

THE TORCH'S REWARD:

What insurance claims people should know about arson

54514





TABLE OF CONTENTS

INTRODUCTION

Old and new attitudes. Insurer's interest in curbing arson. Claims adjuster's role.

1.

WHERE...AND HOW...DID IT START?..... 6
Investigation: you and the local authorities. Point of origin. Eliminating accidental causes. Fire-setting mechanisms. Anything missing? Protecting physical evidence.

2.

WHY THEY BURN...AND WHAT TRIPS THEM UP..... 11
Non-insurance motives. Insurance fraud: common signs. Talking and listening. Libel and slander. Bases for denial of claim. Direct vs. circumstantial evidence.

3.

WHAT HAPPENS IF IT GOES TO COURT..... 17
Arson as a defense. Other grounds for denying claim.

4.

HOW TO GET MORE HELP..... 18
Seminars and Courses. Claims adjuster's stake in arson reduction.

NCJRS

FEB 9 1979

ACQUISITIONS

What insurance claims people
should know about arson



The Torch's Reward

Until recently, most insurance companies and their employees didn't take arson very seriously. Like firemen and law enforcement officials, they knew some fires were being deliberately set . . .but they often weren't sure which ones, or were uncertain of what action to take even when the fire showed obvious signs of arson.

They realized that arson was hard to prove in court, and they wondered whether the time, effort and expense required to contest a suspicious fire claim could be justified by the seemingly slim chance of saving a few insurance dollars. So the usual procedure was to treat a suspected arson case the same as any other fire loss and pay the policyholder whatever he appeared to have coming.

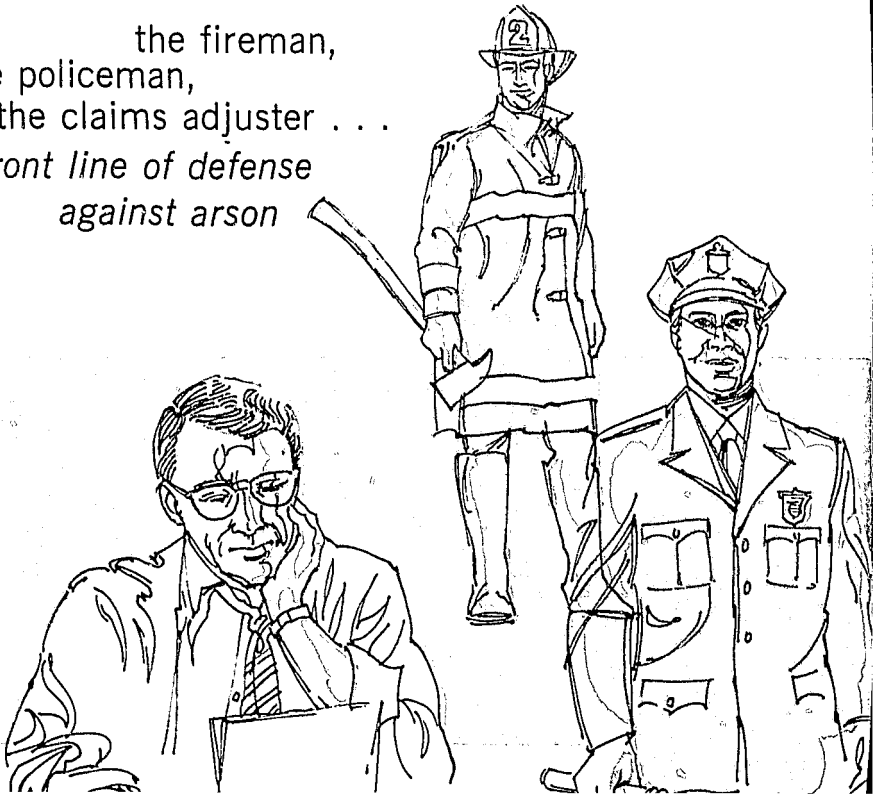
Then insurers and others began to recognize how widespread arson is. Experts believe arson accounts for 15 per cent to 30 per cent or more of all building fires. Assuming that most of the property damage done by arson shows up in insurance com-

pany loss columns, the annual policyholder dollar drain may surpass \$1 billion.

