding support. For example, the BAPC helped an anti-arson coalition in Jamaica Plain to obtain a \$25,000 grant from the U.S. Fire Administration.

Finally, the BAPC has solicited donations of smoke detectors from manufacturers and other business sources for free distribution within the BAPC target neighborhoods. This activity, like the fire safety education and fire prevention efforts, illustrates the BAPC's firm conviction that a comprehensive arson prevention program should be aimed at preventing *all* fires and reducing the associated property damage and human cost.

- *Educational Programs*

Efforts to educate the community are another important part of BAPC's work. Commission staff prepared an information sheet on legal rights related to fire protection and the legal rights of fire victims. They also prepared a slide-tape show on arson and property abandonment, and developed a manual for community groups and residents detailing their outreach efforts and outlining a range of arson prevention strategies that groups may pursue independently or jointly with Commission staff.

- *Working Effectively with Insurers and Private Investigators*

Insurance companies can and should be key participants in comprehensive anti-arson programs, and insurance industry representatives should be part of the program's overseeing body. There are a number of strategies to encourage the involvement of insurers in arson prevention and post-fire information exchange.

As discussed earlier, programs may contact insurers of high-risk properties to notify them of the situation and afford them the opportunity to take action on the policy. The Flatbush program's efforts to work with insurance companies on intervention strategies were discussed earlier. The Boston Arson Prevention Commission is also beginning a program to contact insurers regarding arson risks. Once the insurer of a property has been identified, through an insurance request letter or otherwise, BAPC staff often send a letter (see Appendix C) to the insurer. This letter informs the company that the BAPC is "concerned" about the property, specifies the reasons

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for the concern, and suggests that the company "review this fire insurance policy." The BAPC also sends a letter offering information and assistance to private investigators who conduct fire investigations for insurance companies. (See Appendix C).

The BAPC's insurance subcommittee is considering a number of other strategies for increasing the effective participation of insurance companies in anti-arson efforts, and the Massachusetts Division of Insurance has cooperated with the Commission by providing access to its records on surplus lines fire insurance in Boston. The fact that the BAPC is itself a public agency probably gives its staff more influence with insurance companies than would normally be true of private anti-arson programs.

### *Targeting Anti-Arson Activities*

Comprehensive programs can target their activities and implement their short- and long-range arson prevention strategies by selecting target neighborhoods, identifying high-risk properties, and researching arson patterns and related issues.

- *Selecting Target Neighborhoods*

A critical prerequisite for effective anti-arson programs is to develop an understanding of the nature and extent of the jurisdiction's arson problem, which is an ongoing process. Due to resource constraints, programs usually must initially determine the areas of the city suffering the most serious arson problems and most in need of intervention. After analyzing fire and arson data in the city, the Boston Arson Prevention Commission chose the following target neighborhoods: Jamaica Plain-Mission Hill; Roxbury-Highland Park, Dudley Station; Dorchester-Codman Square; East Boston; and Allston-Brighton. Exhibit 4.3 shows the location of these neighborhoods. As the program was refined, it focused on more circumscribed geographical areas and more specific categories of at-risk properties within the target neighborhoods. In general, BAPC staff have been able to target most of the neighborhoods in Boston with serious arson problems. With proposed budget increases, even more neighborhoods will begin to receive intensive BAPC staff attention.

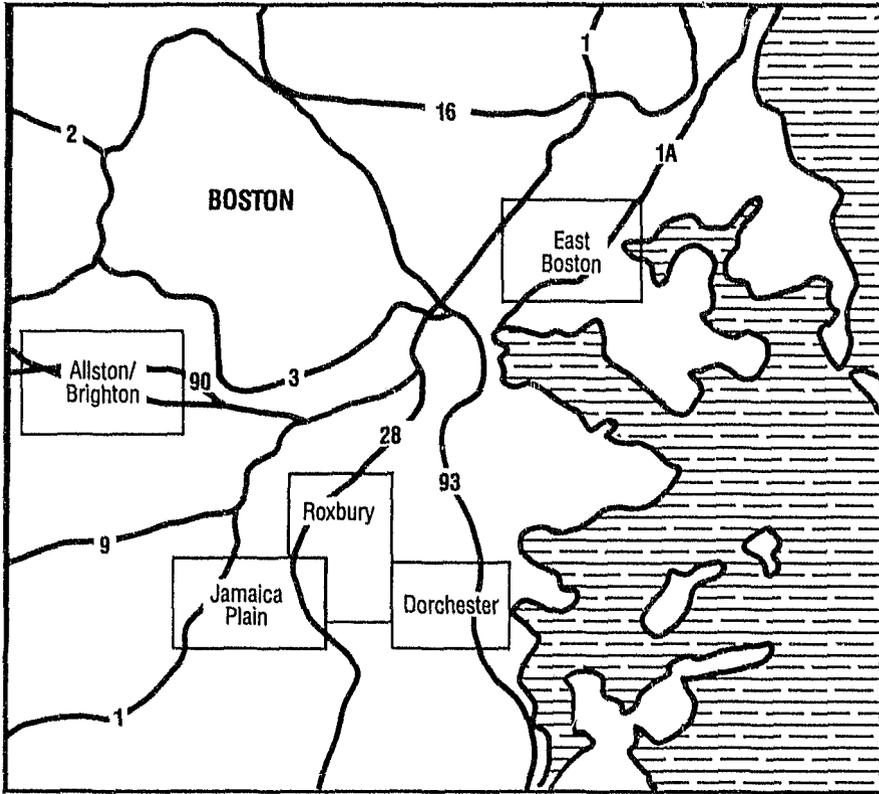
- *Identifying High-Risk Properties*

Once target neighborhoods have been selected, programs focus on identifying specific high-risk properties within the neighborhoods. Programs have developed various systems and arrays of criteria for designating high-risk properties.

The Kensington Arson Prevention Task Force has experienced some controversy regarding the criteria for designating high-risk properties. The

### Exhibit 4.3

## Map of Boston, Massachusetts Showing Boston Arson Prevention Commission (BAPC) Target Neighborhoods



fire department recommended that designation rest on the presence of two or more of the following objective factors: code violations; previous fires; and significant back taxes. The rationale for relying on such objective factors is twofold: 1) to keep the list to a manageable size so that aggressive intervention strategies remain feasible; and 2) to prevent abuse of the process by neighborhood residents, who might demand inclusion of properties that are "eyesores" but not otherwise at risk to arson. In contrast to the views of fire officials, KAN members feel that there should be room for neighbors' input in the process—indeed, the group believes that basing designations on more qualitative neighborhood information gives the community an essential sense of control over the program as well as a more immediate stake in its effectiveness.

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Through the task force, the agencies and KAN have agreed to make designations based on a combination of objective and subjective criteria. The Fire Department and the Department of Licensing and Inspection would like to develop specific guidelines for designation of high-risk properties, but it is unclear whether the more flexible approach sought by KAN can be embodied in precise criteria. It may be more realistic to develop procedural, rather than substantive, guidelines for decision (for example, attempting to regulate the length of time for discussion, permissible factors for consideration, and procedures for voting to designate properties).

In Boston, BAPC researchers assigned to each target neighborhood coordinate the identification of high-risk properties. Such properties are initially identified by neighborhood groups and residents, as well as by BAPC staff during neighborhood walking tours and community meetings. Once initial lists are compiled, systematic research is undertaken on each property. Since 1984, the neighborhood researchers have studied over 600 properties, following a standard procedure for property research. They conduct a physical inspection of the building and meet with residents and neighbors to learn of their concerns. Next, they research the property on a range of possible arson risk dimensions, including ownership, mortgages and liens in the Registry of Deeds, attachments and foreclosures in Land Court, tenant-landlord disputes in Housing Court, code violations in the Inspectional Services Department, and tax title information in the tax department.