In a sense, insurance companies don't really pay for the damage done by arson; their policyholders do, in the form of higher premiums. But the insurer's interest in curbing arson is obvious. For competitive reasons, an insurer wants to keep his rates as low as possible. He wants to avoid setting rates higher to cover losses that could be prevented.

Yet there is a broader, less self-interest-oriented reason. The insurer should not want to be in the position of subsidizing crime. . . especially a crime often committed with the express purpose of reaping profit by defrauding an insurance company. His sense of social responsibility makes the insurer want to avoid rewarding the "torch" who sets fires. The insurer also wants to do

the fireman,
the policeman,
the claims adjuster . . .
*front line of defense
against arson*



everything in his power to remove the incentive for arson and thereby help prevent it. The best way to do this is through painstaking investigation of all suspicious fire claims and, where arson for profit can be clearly shown, denial of the claim on the basis of fraud.

As a claims adjuster, you are part of the insurance industry's front line of defense against arson. You, in cooperation with fire and law enforcement authorities, are the one who must determine whether a fire was deliberately set and, if so, whether it was set by the property owner to collect on his insurance. You are the one who must decide whether there is sufficient basis for denying a claim and make careful preparations for defending that decision if the policyholder wants to contest it in court.

This booklet will not tell you all you need to know about arson. You'll need additional study and training, and we'll have some suggestions on how to get it. What the booklet will do, however, is give you an overview of the arson problem from the claims adjuster's viewpoint. It will outline your role in arson investigation and give some tips on how to proceed once you determine you have a suspicious fire on your hands. In short, it will serve as an introduction to the claims adjuster's handling of arson cases. . . or, if you're experienced along that line, as a short refresher course.

**1. Where...and how...
did it start?**



Any number of things might kindle your suspicions while checking into a fire. Occasionally you'll come across signs that cry out "Arson!" even to the uninitiated—a strong smell of gasoline hanging over the premises, perhaps, or empty gasoline cans nearby. But usually the indicators are more subtle—firemen say the blaze spread much more rapidly than would have been expected, or that two or more separate fires were burning. . .or you learn that the owner had been trying hard to sell the house without having much luck.

How well a fire is investigated by local authorities depends on their training and competence. All too many fires are given the most cursory of probes before firemen write them off as caused by "faulty wiring" or being of "undetermined origin". . .when in fact a more careful examination would have turned up evidence of arson.

If your local fire department has at least one trained investigator whose judgment you trust, you may be able to leave determination of the fire's origin and cause up to him. But if it doesn't, you'll have to conduct your own investigation from scratch. And if you uncover what seems to be positive evidence of arson, you should ask the fire chief or police chief to contact the state Arson Bureau (if they haven't already) so that a full investigation aimed at possible criminal charges may be made.

If you're on your own, the first step is to determine where the fire started—the point of origin. If there were any eyewitnesses to the fire's early stages, they may be able to help you—but don't rely on their word alone.

Point of origin is found by studying patterns of charring—the ways in which wood-based materials turn to charcoal while burning. Generally, the lowest point of burning and the deepest, most severe char area indicate the point of origin. "Lowest point" does not mean the first floor vs. the second floor or basement area, but the point of burning in any particular room closest to the floor. (Fire generally burns up, not down.)

The point of origin can be a clue to possible arson. For example, if two or more distinct points of origin are found, that

means two or more separate fires—an indication of deliberate setting. Also, did the fire start in a place where fires don't normally start—in a closet, perhaps, or in the middle of a large room, away from furniture and other objects? (If the building has been destroyed, you'll need help from the owner or tenant in reconstructing through diagrams what was located where.)

Once you know the point of origin, the next step is to determine how the fire started—the cause. Even though your eyes already are open for signs of arson, you must not initially assume the fire was in fact arson. You must first investigate all possible accidental or natural ("act of God" type) causes; only after all such causes have been eliminated can you proceed on the assumption that arson occurred. If the case comes to court and you are put on the witness stand, you are



sure to be asked whether you checked other possible causes. An admission that you did not would substantially weaken the insurance company's case.

Some of the more common accidental or natural causes of fire fall in the following categories: the electric system, including overloaded circuits and bad wiring; misuse or malfunction of electrical appliances and equipment and heating units; gas leaks; careless use of painting equipment; lightning; children playing with matches; careless smoking; and concentration of sunlight. There are, of course, many other less common ones. What you'll look for depends on the point of origin and other circumstances surrounding the specific fire. But if you can rule out all possible accidental or natural causes. . .and, perhaps, you've already detected a few signs that the fire was intentionally set. . .you are then ready to look for positive evidence of arson.

First, you need to know something about fire-setting mechanisms. An arsonist may use the simplest of methods, a match and some paper; or he may use elaborate mechanical or chemical means to start his fire and keep it going. A fire-setting mechanism consists of an ignition device, possibly a timing mechanism; one or more "plants"—newspapers, excelsior, wood shavings, or other materials—to feed the initial flame; and often "trailers" to spread the fire—sometimes from plant to plant.

Trailers are often used along with gasoline, kerosene and other fluid accelerants (materials that spread and intensify a fire). Rags, newspapers, rope or toilet paper soaked with gasoline are examples of trailers. . .or gasoline by itself may be used. Solid materials may leave residue. You may be able to trace gasoline and other fluids from the point of spillage to the lowest point they reach. Often unburned quantities of the fluid may be found in rooms below the fire, in cellars, or in the foundation. Sometimes fluids form a pool and burn toward the center of it, leaving a distinctive mark on the floor.

Here are some other fire-setting mechanisms, and clues they may leave:

—Matches, often used with a timing device such as a lighted

cigarette to delay the fire so the arsonist has a chance to get away and establish an alibi. Look for unburned or partially burned matches at the fire's point of origin.

—Candles, normally used with containers of easily combustible materials. They leave a wax deposit on the floor or table top.

—Chemicals. An example would be slow-leaking rubber receptacles filled with water and phosphorus; when the water drains below the level of phosphorus, the chemical ignites on contact with air. Residue or a distinctive odor are clues.

—Leaking gas, as from a stove in a tightly-sealed room. This, of course, leaves an odor.

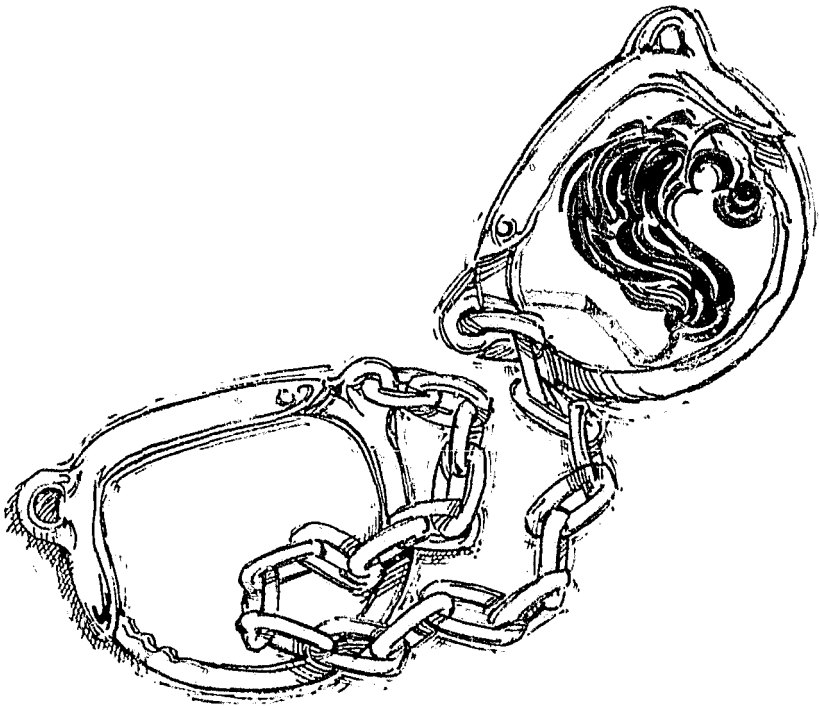
—Electrical systems. An ignition device may be hooked to a doorbell or telephone. Generally, some trace of the device will be found.