• *Researching Arson Patterns and Related Issues*

BAPC staff also research arson patterns in their target neighborhoods and conduct a range of special studies. The most significant BAPC neighborhood study compared fire and arson patterns in the Dudley Square development area with patterns in a nearby neighborhood not experiencing development. The results showed a sharply higher arson rate in the development area than in the comparison area. The BAPC report also presented information from interviews with residents regarding their fear of arson, offered case studies of at-risk buildings, and outlined a range of recommendations to reduce arson in the development area.

The BAPC staff has examined various types of fires and potential arson patterns in a number of other neighborhoods. Research in the Jamaica Plain/Mission Hill area has focused on suspicious fires that may be linked to real estate firms pressuring owners to sell their properties. In East Boston, the emphasis to date has been on fires in properties occupied by Southeast Asian refugees. Allston-Brighton research is examining possible fire patterns associated with particular property owners, condominium conversions, property transfers, mortgage transactions, and applications for federal housing rehabilitation subsidies.

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Finally, BAPC researchers have conducted a number of special studies. These have focused on bank lending practices related to gentrification, loans to convicted or suspected arsonists, arson fires related to condominium conversion, property owners with significant fire histories, the decline of lodging house capacity in Boston, and speculative purchases of foreclosed properties at public auction. These studies illustrate the scope of the BAPC's research interests and demonstrate that the Commission is interested not simply in preventing arson, but in addressing the complex development and housing issues that plague many low-income Boston neighborhoods.

### *Implementing Intervention Strategies*

Drawing on a combination of public and private resources, comprehensive programs can develop and implement a wide range of intervention strategies to prevent arson in identified high-risk properties. The major categories of intervention strategies are:

- immediate action to prevent arson— e.g., sealing the property, maintaining surveillance, demolishing the property;
- contact with the property owners and insurers— e.g., meetings, warning letters, assistance with rehabilitation;
- enforcement/legal action against the property owner— e.g., code enforcement, tax foreclosure, civil action for nuisance; and
- transfer of the property to a new owner committed to risk abatement/rehabilitation.

A full discussion of the development and implementation of intervention strategies is beyond the scope of this document. Several useful guides are already available, notably a manual developed by the LEAA-funded Comprehensive Arson Prevention and Enforcement System (CAPES) in Massachusetts.<sup>3</sup> This section presents examples of some specific intervention strategies that can be undertaken by comprehensive anti-arson programs.

#### *• Immediate Intervention*

Immediate action is sometimes necessary to prevent a building from being burned. However, resource limitations and strategic considerations require that the timing, level, and duration of actions be carefully weighed. KAN secured a commitment from the Department of Licensing and Inspection that all designated high-risk properties would be cleaned and sealed within a certain time limit. Such agreements can be useful in facilitating control and ongoing monitoring of intervention strategies. However, there are degrees of hazard even among "high-risk" properties, and cleaning and sealing actions, as well as other interventions, must be carried out on a priority basis.

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In cases of particularly high arson risk or hazardous physical conditions, the Kensington Task Force has secured commitments from DLI to inspect the property within a very short period of time.

Staff of the Boston Arson Prevention Commission have worked closely with the city's Inspectional Services Department to identify properties in need of emergency boarding and/or citations for code violations to arrange for action to be taken on a timely basis. In addition, BAPC staff have worked with city agencies to respond to tenants complaining of threats by the landlord, situations which may indicate an immediate danger of arson.

Surveillance is an extremely costly intervention strategy that should only be used at times of great and well-defined arson risk. The Providence Fire Department's Arson Prevention Unit believes that SWAP is effective in identifying high-risk properties but argues that surveillance of those properties is neither cost-effective nor feasible, absent knowledge of a well-defined and relatively circumscribed time of highest risk. In general, the hard decisions regarding immediate intervention require mutual understanding between community residents and public officials. But comprehensive programs such as the BAPC and the Kensington task force can help decide how limited resources may be most effectively applied.

As already noted, demolition of vacant high-risk buildings should be considered a strategy of last resort. Community groups generally favor rehabilitation of properties unless the buildings are so dilapidated or dangerous that this is unfeasible.

- *Contact with Property Owners*

As part of their overall intervention strategies, most arson prevention programs attempt to identify, contact, and work with owners of high-risk properties. Warning letters and meetings are potentially effective methods of notifying owners that their property is of concern to the program and is being actively monitored. Most programs employ an indirect approach. That is, rather than denounce an owner or threaten strong action, they simply inform the owner that they are "interested" in his problems and offer to "help" him correct those problems.

Massachusetts state law empowers law enforcement and code enforcement agencies to require owners of certain categories of properties to disclose information on their fire insurance coverage.<sup>4</sup> (A copy of the insurance disclosure law is provided in Appendix B.) The BAPC uses these insurance disclosure letters to notify owners that their properties are of concern to the Commission. In fact, each letter must specify the reason for the information request. (The form letter is included in Appendix C.) More than 750 insurance request letters have been sent out since the BAPC was established.

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The Philadelphia experience suggests that there can be legal difficulties involved in sending "warning letters" to problem property owners. Several city officials believe that such letters cannot be sent out on any official department letterhead because this would represent a selective warning of violators of city ordinances or other laws. Still, this may not be the case in other cities. Community representatives should take the initiative in drafting a warning letter and seek the assistance of the city's law department in revising its language and developing procedures for sending it to owners of problem properties.

Another potentially effective method of exerting pressure on problem property owners has been developed by the Flatbush Development Corporation's Arson Prevention Project. As the designated community development corporation in its area, FDC must approve all applications for subsidized property rehabilitation loans. This makes possible a powerful inducement to owners to improve the management and/or physical condition of their properties, and thus reduce the risk of arson.

- *Enforcement and Legal Actions*

A range of actions may be available to force owners to correct the problems that have increased the risk of arson at their properties, including vigorous action regarding the code violations and property tax arrearages that commonly characterize arson-prone properties. Arson prevention programs may facilitate and assist in such efforts. For example, Boston Arson Prevention Commission staff have referred numerous code violations to the Inspectional Services Department and have filed letters in Boston Housing Court cases presenting the Commission's research on the property and the basis of its concerns that the building may be at risk to arson. However, strategic considerations, as well as resource limitations and bureaucratic hurdles, may affect the timing and vigor of such enforcement efforts. Indeed, in some instances it may be wise to forego immediate action. For example, certain boarding homes in the KAN area have significant code violations yet are serving an essential function — providing shelter during the winter months to people who might otherwise be homeless. Thus, the city has decided not to pursue these violations aggressively unless they become life threatening. Moreover, an overly aggressive code enforcement or tax foreclosure program might induce financially distressed property owners who had not previously considered arson to torch their buildings.

Imaginative and innovative types of civil legal action have been used to prevent arson. The Massachusetts Attorney General's Office developed a number of promising civil legal strategies, including actions against landlords for unfair and deceptive practices under the state's consumer protection law and eminent domain takeovers of abandoned properties.<sup>5</sup>

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The Citizens Committee for Fire Protection (CCFP), a privately-funded consumer advocacy group, has recently offered another promising approach to arson prevention — legal actions seeking damages, injunctive relief, and/or criminal penalties for maintaining a public nuisance under common law or state statutes. CCFP has made three important contributions in this area:

1. researched case law establishing that vacant, dilapidated buildings can be considered nuisances because they constitute fire hazards;
2. established that community groups, as well as individuals, have legal standing to initiate actions for nuisance; and
3. devised a cooperative legal strategy for community groups and city legal departments to exert pressure on owners to correct problems at their properties: simultaneously, the city seeks an order that the owner take corrective action and the community group sues for damages arising from the nuisance. In many states, a finding for the city in the first case will dictate a judgment for the community group in the second; thus, the owner has a strong incentive to settle on a course of corrective action with the city in exchange for withdrawal of the action for damages.

The use of actions for nuisance to prevent arson, as well as civil actions for liability after an arson fire occurs, is described in detail in a paper available from CCFP.<sup>6</sup>

#### • *Ownership Transfers*

Finally, arson prevention programs have abated arson risks through use of programs to transfer ownership of problem properties to individuals committed to their rehabilitation. SWAP, KAN, the Flatbush Development Corporation, and many other community organizations involved in arson prevention also maintain excellent urban homesteading programs. As noted earlier, KAN and other groups have also succeeded in getting deteriorated commercial properties into the hands of new and more responsible owners. Public arson prevention programs such as the BAPC have also used ownership transfer programs to abate arson risks, successfully exerting pressure for sale of certain high-risk properties to community-based organizations committed to their rehabilitation. The BAPC has also provided technical assistance to community groups negotiating purchase of fire-damaged properties.

In the long run, property transfers are probably the most desirable of all intervention strategies. They not only prevent arson in a specific property, but also contribute to the overall revitalization of the affected

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neighborhood, which will prevent many more arsons in the long run.

### *Other Anti-Arson Activities*

This section briefly describes initiatives to generate additional revenues through anti-arson activities, to develop multi-use information systems, and to improve legislation and regulations related to arson control.

#### *• Generating Additional Revenue Through Anti-Arson Activities*

The Boston Arson Prevention Commission has discovered several ways to generate additional revenues for the city while implementing important arson prevention strategies. Obviously, such initiatives are extremely valuable opportunities to build support for the program within city government and in the public at large.

In one such effort, BAPC staff conducted a thorough study of compliance with the Massachusetts Municipal Lien Law<sup>7</sup> and helped to design and implement a new interagency system to improve enforcement of this law. The Municipal Lien Law provides that prior to payment of any fire insurance claim in excess of \$5,000 (except losses to owner-occupied one- to four-unit dwellings), the insurer must require the owner to provide a municipal lien certificate. All outstanding taxes and liens must be paid by the insurer before the insured receives any proceeds. Aggressive enforcement of the Municipal Lien Law serves two useful purposes: 1) to deter potential arsonists whose properties are in tax arrears, by reducing or eliminating the potential profit; and 2) to generate substantial additional revenues for the city.

BAPC staff researched all buildings with fire losses in excess of \$5,000 since January 1, 1983, to determine which qualified properties had taxes owed at the time of the fire. This study identified several hundred fire losses with over \$3 million in total property taxes owed, of which \$500,000 is collectible by the city on losses that met all of the provisions of the law and for which the insurer could be identified. As of this writing, about \$250,000 has been collected. This figure already exceeds the BAPC's total budget for fiscal year 1985 to 1986. In other words, the BAPC has more than paid for itself during the current fiscal year. Insurance information continues to be sought (through insurance disclosure letters and other means) on other past fire losses that may be subject to the Municipal Lien Law.

BAPC staff are also identifying properties with substantial property tax arrearages in which little or no foreclosure action has been taken by the city. Staff are sending out insurance disclosure letters to notify owners of the Commission's concern about the property and working with the Tax Department and Corporation Counsel's office to begin foreclosure action. BAPC staff believe that this effort will help produce a more efficient tax foreclosure process.

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Tax foreclosure is a good arson prevention strategy in that it gets properties which are often deteriorated and arson-prone into the hands of responsible owners. It also generates revenues in the form of the sales price and, ultimately, regular tax payments from the new owner. Moreover, as stated above, revenue-producing strategies are good for the image and influence of the program that initiates them.

- *Building Mutli-Use Information Systems*

Automated systems can be valuable tools for managing and gaining access to information for arson prevention and arson investigation. In designing such systems, programs should work with city agencies to ensure that the system will allow other uses, such as checking information for low-interest loan programs, administering low-income weatherization programs, monitoring code violations, tracking tax arrearages and monitoring property abandonment, and building comprehensive censuses of housing stock. The Flatbush Arson Prevention Project has designed its arson early warning data base to accommodate such broader applications. Staff in the Flatbush program have found that their data base can really be a more general "housing early-warning system," providing a number of key barometers on the condition of the area's housing stock.<sup>8</sup>

The Boston Arson Prevention Commission is building a data base that will have multiple applications. Thus far, staff have entered all major fires (i.e., building fires causing more than \$5,000 damage) between 1983 to 1985 into the computer, with the following information on each property: location, cause of fire, dollar loss, date and time of fire, ownership history, tax title status, no-heat complaints, and insurance policy information (from responses to insurance disclosure letters and surplus lines affidavits). Affidavits of coverage are required to be filed by surplus lines insurers when they issue a policy on a property. Because of the perceived relationship between surplus lines insurance coverage and arson-for-profit, the availability of surplus lines information may constitute a valuable tool for arson prevention and investigation. Prior to the BAPC's data base development project, this surplus lines information was largely inaccessible because the affidavits were simply filed chronologically by date of their receipt at the insurance division.

Numerous other data sources will be incorporated into the BAPC's arson information system. These include insurance loss notices (already filed on index cards for the period 1980 to 1984), code violation records, mortgage information, and complete fire history data (i.e., all fires, not just incendiary and suspicious fires). When completed, this data system should be invaluable not only for arson control but also for insurance regulation and housing policy.

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### • *Improving Legislation and Regulations*

Anti-arson programs can be effective in monitoring compliance with laws and ordinances related to arson prevention, and in recommending and lobbying for legislative and regulatory change and improved enforcement programs.

The Boston Arson Prevention Commission is seeking additional funds to hire a legal analyst to evaluate existing laws and regulations and develop proposals for change. BAPC staff have already developed a number of recommendations for such change. For example, the Commission has worked with legislators for an amendment, now pending in the Massachusetts legislature, to the insurance disclosure law that would empower any municipal agency to send insurance disclosure letters. (Under the current law, only law enforcement and code enforcement agencies have this authority. Thus, the BAPC had to arrange with the Inspectional Services Department to send the letters.)

Commission staff have also recommended changes in the Boston Condominium Conversion Ordinance to prevent issuance of conversion permits for buildings vacated due to fire, thus removing a potential arson motive. In addition, the BAPC has recommended that the state Division of Insurance develop stricter regulations for public adjusters — adjusters who represent the insured in claims against insurance companies. Stricter licensing standards and restrictions on contingency fees, the Commission believes, might reduce the involvement of public adjusters in arson-for-profit schemes.

Finally, the Commission has submitted recommendations to the Boston Redevelopment Authority for identifying and abating arson risks in the Dudley development area and maximizing the opportunities for stable and responsible residents and business people to remain in the neighborhood. These recommendations include requiring fire history background checks on all potential developers, designating a certain proportion of parcels for low-income housing, developing limited equity cooperatives for low-income residents, identifying and notifying insurers of problem properties, enforcing and strengthening dumping ordinances, and including the BAPC on all development boards established in the Dudley area. These recommendations reflect the Commission's broad conception of its mission — not only to prevent arson, but to address the whole range of housing issues that may contribute to neighborhood destabilization and displacement of residents, whether related to neighborhood deterioration or to gentrification.

## **Conclusion**

Effective arson control requires the participation and cooperation of a variety of public officials and private-sector actors. This chapter discusses a range of issues and strategies involved in developing and implementing com-

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prehensive arson prevention programs which attempt to bring all of these entities together.

The chapter presents a typology of arson "task force" models requiring varying degrees of funding and public official involvement. If the funds are available, the model represented by the Boston Arson Prevention Commission (i.e., a board representing key public agencies and communities with a program administered by a permanent staff) is probably preferable. Other options include a "blue-ribbon" task force, composed of high government officials and a "working task force," composed of mid-level officials available for regular participation in arson prevention efforts.

The chapter cites numerous examples of strategies for working with public agencies and community residents, and presents strategies for targeting anti-arson activities through neighborhood research and well-designed intervention strategies. All of these strategies will be easier to effect and probably more successful if they are initiated and monitored by programs in which key public agencies and private entities are already represented.