—Mechanical devices, such as an alarm clock wired to start a fire when it goes off. Normally, most of the machinery won't burn and will be left over as evidence.

Sometimes what is missing from the fire scene is an even better sign of arson than what is there. Does it appear that much of the building's contents—especially furniture, clothing, valuable and prized items and pets—was removed prior to the fire? Are the refrigerator and freezer empty? If there is an outbuilding untouched by the blaze, look inside it—you may find the missing items, indicating the owner or tenant knew there was going to be a fire.

Any physical evidence you find must be carefully documented and preserved. For example, if a piece of debris contains gasoline, put it in an air-tight container for later analysis; note on the label who found it, where (exact location in the building), the date and time, and any witnesses present. Photographs should be taken, preferably by a professional photographer who knows what types of photos would be admissible and useful in court. But even a mediocre photo taken by an amateur is better than none at all.

2. Why they burn... and what trips them up



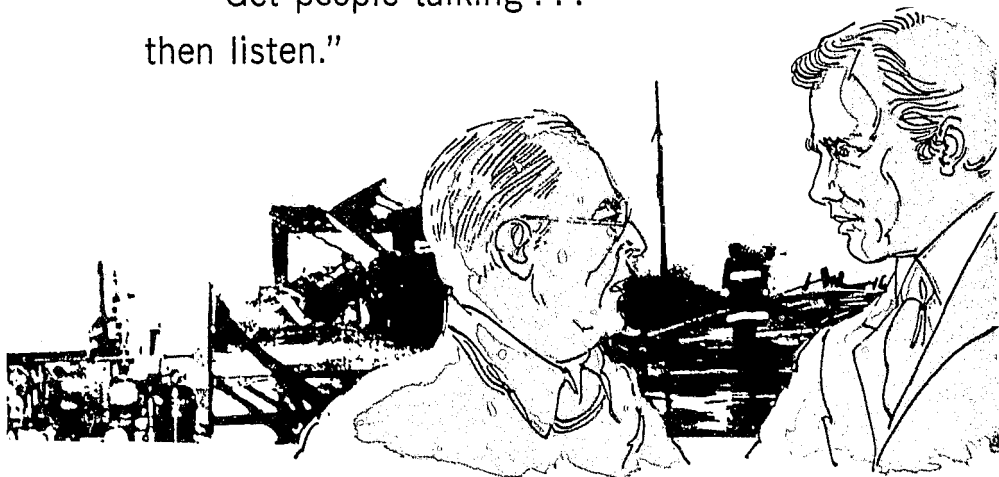
Having gathered positive evidence of arson, the fire investigator's next task is to determine why the fire was set and who set it. As a claims adjuster, your main interest is in finding out whether it was set for insurance fraud purposes by the property owner or tenant or someone hired by him.

Of course, not all arson is a case of burning for profit; there are many other motives. Among the more common are revenge, attainment of a goal or support of a cause; concealment of another criminal act, such as murder or burglary; intimidation; plain malicious mischief, as in fires set by juveniles; and the "thrill" that a pyromaniac (chronic, mentally disturbed fire-setter) gets from watching a building burn.

While it is helpful for the adjuster to know about these other motives, attributing the fire to one of them normally won't save the insurance company (or its policyholders) any money. While a criminal act occurred, the insured person was probably an innocent party; no fraud was involved, so he is entitled to collect whatever benefits may be due him.

Insurance fraud, however, is another matter. . . and it may be the No. 1 motive for arson. Under normal circumstances, a homeowner doesn't burn down his own home, nor does a businessman destroy his own business. But when trouble comes—especially serious financial trouble—a normally law-abiding citizen may see

"Get people talking . . .
then listen."



arson to collect insurance money as the easy way out of his problems.