### Footnotes

1. For detailed discussions of arson task force implementation, see Ku, Hammett, et al., *Arson Control*, Ch. 6; Abt Associates Inc., *Program Models: Arson Prevention and Control*, Ch. 2.
2. Research on community action suggests that groups are most effective when they "present a positive alternative" rather than simply opposing the status quo. See Henig, *Neighborhood Mobilization*, p. 191.
3. Arson Prevention Manual (Boston, Attorney General's Office, Commonwealth of Massachusetts, October 1982.) Copies of the manual may be obtained from the Attorney General's Department, 1 Ashburton Place, Boston, Massachusetts 02108.
4. Massachusetts General Laws, Ch. 186, Sec. 21.
5. These strategies are described in detail in the Massachusetts Attorney General's *Arson Prevention Manual* based on the CAPES program.
6. Arthur Delibert, "Civil Liability for Arson Fires: A Primer for Community Activists," (Washington: Citizens Committee for Fire Protection, March 1985). These materials may be obtained from CCFP, 2000 P Street, Washington, D.C. 20031.
7. Massachusetts General Laws, Ch. 175, Sec. 97A.
8. See Royer Cook, "Predicting Arson," *Byte* (October 1985).

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## **Appendix A**

### *Telephone Survey Methodology*

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As part of the data collection effort for this document, Abt Associates conducted a six-state telephone survey on the effectiveness of various legal/legislative initiatives designed to facilitate the exchange of information between insurers and public arson investigators.

### Selection of States

The selection of survey states was based on three basic criteria: characteristics of the legislation; population size; and geographical balance. The selections were large populous states representing all regions of the country: Virginia, New Jersey, California, Texas, Ohio, and Illinois.

In terms of legislative characteristics, the primary criterion was the presence and/or strength of "reciprocity" provisions--i.e. requiring or permitting public arson investigative agencies to share information with insurers as well as vice versa--in the state's Arson Reporting-Immunity law. Information on reciprocity provisions in the state statutes was obtained from a "Status Report" on Arson Reporting-Immunity Laws developed by the Insurance Committee on Arson Control and through examination of the laws from candidate states. We could only identify two large populous states (Virginia and New Jersey) with strongly worded reciprocity provisions--i.e. giving insurers the right to receive information from public agencies. We chose one (California) of the many states that have less strongly worded reciprocity provisions--i.e. those giving insurers the right to request information from public agencies or permitting agencies to release information to insurers. Ohio and Illinois also have weak reciprocity provisions in their Reporting-Immunity laws. These two states were also included because they other legislative provisions of interest to the survey: Illinois is the only state with a law requiring that public arson investigators have access to the computer-generated "search analysis reports" from the insurance industry's Property Insurance Loss Register; and the immunity laws in both Illinois and Ohio provide for exchange of information on "potential arsons"--i.e. before a fire occurs--as well as on post-fire investigations. Finally, we chose one of the very few large states (Texas) that have no reciprocity provision in their laws--i.e. there is no language in the law granting insurers the right to receive or even request information from public agencies. We believe that it is important to assess the effect of these different statutory provisions on the nature and extent of information exchange between insurers and public arson investigators. Exhibit A.1 summarizes the key features of the laws in the survey states.

**Exhibit A.1**  
**Key Features of Laws in Survey States**

State	Strong	Reciprocity Weak	None	Pre-Fire Info Exchange	Access to PILR
Virginia	X				
New Jersey	X				
California		X			
Texas			X		
Ohio		X		X	
Illinois		X		X	X

**Instrumentation**

The survey employed a brief standardized instrument including questions designed to gauge the respondent's level of familiarity with the law, to obtain estimates of the extent of information exchange and the types of materials shared, and to gather perceptions and suggestions regarding the effectiveness of the laws and ways that they might be improved. The instrument is presented as Exhibit A.2.

The three sub-categories of survey subjects (Reporting-Immunity Laws, "pre-fire" information exchange, and law enforcement access to PILR search analysis reports) were not kept mutually exclusive. In other words, respondents in all six states were asked all appropriate questions under the three subject areas. The result was that all six states were surveyed on their Arson-Reporting Immunity Laws, two states (Ohio and Illinois) were surveyed on "pre-fire" information exchange and one state (Illinois) was surveyed on law enforcement access to PILR search analysis reports.

**Selection of Respondents**

The original respondent sample was the same in each state: ten public arson investigators (primarily supervisors of large-city, county, and state arson investigation units) and ten insurance claim supervisors (representatives of the top voluntary-market writers of homeowners' and commercial multi-peril insurance and of the state's FAIR Plan). We identified potential respondents on the public side through contacts with state-level investigation units and examination of the Arson Resource Directory, published by the U.S. Fire Administration, FEMA.

**Exhibit A.2**  
**Arson Prevention and Control**  
**Telephone Survey on Legal/Legislative Initiatives**

**RESPONDENT INFORMATION:**

Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Agency/Company \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_  
 Phone \_\_\_\_\_

Survey State \_\_\_\_\_  
 Respondent # \_\_\_\_\_

**CALL RECORD**

Attempt	Date	Time	Result	Comments	Interviewer
1					
2					
3					
4					
5					

\_\_\_\_\_  
Hello, my name is \_\_\_\_\_ and I'm calling from Abt Associates, a research firm in Cambridge, Massachusetts. We are under contract to the National Institute of Justice, the research arm of the U.S. Department of Justice to conduct a study of public-private cooperation in arson prevention and control. As part of this study, we are contacting public arson investigators and insurance officials in six states to ask them about the effectiveness of Arson Reporting-Immunity Laws and related statutory provisions designed to facilitate information exchange between insurers and public officials in arson cases. The interview should only take about 15 minutes and no names of individuals or their affiliations will be used in reporting the results. Is this a convenient time for the interview or should we arrange an appointment for a more convenient time? (Note callback appointment on cover sheet.)

1. Are you familiar with the provisions of the Reporting-Immunity law/PILR Access law in the state of \_\_\_\_\_?

Yes\_\_\_\_\_ No\_\_\_\_\_ Don't Know\_\_\_\_\_

2. Are you familiar with the Reciprocity/Information exchange on "potential" arsons (pre-fire information exchange)/PILR access provisions of the law?

a. Reciprocity

Yes\_\_\_\_\_ No\_\_\_\_\_ Don't Know\_\_\_\_\_ N/A (Texas only)\_\_\_\_\_

If yes, could you briefly summarize the provision(s) for me?

\_\_\_\_\_  
\_\_\_\_\_

b. Information exchange on potential arsons

Yes\_\_\_\_\_ No\_\_\_\_\_ Don't Know\_\_\_\_\_ N/A \_\_\_\_\_

If yes, could you briefly summarize the provision(s) for me?

\_\_\_\_\_  
\_\_\_\_\_

c. PILR access

Yes\_\_\_\_\_ No\_\_\_\_\_ Don't Know\_\_\_\_\_ N/A \_\_\_\_\_

If yes, could you briefly summarize the provision(s) for me?

\_\_\_\_\_  
\_\_\_\_\_

3. In what percentage of the arson investigation/fire claim cases handled by you (or your office) in the past year would you estimate that you received information from/shared information with an insurance company/PILR/ public agency?

<10%\_\_\_\_\_ 10-25%\_\_\_\_\_ 26-50%\_\_\_\_\_ 51-75%\_\_\_\_\_ >75%\_\_\_\_\_

4. What types of information do you generally receive/share?

(check all that apply)

Claim reports \_\_\_\_\_  
FIR search analysis reports \_\_\_\_\_  
Investigation reports \_\_\_\_\_  
Lab reports \_\_\_\_\_  
Specific facts on request \_\_\_\_\_ (examples) \_\_\_\_\_  
\_\_\_\_\_

Other \_\_\_\_\_ (Specify) \_\_\_\_\_  
\_\_\_\_\_

5. In general, how useful has the information you have received been in improving criminal investigations/civil cases?

Very useful \_\_\_\_\_ Somewhat useful \_\_\_\_\_ Made no difference \_\_\_\_\_  
Don't know/no opinion \_\_\_\_\_

6. Can you offer 1-2 specific cases as examples of particularly useful information exchange? (summarize circumstances and outcome) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. How important is/would be the reciprocity provision in encouraging insurers to share information with public officials?

Very important \_\_\_\_\_ Somewhat important \_\_\_\_\_ Makes/would make  
no difference \_\_\_\_\_ Don't know/No opinion \_\_\_\_\_

8. How effective has your state's Reporting-Immunity law been in overcoming insurers' fears of legal action by policyholders?

Very effective \_\_\_\_\_ Somewhat effective \_\_\_\_\_ Makes no  
difference \_\_\_\_\_ Don't know/No opinion \_\_\_\_\_

9. Are there loopholes in the law that cause insurers to persist in their fears of legal action (e.g. immunity covers only suits arising from the actual provision of the information rather than from the larger results of the investigation in which information happened to have been shared)?

Yes \_\_\_\_\_ (explain) \_\_\_\_\_  
\_\_\_\_\_

No, \_\_\_\_\_ Don't know/No opinion \_\_\_\_\_

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10. Would you recommend any changes in the law to improve information exchange?

Yes, \_\_\_\_\_ (explain) \_\_\_\_\_

No \_\_\_\_\_ Don't know/No opinion \_\_\_\_\_

11. What other strategies would you consider useful in maximizing information exchange between insurers and public officials?

Thank you for taking the time to talk to me. The information you have provided will be very useful to us in preparing our report.

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The first step in identifying the insurance respondents was to obtain lists of the top writers of homeowners' and commercial multi-peril policies in each state from Best's Executive Data Service, a service of A.M. Best & Co., a leading insurance data firm. We used these data to generate tentative lists of voluntary-market insurers to survey for each state--in fact, there is a good deal of overlap across states and across lines of business (i.e. commercial and personal lines) in the lists of leading writers. The final lists included the top commercial and homeowners writers in each state. The list for each state except Texas also included the FAIR (Fair Access to Insurance Requirements) Plan. (Texas has no FAIR Plan.) FAIR Plans are federally-mandated insurance providers for applicants unable to obtain coverage in the voluntary market. They are supported by all insurers doing business in the state.

Once we had selected the companies, we used contacts at the Insurance Committee for Arson Control and the American Insurance Association and standard insurance directories to identify the best individuals in each company to survey. The respondents were primarily regional claims supervisors.

### Exhibit A.3 Telephone Survey Response Rates

State	Public Investigative Units		Insurance Companies	
	Sample	Completed	Sample	Completed
Virginia	10	10	10	10
New Jersey	10	10	10	10
California	10	9	10	8
Texas	10	10	10	9
Ohio	10	9	10	10
Illinois	10	10	10	9
TOTAL	60	58	60	56
Response Rate		97%		93%

#### Interview Procedures and Response Rates

Abt Associates staff conducted the interviews during December 1984 and January 1985. The vast majority of the interviews were completed by telephone, but several respondents requested copies of the instrument in the mail, promising to send their responses in writing. Exhibit A.3 summarizes the responses by respondent category. As shown in Exhibit A.3, the overall response rate was 95 percent: 114 completed interviews out of a total sample of 120. The six non-respondents were individuals who received the instrument in the mail but never returned their answers.

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## **Appendix B**

- *Rhode Island Insurance Disclosure Law*
- *Rhode Island Municipal Liens Law*
- *Massachusetts Insurance Disclosure Law*
- *Massachusetts Municipal Liens Law*

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# NOTICE TO PROPERTY OWNERS IN THE CITY OF PROVIDENCE, RI

## YOU ARE NOW REQUIRED TO FILE A DECLARATION OF FIRE INSURANCE

IN ACCORDANCE WITH "AN ACT RELATING TO PROPERTY IN THE CITY OF PROVIDENCE" APPROVED MAY 18, 1982, BY THE GENERAL ASSEMBLY (ACT 82-H-7252B)

### REQUIREMENTS INCLUDE

Every landlord or lessor of residential or commercial property in the City of Providence shall file a written Declaration with the City setting forth information regarding the insurance company insuring said property against loss or damage by fire.

EXCLUDED FROM FILING THIS DECLARATION ARE  
ALL OWNER OCCUPIED RESIDENTIAL PROPERTIES IN ADDITION TO  
ALL ONE OR TWO FAMILY HOUSES WHETHER OWNER OCCUPIED OR NOT

The Declaration shall be filed within ten (10) days of the landlord or lessor taking title to said property and within ten (10) days of the issuance of a new policy or amendment of the policy which amends any of the information as contained in the Declaration.

The Declaration shall apply to all existing property upon the passage of the law and shall require filing of said information upon receipt of the first tax bill after passage.

A separate Declaration shall be filed for each parcel of real estate. Additional filing cards are available through the Community Centers listed on the reverse of this form or through the Building Inspector's office (421-7740 ext. 373). Instructions for filing the Declaration form itself are listed on the reverse as well.

Penalty for violation of the provisions of the new law may be fines up to \$500.00.

Fully completed Declaration cards are to be returned to:

Building Inspection Department, 112 Union St., Providence, RI 02903

Additional information may be obtained through your neighborhood community center or the Building Inspection Department, City of Providence.

### IF YOU DO NOT HAVE FIRE INSURANCE

This new law does not require anyone to obtain Fire Insurance if the property is not presently covered. You must however file the disclosure statement. Please sign the form, mark on it that the property is "not insured" and return it as directed.

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## INSTRUCTIONS FOR FILING DECLARATION OF FIRE INSURANCE

PLEASE FILL OUT A SEPARATE CARD  
FOR EACH PROPERTY

ALL INFORMATION SHOULD BE ON THE FIRST PAGE OF YOUR INSURANCE POLICY, NORMALLY CALLED THE DECLARATION COPY. THE FOLLOWING IS AN EXPLANATION OF WHAT IS REQUIRED.

1. PROPERTY LOCATION (LIST THE STREET ADDRESS OF THE PROPERTY WHICH IS INSURED)
2. NAME & ADDRESS (LIST NAME AND ADDRESS OF THE PROPERTY OWNER)
3. INSURED'S NAME (LIST THE NAME OF THE PERSON WHO HAS TAKEN OUT THE INSURANCE)
4. COMPANY'S NAME (LIST THE NAME OF THE COMPANY WHICH HOLDS THE INSURANCE)
5. POLICY # (LIST THE NUMBER ASSIGNED TO YOUR INSURANCE POLICY BY THE INSURANCE COMPANY)
6. AMOUNT OF COVERAGE (LIST THE FULL DOLLAR AMOUNT OF THE INSURANCE COVERAGE)
7. BENEFICIARY(S) (LIST THOSE THAT WILL BE BENEFICIARIES TO THE INSURANCE POLICY SHOULD COVERAGE OCCUR TO THE PROPERTY IN QUESTION. IN MOST CASES THIS MEANS THE MORTGAGEE OR THE NAME OF AN ESTATE OR TRUSTEE IF DIFFERENT FROM THE INSURED'S NAME.)

IF YOU DO NOT HAVE A COPY OF YOUR POLICY OR ARE NOT CLEAR ABOUT ANY OF THE INFORMATION REQUESTED, YOUR AGENT WILL BE ABLE TO SUPPLY IT TO YOU.