You find out whether this may have been the case by asking a lot of questions—of the home or business owner, neighbors, business associates, competitors, his employer, fellow workers, anyone else who might have information—and sometimes by studying records. . .both the public kind you find in a courthouse and the private kind, such as those of a mortgage lending institution or newspaper office, to which you may be able to get access. You may be able to work with fire officials and law enforcement authorities at this stage and pool information with them.

Any number of facts may be possible motives for insurance fraud, but here are some of the most common signs:

- The business owner is unable to meet certain financial obligations: mortgage payments, taxes, rent, wages, notes payable, accounts past due, insurance premiums.

- Owner no longer wants the property and can't sell it.

- Owner wants to liquidate business quickly, or dissolve a partnership.

- Too high an inventory and absence of ready market for stock. Obsolete merchandise. Seasonal business at an end. Orders from jobbers unexpectedly cancelled and manufacturer unable to dispose of merchandise.

- Poor business conditions in general. Inexperienced management cannot run business properly. Business quarters outgrown. Desire to move from a certain location.

- Owner has urgent need for ready cash to start fresh in business or pay pressing obligations.

- Property is grossly over-insured, or insurance on it has recently been substantially increased.

- Householder is having marital problems, or needs money to

pay hospital bills, attorney's fees, other large bills.

—Homeowner has a history of fires in other residences.

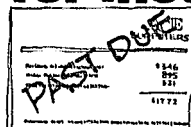
—Land is being sold and building is to be removed as condition of sale.

In interviewing the insured person and others, one general hint applies in all cases: Get people talking, then listen. Too often, investigators talk more than they listen. When a person is talking, regardless of the subject, he may furnish vital information or evidence. Let him talk—about anything—and sooner or later the conversation will get around to the subject at hand. Be especially attentive to neighbors, friends and business associates of the building's owner; one of them may have heard him contemplate a fire. And, especially in critical stages of your investigation, get statements in writing or on tape; verbal statements are subject to change.

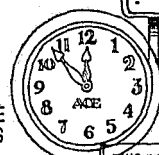
At all stages, you must be careful to avoid exposing yourself and your employer to charges of libel or slander. As a claims representative, you probably already know something about these hazards; an apparent arson fire in which the insured person is the most likely suspect creates an especially delicate situation.

Obviously, you want to avoid expressing suspicion in all your con-

MOTIVES for insurance fraud

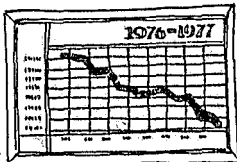
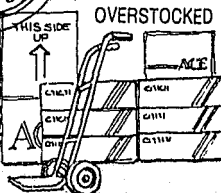
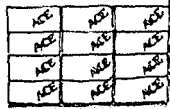


UNABLE TO MEET
FINANCIAL OBLIGATIONS

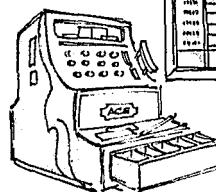


WANTS TO SELL

LIQUIDATE
BUSINESS
QUICKLY

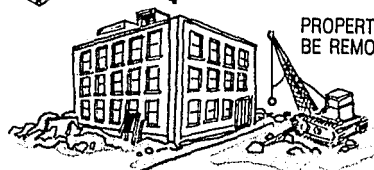


POOR BUSINESS



OVER INSURED

HISTORY
OF FIRES



versations and correspondence. A statement such as "I have every reason to believe you set the fire" could bring a libel or slander suit. If it appears there are grounds for denying a claim on an arson basis, your company should hire an attorney qualified to defend that decision in court should the need arise. This attorney also can advise you on whether the insured person should be questioned under oath or given a polygraph test and the best way to communicate to the policyholder your decision to deny his claim.

Such action, of course, is never taken casually. It is not enough to show that the insured person had a motive for setting the fire. You must also show that he had an opportunity to do so and, if possible, that the evidence rules out all other likely suspects. You must demonstrate that the preponderance of evidence indicates the policyholder set the fire (or, perhaps, hired someone else to set it) for fraud purposes. Even though the evidence might not be sufficient to obtain an arson conviction in a criminal court, where the suspect must be proved guilty beyond a reasonable doubt, it may be substantial enough to sustain denial of an insurance claim in a civil court.