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### PARTICIPATING NEIGHBORHOOD COMMUNITY CENTERS

Mt. Hope Neighborhood Center 193 Camp St. 274-7050	West End Community Center 109 Bucklin St. 781-4242	Smith Hill Center 110 Ruggles St. 331-4290
DaVinci Center 464 Charles St. 273-7474	Nickerson House 133 Delaine St. 351-2241	Joslin Multi Service Center 231 Amherst St. 421-8062
Elmwood Community Center 155 Niagara St. 461-7940	Urban League 246 Prairie Ave. 351-5000	Hartford Park Community Ctr. 20 Syracuse St. 521-0051
Washington Park Community Center 42 Jillson St. 461-6650	Federal Hill House 9 Courtland St. 421-4722	Hope Neighborhood Center 529 Plainfield St. 944-8300
John Hope Settlement House 7 Burgess St. 421-6993	Capital Hill Interaction Council 420 Smith St. 521-3300	

Please Type or Print Clearly	_____	DECLARATION OF FIRE INSURANCE
	1. Location of Property	
	_____	
	2. Name of Property Owner	
	_____	
	Street Address /Mailing Address /Owner	
	_____	
	City/State    Zip Code	
	Please fill out completely & return to: Dept. of Bldg. Inspection 112 Union St., Prov., RI 02903	

DECLARATION OF FIRE INSURANCE	_____	
	3. Name of Insured Party	
	_____	
	4. Name of Insurance Company	
	_____	
	5. Policy Number	
	_____	
	Amount of Coverage	
	_____	
	7. Beneficiary(s)	
	_____	
	Signature	Date

## Rhode Island

### CHAPTER 47

#### MUNICIPAL LIENS ON FIRE INSURANCE PROCEEDS

**SECTION.**

- 45-47-1. Lien on insurance proceeds.
- 45-47-2. Certificate required for payment of claim.
- 45-47-3. Placement of proceeds in escrow account.
- 45-47-4. Inclusion of provision in policies.
- 45-47-5. Certification in lieu of payment.

**SECTION.**

- 45-47-6. Application of chapter.
- 45-47-7. Parties to insurance contract.
- 45-47-8. Priority of lien.
- 45-47-9. Immunity from liability.
- 45-47-10. Insurance commissioner — Regulations.

**45-47-1. Lien on insurance proceeds.** — There is hereby created a lien in favor of any taxing jurisdiction in this state in the proceeds of any insurance policy based upon a claim made for damage or loss to a building or other structure caused by or arising out of any fire or explosion. The lien arises upon any unpaid tax, special ad valorem levy, special assessment, or other charge imposed upon real property by or on behalf of the state, a municipal corporation, or a special district which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, incurred demolition expense, or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

**History of Section.**

P.L. 1982, ch. 251, § 1.  
Compiler's Notes. Section 2 of P.L. 1982, ch. 251 provided that this chapter take effect January 1, 1983.

As enacted, this section contained a heading which read "Insurance proceeds — Lien."

**45-47-2. Certificate required for payment of claim.** — No insurance company shall pay any claim for more than \$10,000 as may be adjusted yearly for inflation by the insurance department, for damages arising out of a claim under an insurance policy caused by fire or explosion, without having first obtained from the insured a certificate that (a) no lien, as defined in § 45-47-1, in favor of the taxing jurisdiction exists, or (b) the amount of any such lien. The certificate shall be in the form and from the taxing jurisdiction official, as approved and designated by the insurance commissioner pursuant to regulations promulgated under this chapter.

**History of Section.**

P.L. 1982, ch. 251, § 1.  
Compiler's Notes. As enacted, this section

contained a heading which read "Payment of claim — Certificate."

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**45-47-3. Placement of proceeds in escrow account.** — Upon certification by the designated taxing jurisdiction official that a lien has arisen or upon the failure of the insured to obtain a certificate within 30 days of the filing of the insured's proof of loss, the loss proceeds of the policy equal to the amount of the lien or the entire loss proceeds of the policy, if the insured has not submitted the certificate pursuant to § 45-47-2, shall be placed in an interest-bearing escrow account, and the taxing jurisdiction and the insurer shall be so notified. Provided, however, that if the insured demonstrates that he has requested by certified mail a certificate and the designated taxing jurisdiction official has not provided such certificate within 15 days of such request, all proceeds shall, if otherwise appropriate, be released to the insured, as soon as practicable.

**History of Section.**

P.L. 1982, ch. 251, § 1.

Compiler's Notes. As enacted, this section

contained a heading which read "Proceeds — Escrow account."

**45-47-4. Inclusion of provision in policies.** — All policies issued in this state after January 1, 1983 shall include a provision setting forth a summary of this chapter, such provision to be approved by the insurance commissioner prior to its inclusion in any policy in the state. By entering into a contract of insurance with such a provision, the insured and the insurer shall be deemed to have agreed to all lawful procedures pursuant to this chapter.

**History of Section.**

P.L. 1982, ch. 251, § 1.

Compiler's Notes. As enacted, this section

contained a heading which read "Insurance policies."

**45-47-5. Certification in lieu of payment.** — Any taxing authority is authorized to certify that, in lieu of payment of all or part of the lien arising under this chapter, it has obtained satisfactory proof that the insured has or will repair or rebuild at the situs of the loss. Such certification should be deemed adequate to permit payment of insurance proceeds to the insured.

**History of Section.**

P.L. 1982, ch. 251, § 1.

Compiler's Notes. As enacted, this section

contained a heading which read "Certification."

**45-47-6. Application of chapter.** — This chapter shall apply to claims arising on all property, including residential, commercial or industrial buildings or structures, regardless of occupancy status at the time of the fire or explosion loss, provided, however, that this chapter shall not apply to owner-occupied one (1) to four (4) family dwelling period.

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**History of Section.**

P.L. 1982, ch. 251, § 1.

**45-47-7. Parties to insurance contract.** — This chapter does not make any taxing jurisdiction a party to any insurance contract nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

**History of Section.**

P.L. 1982, ch. 251, § 1.

contained a heading which read "Party to insurance contract."

Compiler's Notes. As enacted, this section

**45-47-8. Priority of lien.** — Any lien arising under this chapter is superior to all liens, and interest of any other party, including any insured owner, mortgagee, or assignee except mortgagees and assignees of bona fide mortgages. A bona fide mortgage is one granted for full and adequate value and consideration.

**History of Section.**

P.L. 1982, ch. 251, § 1.

**45-47-9. Immunity from liability.** — Insurers complying with this chapter, or attempting in good faith to comply with this chapter, shall be immune from civil and criminal liability including withholding payment of any insurance proceeds pursuant to this chapter or releasing or disclosing any information pursuant to this chapter.

**History of Section.**

P.L. 1982, ch. 251, § 1.

**45-47-10. Insurance commissioner — Regulations.** — The insurance commissioner is authorized to issue such regulations as are necessary or desirable to implement this chapter, including but not limited to the name, address, and telephone number of a designated official for each taxing jurisdiction from whom certifications may be obtained.

**History of Section.**

P.L. 1982, ch. 251, § 1.

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# HOUSE . . . . . No. 2238

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By Mr. Vellucci of Cambridge, petition of Peter A. Vellucci that landlords or lessors of residential or commercial property be required to inform tenants of certain insurance coverage. Housing and Urban Development.

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## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Eighty-Six.

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### AN ACT REQUIRING DISCLOSURE OF INSURANCE INFORMATION BY LANDLORD OR LESSOR.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 Section 21 of chapter 186 of the General Laws is hereby deleted
- 2 and the following section is inserted in its place: —
- 3 The landlord or lessor of any residential or commercial prop-
- 4 erty, upon the written request of any tenant or lawful occupant, of
- 5 any code or other law enforcement officials or of any official of the
- 6 municipality in which the property is situated, shall disclose in
- 7 writing within fifteen days of such request the name of the com-
- 8 pany insuring the property against loss or damage by fire and the
- 9 amount of insurance provided by each such company and the
- 10 name of any person who would receive payment for a loss covered
- 11 by such insurance. Whoever violates the provisions of this section
- 12 shall be punished by a fine of not more than two thousand five
- 13 hundred dollars. A waiver of this section in any lease or other
- 14 rental agreement shall be void and unenforceable.

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## FIRE INSURANCE

### § 96. Liability for Fire Loss Limited.

#### ALR Annotations—

Depreciation as factor in determining actual cash value for partial loss under insurance policy. 8 ALR4th 533.

### § 97. Payment to Mortgagees.

#### ALR Annotations—

Right of mortgagee, who acquires title to mortgaged premises in satisfaction of mortgage, to recover, under fire insurance policy covering him as "mortgagee," for loss or injury to property thereafter damaged or destroyed by fire. 19 ALR4th 778.

### § 97A. Certificate of Municipal Liens; Claims of Cities or Towns.

Notwithstanding any provision to the contrary of any general or special law, every company shall, before paying any claim for loss or damage to real property from any hazard, where the amount of the loss payable under the policy equals or exceeds five thousand dollars, first require the claimant to submit to the company a certificate of municipal liens from the collector of taxes of the city or town wherein such property is located.

Said company shall pay to the city or town any amount shown as outstanding, including any interest currently accruing, on the certificate of municipal liens arising from the provisions of chapters forty, fifty-nine, sixty, eighty, eighty-three and section fifty-eight B to fifty-eight F, inclusive, of chapter one hundred and sixty-four to the extent of the amount of loss payable under the policy and a copy of said transaction shall be sent to the insured and mortgagees named on the policy.

The claim of the city or town for such amounts shall have priority over the claim of any insured owner, mortgagee, assignee or other interested party except where otherwise provided by the laws of the United States.

Said company shall not be liable to any insured owner, mortgagee, assignee, city or town, or other interested party for amounts disbursed to a city or town under this section or for amounts not disbursed to said city or town based upon a certificate indicating the nonexistence of any municipal liens.

The provisions of this section shall not apply to owner-occupied one, two, three or four family dwellings, provided, however, that the owners of said dwellings must be domiciled in said dwellings at the time the claim for loss or damage arose. (Added by 1977, 804, § 2, approved, with emergency preamble, Dec. 9, 1977; amended by 1983, 72, § 7, approved April 29, 1983, effective 90 days thereafter; 1983, 162, approved June 8, 1983, effective 90 days thereafter.)

#### Editorial Note—

Section 4 of the inserting act provides as follows:

SECTION 4. The provisions of this act shall take effect on all insurance policies to take effect or be renewed on and after January first, nineteen hundred and seventy-eight.

The first 1983 amendment rewrote the second paragraph, inserting the words "and section fifty-eight B to fifty-eight F, inclusive, of chapter one hundred and sixty-four".

The second 1983 amendment rewrote the second paragraph, as earlier rewritten by the first 1983 amendment, adding the following three groups of words: ", including any interest currently accruing," "and section fifty-eight B to fifty-eight F, inclusive, of Chapter one hundred and sixty-four", "and a copy of said transaction shall be sent to the insured and mortgagees named on the policy".

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## **Appendix C**

- *Ordinance Creating an Arson Prevention Commission for the City of Boston*
- *Ordinance Amending the Arson Prevention Commission*
- *Insurance Disclosure Letter*
- *Form Letter to Insurance Companies*
- *Form Letter to Private Investigators*



ORDINANCES OF 1983, CHAPTER 13  
CREATING AN ARSON PREVENTION COMMISSION  
FOR THE CITY OF BOSTON

*In the Year Nineteen Hundred and Eighty-three*

*Be it ordained by the City Council of Boston, as follows:*

SECTION 1. City of Boston Code, Ordinance, Title 9, is hereby amended by inserting the following new chapter:

Chapter 15. Arson Prevention Commission.

Section 450. Composition of Commission. There shall be in the city a commission, known as the Arson Prevention Commission, consisting of the fire commissioner; the police commissioner; the commissioner of inspectional services; the collector-treasurer; the chairman of the Boston City Council Committee which deals with issues regarding housing, development and planning, serving in *ex officio* capacities; and four commissioners appointed by the Mayor, who shall be residents of the City of Boston who have knowledge or expertise in the area of arson or live in areas affected by arson. Each commissioner shall serve a term of three years. Any vacancy in office of a commissioner shall be filled in like manner for the unexpired term.

The commission shall elect one of its members as Chairman and another as vice-chairman to serve in these capacities for the term of one year. The commission shall

elect a secretary who need not be a member of the commission. The commissioners shall serve without compensation, and shall be deemed special municipal employees for the purposes of chapter 268A of the General Laws.

Section 451. Powers and Duties. The commission shall meet on a regular basis; shall study the problem of arson in the city; shall work with neighborhood organizations to implement remedies arrived at by studying the problem of arson in the city; shall from time to time, and at least twice a year on July 1 and January 1, make written reports to the Mayor and City Council assessing incidents of arson on a neighborhood basis and recommend means to prevent arson; shall conduct independently or in conjunction with appropriate agencies such programs relating to the prevention of arson in the city as the commission deems necessary; and shall propose new programs as the commission deems feasible in view of the particular program and the needs of the city in regard to arson prevention.

Section 452. Other City Agencies. The services of all city departments, agencies and other commissions shall be made available to the commission for the purposes of effectuating the provisions of this ordinance. The head of any department, agency or other commission shall furnish information in the possession of such department, agency, or other commission when the commission so requests and where such information relates to the duties of the commission.

Section 453. Rules and Regulations. The commission may promulgate such rules and regulations consistent with the provisions of this ordinance and the laws of the commonwealth as shall further the provisions of this ordinance. The commission shall adopt rules of procedure for conducting hearings.

Section 454. Severability. The provisions of this ordinance are severable and if any provision shall be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this ordinance, which shall remain in full force and effect.

SECTION 2. The provisions of City of Boston Code, Ordinances, Title 2, section 752, to the contrary notwithstanding, this ordinance shall be published by action of the City Council in passing same.

In City Council April 27, 1983. Passed.

JOHN P. CAMPBELL,  
*City Clerk.*

Approved May 13, 1983.

KEVIN H. WHITE,  
*Mayor.*

A true copy.

Attest:

*City Clerk.*



## CITY OF BOSTON

IN THE YEAR NINETEEN HUNDRED AND

### AN ORDINANCE

#### Order Amending the Arson Prevention Commission

Be it ordained by the City Council of Boston, in accordance with the provisions of Massachusetts General Laws Chapter 43B, Section 13, and any other applicable law, as follows:

1. SECTION 1 Findings:
2. WHEREAS: The Arson Commission of the City of Boston is the
3. principal body invested with the responsibility to
4. oversee and coordinate the Arson prevention
5. efforts of the City; and
6. WHEREAS: The Arson Commission is in need of an expanded
7. structure and focus of its mandate to facilitate
8. and coordinate access to city departments,
9. records, and programs; and
10. WHEREAS: The Commonwealth of Massachusetts and the Federal
11. government have seen fit to appropriate monies to
12. enhance the arson prevention capacity of
13. municipalities; now, therefore, be it ordained by
14. the Boston City Council;
15. SECTION 2 City of Boston Code, Ordinances, Title 9, Chapter
16. 15, section 450 is hereby amended by striking the first
17. paragraph and inserting in place thereof the following:
18. "There shall be in the City a Commission, known as the
19. Arson Prevention Commission, consisting of the following
20. officials of the City of Boston: the Fire Commissioner, the
- Police Commissioner, the Commissioner of Inspectional Services,
- the Collector/Treasurer, Commissioner of Real Property, and the

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**AN ORDINANCE**

1. chairperson of the City Council's committee dealing with the  
2. issue of arson, all serving ex officio. There shall be seven  
3. Commissioners appointed by the Mayor. The seven Commissioners  
4. appointed by the Mayor shall be residents of the City of Boston  
5. who live in areas affected by arson and have knowledge or  
6. expertise in the problem of arson. Of the seven Commissioners  
7. initially appointed by the Mayor, two commissioners shall serve  
8. a term of one year, two commissioners shall serve a term of two  
9. years and three commissioners shall serve a term of three  
10. years, thereafter, all mayoral appointed Commissioners shall  
11. serve a term of three years. Mayoral appointed and ex officio  
12. commissioners shall have the power to vote on any Commission  
13. matter."