In probing an arson fire, seldom will you uncover direct evidence linking a suspect with the blaze. An example of direct evidence would be a witness testifying he saw the suspect bend down, strike a match and set the building on fire. Arson is a crime of stealth, and the guilty person is seldom caught in the act. What you probably will concentrate on gathering is circumstantial evidence—provable facts taken together from which a conclusion may be inferred.

For example: You know the fire was ignited by a timing device triggered two hours before the fire actually started. You know Mr. Jones has an alibi for the time of the fire, but not for two hours beforehand. You know Mr. Jones is the only person who could have had access to the building at that time. Therefore, Mr. Jones set the fire.

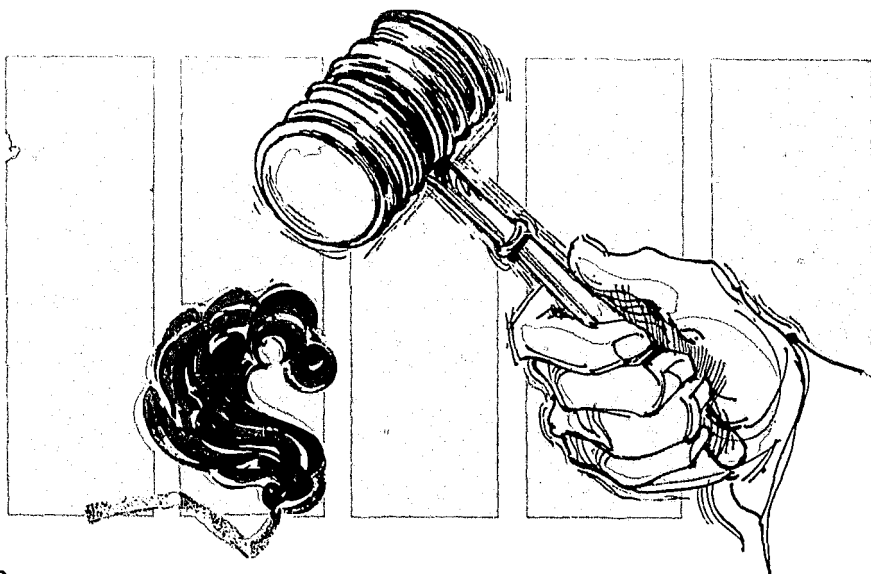
Contrary to popular belief, circumstantial evidence is not necessarily inferior to direct evidence. In fact, it may be more reliable, since it usually requires a large number of witnesses and it's unlikely they would all lie in court; it's more plausible that a single witness might lie about direct evidence.

If a claim is denied because of your belief that the insured person intentionally set fire to his own property, he may file suit against the insurance company. Although the company's attorney would handle defense of that suit, the claims adjuster plays a key role in determining the outcome.

As we have already indicated, a preponderance of evidence that the insured person committed arson (insurance fraud) is one defense against this type of claim. Such factors as his possible motives for burning and his access to the property prior to the fire are admissible evidence in court if this defense is chosen.

Suppose, however, that while arson evidence exists, it isn't sufficient by itself to justify denial of a claim. There are several other defenses open to the insurer. They are related to the fact that insurance companies can legally require those making claims to submit to examinations (questioning) under oath. As an adjuster, you will either be directly involved in such questioning or you will furnish information to be used as a basis for the questioning.

An insured person's misrepresentation of facts or false swearing

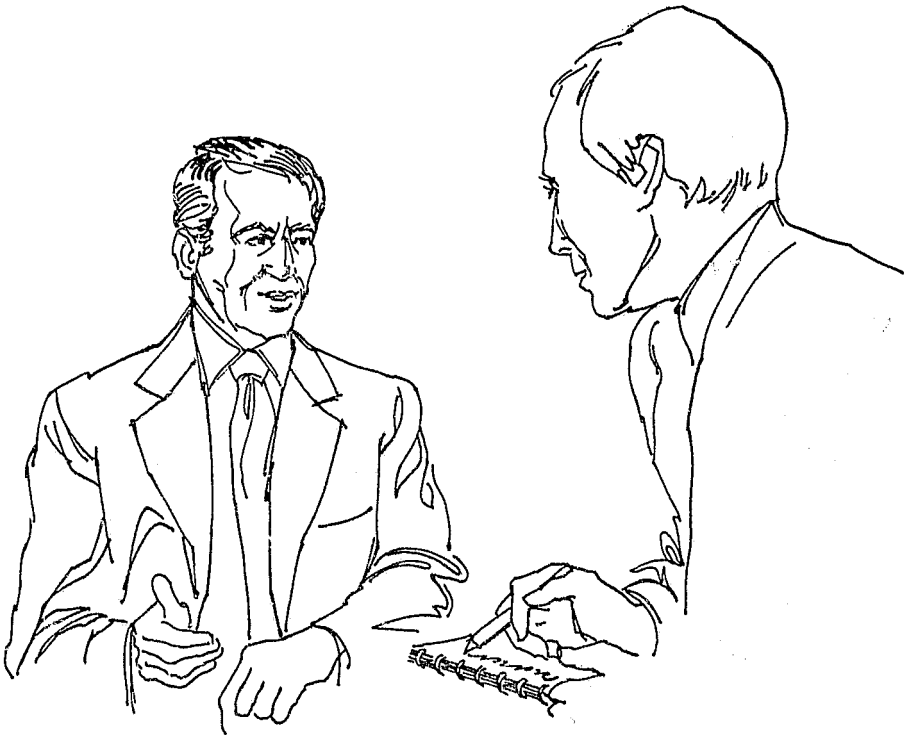


as to facts of a situation are grounds for denying his claim. (Of course, the insurance company must be able to prove that the facts were misrepresented or that a lie was told.) If the insured person refuses to submit to examination or refuses to answer some of the questions, he may be denied the right to file suit. . . or his policy may be voided, depending on common law in your area. He could invoke his Fifth Amendment protection against self-incrimination, but by doing so might forfeit his right to sue for recovery from the insurer. Also, if he tells a story under oath at variance with his earlier statements, this fact could be used to impeach his testimony in court.

Another defense against the arson claim is fraudulent exaggeration of loss. An arsonist usually isn't content to recover the actual value of the property burned; he'll file a claim for property that had been removed from the premises or property that never existed, or he'll grossly inflate the value of what did burn. If it can be shown that he did such things intentionally with the aim of defrauding the insurer, that's a basis for voiding the policy and denying the claim.

3. What happens if it goes to court

4. How to get more help



To be a really effective investigator of suspicious fires, you need more detailed information and more extensive training than you can get from simply reading a booklet. You can get such training by taking advantage of one of the arson investigation courses available to claims adjusters in Illinois.

Three-day arson seminars are held annually at Aurora in February and at Illinois State University, Normal, in late summer or early fall. They are conducted by the Illinois Chapter of the International Association of Arson Investigators and the Arson Bureau of the Illinois Fire Marshal's Office. In addition, the Arson Bureau puts on two-day weekend seminars at various locations throughout the state. Contact the Illinois Arson Bureau, Room 1728, 160 North LaSalle Street, Chicago 60601, for information on how to sign up for a seminar.

Some insurance companies have begun to conduct their own arson seminars. Also, all but nine of the state's 41 junior colleges offer fire science courses, many of which cover arson. Check with your local or area junior college for details on their program.

As a claims adjuster, you have a personal stake in reducing the frequency of arson: fewer fires mean a better profit-loss picture for your employer. But you also have the interests of any citizen in cutting down on arson: less serious crime, lower loss of life and property, and less waste of your own insurance premiums in paying off those who burn for profit. You can do your part in the battle against arson—if you'll take time to get the training you need to recognize it, investigate it, and help deny the "torch" the reward he seeks.



For more copies of this booklet,
send a postcard to:

Illinois Advisory Committee on
Arson Prevention
P.O. Box 614
Bloomington, Illinois 61701

This booklet is published by the Illinois Advisory Committee on Arson Prevention in cooperation with the Illinois Chapter of the International Association of Arson Investigators.



END