14. SECTION 3 CBC, Ordinance, Title 9, Chapter 15, Section 450 is  
15. further amended by striking the second sentence of paragraph  
16. two and inserting thereof the following:

17. "The Mayor shall appoint a director, who shall not be a  
18. member of the Commission, and said director shall be qualified  
19. by his knowledge about arson prevention and shall be paid a  
20. salary not to exceed \$30,000 per annum.

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## AN ORDINANCE

1. SECTION 4 CBC, Ordinance, Title 9, Chapter 15, Section 451 is  
2. amended by adding at the end thereof the following:

3.       The director shall be the executive officer of the  
4. Commission and shall have such powers to perform such duties as  
5. the Commission shall from time to time determine. The director  
6. shall appoint, with Commission approval, other such personnel  
7. as the Commission may from time to time deem expedient. The  
8. director and Commissioners, for the purposes of obtaining  
9. information under Chapter 446 of the Acts of 1978, shall be  
10. considered public safety officials. The director is empowered,  
11. on behalf of the Commission, to seek and make application for  
12. any and all state and/or federal funds that are or become  
13. available for a municipality to fund arson prevention  
14. activities. The Commission shall monitor compliance with  
15. Chapter 446 of the Acts of 1978 and any other applicable state  
16. statute which affect arson prevention in the City of Boston,  
17. shall advise and suggest administrative and legislative  
18. remedies to deal with the prevention of arson and shall  
19. establish a community based arson prevention program.

20. SECTION 5 Said Chapter 15, is further amended in Section 453  
by deleting the work "may" in the first sentence and inserting

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**AN ORDINANCE**

1. in place thereof the word "shall".
2. SECTION 6 The provisions of section 2 and 3 above shall be
3. fulfilled no later than 60 days after this ordinance becomes
4. law.
5. SECTION 7 Notwithstanding the provisions of CBC, Ordinance,
6. Title 2, Section 752, this ordinance shall be published by
7. action of the Council in passing same.
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# Boston

Raymond L. Flynn, Mayor

Dear Property Owner:

The City of Boston, through its Inspectional Services Department, conducts an ongoing survey of insurance coverage on buildings throughout the City. This date is important in planning fire prevention programs and in undertaking joint prevention projects with other City agencies.

We ask your help by completing the enclosed insurance information questionnaire regarding your property as attached. Please return the questionnaire within two weeks, using the envelope provided. If you do not have insurance on your property, please write "NONE" in the space reserved for the "company name." If you are not the owner of the property, please note that fact on the form and return it to us.

For your information, authority for this request is found in Massachusetts General Laws, Chapter 186, Section 21.

Again, we ask your cooperation. If you have any questions, please call me at 725-3033.

Sincerely yours,



William Sommers,  
Commissioner



William Sommers, Commissioner/INSPECTIONAL SERVICES DEPARTMENT/807 City Hall/725-4700/Boston, MA 02201



**CITY OF BOSTON**  
INSPECTIONAL SERVICES DEPARTMENT  
City Hall, Box 1911  
Boston, MA 02105

**REQUEST FOR FIRE INSURANCE INFORMATION**

Pursuant to Massachusetts General Laws, Chapter 186, Section 21, you are required to supply the information requested below. You must return this completed form to City Hall, Box 1911, Boston, MA 02105, no later than fifteen days from the receipt of this request. Failure to comply with this request could subject you to a fine of up to \$1,000.00. Please type or print clearly.

**INFORMATION**

1. Property Location.

\_\_\_\_\_  
\_\_\_\_\_

2. Insured Party (owner or tenant)      date of \_\_\_\_/\_\_\_\_/\_\_\_\_.

Name

Address

3A. Insurance Company as of above      date.

Name

Address

City

State

Zip Code

Policy #

\$

Amount of Insurance

Policy Expiration Date

3B. Additional Company (if applicable).

Name

Address

City

State

Zip Code

Policy #

\$

Amount of Insurance

Subscribed to and sworn under the PAINS and PENALTIES of PERJURY this \_\_\_\_\_ day of \_\_\_\_\_, nineteen hundred and eighty \_\_\_\_\_.

\_\_\_\_\_  
Signature

X5633



**COMMISSIONERS**

Felix Arroyo, *Chairperson*  
Laura Brown, *Vice-Chairperson*  
Jack Golembeski  
Nancy Grilk  
Ben Hailh  
Francis McNeill  
David White  
Edward Roche  
Leo Stapleton  
George Russell Jr  
David Scodras  
William Sommers  
Francis M. Roche

**CITY OF BOSTON**  
**BOSTON ARSON PREVENTION COMMISSION**

Room 113  
One City Hall Plaza  
Boston, MA 02201  
(617) 725-3609

**NOEL SCOTT**  
EXECUTIVE DIRECTOR

Dear

The staff of the Boston Arson Prevention Commission has been informed by the insured \_\_\_\_\_ residing at \_\_\_\_\_ that your company insures the real estate at \_\_\_\_\_. The policy number is \_\_\_\_\_. The amount is \_\_\_\_\_. If any of this information is inaccurate please inform us.

The Boston Arson Prevention Commission is concerned about the fire insurance on this property for reasons circled below:

1. It is in tax title for the amount of \$ \_\_\_\_\_ on \_\_\_\_/\_\_\_\_/\_\_\_\_
2. A Notice of Tax Forclosures was filed on \_\_\_\_/\_\_\_\_/\_\_\_\_
3. There are outstanding criminal complaints in Boston Housing Court; Docket # \_\_\_\_\_. Dated \_\_\_\_/\_\_\_\_/\_\_\_\_
4. There are outstanding code violation with Inspectional Services: \_\_\_\_/\_\_\_\_/\_\_\_\_.
5. One of the owners / mortgagees has a fire history in other property. (see attached list)
6. This property is in arrears with the Water and Sewer Comm. \$ \_\_\_\_\_
7. This property appears to be overinsured.
8. There is a tenant-landlord dispute ongoing in the building.
9. The site is scheduled for an eminent domain taking by \_\_\_\_\_.
10. This building is vacant and abandoned on \_\_\_\_/\_\_\_\_/\_\_\_\_.
11. \_\_\_\_\_

We suggest that you verify this information and review this fire insurance policy. Thank you for your attention to this matter.

Sincerely,



**COMMISSIONERS**

Felix Arroyo, *Chairperson*  
Laura Brown, *Vice-Chairperson*  
Jack Golemboski  
Nancy Grilk  
Ben Haith  
Francis McNeill  
David White  
Edward Roche  
Leo Stapleton  
George Russell, Jr.  
David Scodras  
William Sommers  
Francis M. Roache

**CITY OF BOSTON  
BOSTON ARSON PREVENTION COMMISSION**

Room 113  
One City Hall Plaza  
Boston, MA 02201  
(617) 725-3609

**NOEL SCOTT**  
EXECUTIVE DIRECTOR

Jan. 2, 1986

Dear Sir/Madam,

The Boston Arson Prevention Commission was established in 1984. The Commission and its staff are mandated to work with the public and private sector in the fight against arson.

The Commission's staff gathers general background information and specific building data. General information currently available is:

- Significant structural fires by owner and address 1983 to date.
- Significant structural fires by owner 1977-1982 (90% complete; requires a few days notice).
- Property tax arrearage information.
- Surplus Lines insurance information.
- Insurance loss notices by address and payee.
- No-heat violations by owner and address.
- Water and Sewer arrearages by address.

The Commission may have additional information on individual properties. If your firm handles arson investigations we will be happy to make our information resources available to you. Our resources are a public service so there is no charge.

Sincerely,

Noel Scott  
Executive Director